

# **Income Tax Assessment Procedures and Practice**

**B.Com  
Semester-V**

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**B.Com: Income Tax Assessment Procedures and Practice**

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## FOREWORD

*Since its establishment in 1976, Acharya Nagarjuna University has been forging ahead in the path of progress and dynamism, offering a variety of courses and research contributions. I am extremely happy that by gaining 'A' grade from the NAAC in the year 2016, Acharya Nagarjuna University is offering educational opportunities at the UG, PG levels apart from research degrees to students from over 443 affiliated colleges spread over the two districts of Guntur and Prakasam.*

*The University has also started the Centre for Distance Education in 2003-04 with the aim of taking higher education to the door step of all the sectors of the society. The centre will be a great help to those who cannot join in colleges, those who cannot afford the exorbitant fees as regular students, and even to housewives desirous of pursuing higher studies. Acharya Nagarjuna University has started offering B.A., and B.Com courses at the Degree level and M.A., M.Com., M.Sc., M.B.A., and L.L.M., courses at the PG level from the academic year 2003-2004 onwards.*

*To facilitate easier understanding by students studying through the distance mode, these self-instruction materials have been prepared by eminent and experienced teachers. The lessons have been drafted with great care and expertise in the stipulated time by these teachers. Constructive ideas and scholarly suggestions are welcome from students and teachers involved respectively. Such ideas will be incorporated for the greater efficacy of this distance mode of education. For clarification of doubts and feedback, weekly classes and contact classes will be arranged at the UG and PG levels respectively.*

*It is my aim that students getting higher education through the Centre for Distance Education should improve their qualification, have better employment opportunities and in turn be part of country's progress. It is my fond desire that in the years to come, the Centre for Distance Education will go from strength to strength in the form of new courses and by catering to larger number of people. My congratulations to all the Directors, Academic Coordinators, Editors and Lesson-writers of the Centre who have helped in these endeavors.*

*Prof. Raja Sekhar Patteti  
Vice-Chancellor  
Acharya Nagarjuna University*

A.P. State Council of Higher Education  
Semester-wise Revised Syllabus under CBCS, 2020-21

Course Code:

Four-year B.Com. (Hons)  
Domain Subject: **COMMERCE**  
IV Year B. Com.(Hons) – Semester – V

Max Marks: 100

Time: 3 Hrs

**Course-18-C. INCOME TAX ASSESSMENT PROCEDURES AND PRACTICE**  
(Skill Enhancement Course (Elective), 4 Credits)

**I: Course Learning Outcomes**

After successfully completing the course, the student shall be able to:

1. Understand the basic concepts in computation of tax liability under all heads of income of the individuals.
2. Analyze the clubbing provisions, aggregate income after set-off and carry forward of losses under the Income Tax Act.
3. Compute taxable income and tax liability of individuals and firms.
4. Acquire the ability to file online returns of income.
5. Acquire skills of TDS/TCS and online filing of Tax returns.

**II. Syllabus:** Total 75hrs (Teaching 60, Training 10, Others 05 including IE etc.)

**Unit-I: Computation of Total Income and Tax Liability**

Computation of Total Income and Tax Liability of Individuals- Firms and Companies - Procedure for Assessment including Problems in calculation of tax for firms & Companies

**Unit-II: Clubbing of Income-Set off of Losses**

Meaning of clubbing of income– Different items come under the provisions of clubbing of income

Meaning of set-off of losses and carry-forward and set-off of losses – Types of set-off - Intra-set off and Inter-set off

**Unit-III: Tax Payment- Penalties**

Advance Payment of Tax - Persons liable to pay Advance Tax – Procedure for Computation of Advance Tax – Due Dates for the Payment of Advance Tax - Consequences of Non-payment of Advance Tax- Refund of tax, interest on refund – Appeals and Revisions

**Unit-IV: Returns Filing**

Procedure for Assessment - Filing of Return – Prescribed Forms for filing of Returns – PAN & TAN - On-line filing of Returns- 26 AS - Traces.

**Unit-V: TDS & TCS and e-Filing**

TDS-TCS- Provisions in brief relating to TDS/TCS- Schedule for deposit & Submission of Returns of TDS- Form-16 generation.

**III: References:**

1. Systematic Approach to Income Tax, Girish Ahuja & Ravi Gupta, Bharat Law House Pvt. Ltd, New Delhi.
2. Income Tax, Vinod K. Sinhanian & Monica Sinhanian, Taxmann Publications Pvt. Ltd, New Delhi.
3. Taxation Law & Practice, Mehtrotra & Goyal, Sahitya Bhavan Publications, Agra.
4. E.A. Srinivas, Corporate Tax Planning, Tata McGraw Hill.
5. Vinod K. Singhanian, Taxman's Direct Taxes Planning and Management.

6. Bhagawati Prasad, Direct Taxes Laws Practice, Vishwa Prakashan.
7. <https://incometaxindia.gov.in>
8. Web resources suggested by the Teacher concerned and the College Librarian including reading material

#### IV. Co-Curricular Activities

##### A. Mandatory (*Student training by teacher in field related skills: 10 hrs.*):

- 1. For Teachers:** Training of students by the teacher (using actual field material) in classroom/field for not less than 10 hours on techniques in tax consultancy, Income Tax calculation and Tax filing. Tax filing in respect to individuals, firms and Corporate. Income Tax Portal for a selected Tax Payer. Each student has to be trained in using forms for filing of returns.
  - a. Tax Calculation and preparation of Annexure w.r.t employees in the institutions and selected organizations (ref. unit-1)
  - b. Working with Clubbing income and set of losses/carry forward losses for a given Company/organization (ref. unit-2)
  - c. Working with CBDT website for Income Tax website for various provisions and Penalties (ref. unit-3)
  - d. Working with Online tax portal for downloading different formats (ref. unit 4)
  - e. Preparation of TDS and TCS reports and generating Form 16 from respective DDO (ref. unit.5)
- 2. For Students:** Students shall individually take up a field study and make observations on Tax Assessment and Submission of Tax Return to Income tax department, payment of tax and other formalities. They may also work with an Income Tax Practitioner and participate in the real time submissions of Tax. Each student has to submit his/her observations as a handwritten Fieldwork/Project work Report not exceeding 10 pages in the given format to the teacher.
3. Max marks for Fieldwork/Project work Report: 05
4. Suggested Format for Fieldwork/Project work (not more than 10 pages): Title page, student details, Contents, objective, step-wise work done, findings, conclusions and acknowledgements.
5. Unit tests (IE).

##### B. Suggested Co-Curricular Activities

1. Training of students by a related field expert.
2. Assignments including technical assignments like Working with Tax Consultancy for observation of Tax Assessment and Return Filing Procedure.
3. Seminars, Conferences, discussions by inviting concerned institutions
4. Field Visit
5. Invited lectures and presentations on related topics

#### V. Suggested Question Paper Pattern:

Max. Marks 75

Time: 3 hrs

SECTION - A (Total 25 marks)  
Answer any FIVE Questions (5×5 Marks)  
SECTION - B (Total 50 marks)  
Answer any FIVE Questions (5×10 Marks)

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(503BCE21)

**MODEL QUESTION PAPER**

**B.Com. (General) DEGREE EXAMINATION,**

Third Year – Fifth Semester

Part II – Commerce

Paper VI – INCOME TAX ASSESSMENT PROCEDURE AND PRACTICE

**Time: Three hours**

**Max. Marks: 70**

SECTION A – (5 x 4 = 20 marks)

Write a short answer for any FIVE of the following.

Each question carries 4 marks.

1. Total Income.

మొత్తం ఆదాయం.

2. Carry forward of loss.

నష్టాన్ని ముందుకు తీసుకువెళ్ళడం.

3. Intra set-off.

ఇంట్రా సెట్-ఆఫ్.

4. Advance tax.

అడ్వాన్స్ పన్ను.

5. Refund of tax.

రీఫండ్ ఆఫ్ టాక్స్.

6. PAN.

పి.ఎ.యన్.

7. Traces.

ట్రేసెస్

8. TDS.

టి.డి.యన్.

SECTION B – (5 x 10 = 50 marks)

Answer the following questions.

Each question carries 10 marks.

9. (a) Mr. X is a State government employee working at Hyderabad provided the following information of him for the previous year 2020-21, Calculate taxable income from the salary for the assessment year 2021-22.

Basic salary – Rs. 4,00,000

Dearness allowance – 20% (enters for retirement benefits)

City compensatory allowances – Rs. 1,000 per month

Entertainment allowances – Rs. 11,000

Medical allowances – Rs. 15,000

House rent allowance – Rs. 60,000 (actual rent paid is Rs. 7,000 per month)

Educational allowance for three children – Rs. 8,000

Employers contribution towards statutory provident fund – Rs. 25,000.

Employees contribution towards statutory provident fund – Rs. 25,000.

11% Interest on the balance of Statutory provident – Rs. 5,500

Mr. X paid LIC premium on his life Rs. 18,000.

Mr. X హైదరాబాదులో పనిచేస్తున్న రాష్ట్ర ప్రభుత్వ ఉద్యోగి క్రింది వాటిని అందించారు

గత సంవత్సరానికి 2020-21 కి సంబంధించిన అతని సమాచారం, 2021-22 అసెస్మెంట్ సంవత్సరానికి జీతం నుండి పన్ను విధించదగిన ఆదాయాన్ని లెక్కించండి.

ప్రాథమిక వేతనం – రూ. 4,00,000

డియర్నెస్ అలవెన్స్ – 20% (పదవీ విరమణ ప్రయోజనాల కోసం ప్రవేశిస్తుంది)

నగర పరిహార భత్యం – నెలకు రూ. 1,000

వినోద భత్యాలు – రూ. 11,000

మెడికల్ అలవెన్సులు – రూ. 15,000

ఇంటి అద్దె భత్యం – రూ. 60,000 (వాస్తవ అద్దె రూ. 7,000 నెలకు)

మూడు పిల్లలకు విద్యా భత్యం – రూ. 8,000

చట్టబద్ధమైన భవిష్య నిధికి యజమానుల సహకారం - రూ. 25,000.

చట్టబద్ధమైన భవిష్య నిధికి ఉద్యోగుల సహకారం - రూ. 25,000.

చట్టబద్ధమైన ప్రావిడెంట్ బ్యాలెన్స్ 11% వడ్డీ - రూ. 5,500

Mr. X తన భవిష్య జీవితంపై LIC ప్రీమియం రూ. 18,000 చెల్లించారు.

Or

(b) Explain the procedure for assessment of tax liability of a company.

కంపెనీ యొక్క పన్ను బాధ్యతను గణించే ప్రక్రియను వివరించండి.

10. (a) What is clubbing of income? Explain different items which come under it.

అదాయం యొక్క క్లబ్బింగ్ అనగానేమి? వాటిలోని వివిధ రకాలను వివరించండి.

Or

(b) Explain set-off and carry forward of losses.

సవ్వాలు యొక్క సెట్-ఆఫ్ మరియు క్యారీ ఫార్వర్డ్ గురించి వివరించండి.

11. (a) What is advance tax? Explain the procedure for computation of advance tax.

అడ్వాన్స్ టాక్స్ అనగానేమి? దానిని గణించే ప్రక్రియను వివరించండి.

Or

(b) Write about appeals and revisions of tax.

పన్ను విధానంలోని అప్పీల్స్ మరియు సవరణలను వివరించండి.

12. (a) What is the procedure for assessment of tax?

పన్ను మదింపు ప్రక్రియను గురించి వ్రాయండి.

Or

(b) Write about online filing of returns.

అన్లైన్ రిటర్న్స్ ఫైలింగ్ గురించి రాయండి.

13. (a) What are the provisions relating to TDS?

టీడిఎస్కు సంబంధించిన నిబంధనలు ఏమిటి?

Or

(b) Write about generation of Form-16.

ఫారం 16 ను తయారుచేయు విధానం గురించి వ్రాయండి.

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# **LESSON -1**

## **INTRODUCTION TO TAXATION SYSTEM**

### **OBJECTIVES OF THE LESSON**

The objectives of the lesson are:

- To understand the concept of Income -Tax;
- To know the constitutional validity of taxes and administration of Tax Laws;
- To describes the Assessment Year and Previous Year or Uniform Previous Year;
- To understand the types of Assesseees;
- To know the calculation of Gross Total Income and
- To acquaint the differences between Tax Planning, Tax Evasion, Tax Avoidance and Tax Management.

### **STRUCTURE OF THE LESSON**

- 1.1. Introduction
- 1.2. Direct Tax & Indirect Tax
- 1.3. Constitutional Validity of Taxes
- 1.4. Administration of Tax Laws
- 1.5. Sources of Income Tax Laws in India
- 1.6. Basic Principles for Charging Income Tax [Sec. 4]
- 1.7. Assessment Year (A.Y.) [Sec. 2(9)]
- 1.8. Previous Year or Uniform Previous Year [Sec. 3]
- 1.9. Assessee [Sec 2(7)]
- 1.10. Person [Sec. 2 (31)]
- 1.11. Income [Sec. 2(24)]
- 1.12. Heads of Income [Sec. 14]
- 1.13. Gross Total Income (GTI) [Sec. 80B(5)]
- 1.14. Tax Planning, Tax Evasion and Tax Avoidance
- 1.15. Summary
- 1.16. Technical Terms
- 1.17. Self Assessment Questions
- 1.18. Reference Books

#### **1.1 Introduction**

In a Welfare State, the Government takes primary responsibility for the welfare of its citizens, as in matters of health care, education, employment, infrastructure, social security and other development needs. To facilitate these, Government needs revenue. The taxation is the primary source of revenue to the Government for incurring such public welfare expenditure. In other words, Government is taking taxes from public through its one hand and through another hand; it incurs welfare expenditure for public at large. However, no one enjoys handing over his hard-earned money to the government to pay taxes. Thus, taxes are compulsory or enforced

contribution to the Government revenue by public. Government may levy taxes on income, business profits or wealth or add it to the cost of some goods, services, and transactions.

### 1.2 Direct Tax & Indirect Tax

There are two types of taxes: Direct Tax and Indirect Tax, of which incidence and impact fall on the same person, is known as Direct Tax, such as Income Tax. On the other hand, tax, of which incidence and impact fall on two different persons, is known as Indirect Tax, such as GST, etc. It means, in the case of Direct Tax, tax is recovered directly from the assessee, who ultimately bears such taxes whereas in the case of Indirect Tax, tax is recovered from the assessee, who passes such burden to another person & is ultimately borne by consumers of such goods or services.

<b>DIRECT TAX</b>	<b>INDIRECT TAX</b>
<ul style="list-style-type: none"> <li>➤ Incidence and impact fall on the same person</li> <li>➤ Assessee, himself bears such taxes. Thus, it pinches the taxpayer.</li> <li>➤ Levied on income</li> <li>➤ E.g. Income Tax</li> <li>➤ Progressive in nature i.e., higher taxes are levied on person earning higher income and vice versa.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Incidence and impact fall on two different persons</li> <li>➤ Tax is recovered from the assessee, who passes such burden to another person. Thus, it does not pinch the taxpayer.</li> <li>➤ Levied on goods and services. Thus, this type of tax leads to inflation and have wider base.</li> <li>➤ E.g. GST, Customs Duty, etc.</li> <li>➤ Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability. Useful tool to promote social welfare by checking the consumption of harmful goods or sin goods through higher rate of tax.</li> </ul>

### 1.3 Constitutional Validity of Taxes

The Constitution of India is the supreme law of India. It consists of a Preamble, 22 parts containing 444 articles and 12 schedules. Any tax law, which is not in conformity with the Constitution, is called ultra virus the Constitution and held as illegal and void. Some of the provisions of the Constitution are given below:

Article 265 of the Constitution lays down that no tax shall be levied or collected except by the authority of law. It means tax proposed to be levied must be within the legislative competence of the legislature imposing the tax.

Article 246 read with Schedule VII divides subject matter of law made by legislature into three categories:

- Union list (only Central Government has power of legislation on subject matters covered in the list)

- State list (only State Government has power of legislation on subject matters covered in the list)
- Concurrent list (both Central & State Government can pass legislation on subject matters). If a state law relating to an entry in List III is repugnant to a Union law relating to that entry, the Union law will prevail, and the state law shall, to the extent of such repugnancy, be void. (Article 254).

Following major entries in the respective list enable the legislature to make law on the matter:

Union List (List I)	Entry 82 - Taxes on income other than agricultural income i.e. Income-tax
State List (List II)	Entry 46 - Taxes on agricultural income.

## 1.4 Structure of Tax Administration Law

The administrative hierarchy of tax law is as follows:

### A. Organizing Principles of Tax Administration Law

It is a frequently heard complaint that tax administration laws are complex, confusing, and arbitrary. To some degree this is probably unavoidable. Administration of a tax system must cover an enormous and diverse number of rules. Unlike the substantive laws of taxation, there is no basic “principle” of administration. In contrast, an income tax law, a property tax law, or a value-added tax (VAT) law each has unifying themes. While each may include some complex definitions, simplifications, or exceptions to these themes, there are at least a limited number of principles, typically related, around which the law can be structured and to which both policy analysts and drafters can return when creating the law.

In contrast, it is not easy to encapsulate a few guiding themes for a tax administration law. There are a number of very broad principles that should apply in each administrative rule, such as fairness and efficiency, but these do not really help much in guiding substantive design. In some ways, tax administration law is constituted by a hotchpotch of rules, some related, some not very closely related, some expressing clear policy, and some based rather largely on arbitrary considerations. This is due to the fact that tax administration law is first and foremost the elucidation of a bureaucracy. Public administration, in and of itself, is not easily determined by reference to a small number of principles. Instead, it is much more a question of designing acceptable answers for myriad practical bureaucratic problems.

Nevertheless, some order can be brought to the organization of tax administration law. Three organizing principles can be identified: organization according to function, temporal organization, and organization by legal category. In combination, the three can make for a coherent legal structure that corresponds to the bureaucracy and procedure with which the tax administration law deals.

### 1. Functional Categories

It is not surprising that the most important way in which the better tax administration laws are organized mirrors the way in which tax authorities themselves are, or at least should be, organized. In other words, the laws are primarily organized around the different bureaucratic functions necessary for the administration of a tax system. For this reason, this essay will refer to this form of organization as “functional.” Sections in tax administration laws corresponding to

functional categories cover regulations and rulings, record keeping and returns, audits and investigations, dispute settlement, recovery of monies owed to the government, internal investigations, and taxpayer ombudsperson.

Functional organization of tax administration law makes it easier for the taxation authority, as well as for other government officials involved in the taxation process, to follow and interpret the law. Each department in the taxation authority can concentrate primarily on a single part or parts of the law. Of equal importance, while organizing by function may initially appear to reflect the world of tax administration from the viewpoint of the bureaucracy, so doing automatically reflects administration from the taxpayer's perspective as well. The taxpayer's involvement in each aspect of tax administration can largely be described by his or her interaction with different departments of the taxation authority. Therefore, organizing tax administration law in functional groups also helps the taxpayer better understand the rules and the process.

## **2. Temporal Organization**

The quality of making the law easier to understand for the taxpayer as well as for the administration can be accentuated if the functional categories are themselves organized so that they follow in logical, temporal sequence. Temporal organization for the law of tax procedure makes sense because tax procedure inevitably follows a time sequence, given that each tax obligation is based on a tax period, with a subsequent possibility of the redetermination of tax, appeal of the redetermination, and ultimate determination of tax liability for the period. A temporal organization would mean that the law should begin with those rules concerning the elucidation of the law (regulations and rulings), followed by the incurring of a liability by a taxpayer (which would typically require the taxpayer to secure an identification number, keep records, and file returns), and then continue through each step through remittance of tax (or information), enduring an audit, disputing the assessment decision, and suffering a collection action. While not every taxpayer would be involved in each possible step in administration, both taxpayers and administrators would know to skip over intervening possibilities until the next relevant issue was reached. In the process, both would be reminded of those possibilities.

## **3. Legal Categories**

Some rules, which represent a common legal category, cut across both functional and temporal lines. They cannot easily be organized on a temporal basis because they apply at a number of possible temporal steps. These are best placed together, usually at the beginning and the end of a tax administration law. Among the most important of these categories are definitions that apply to terms found generally throughout the law, the legal rights of taxpayers, penalties (both civil and criminal) for a taxpayer's failure to comply with his or her obligations, penalties for a failure on the part of the administration to comply with its obligations, and interest (due both to government on underpayment and the taxpayer on overpayment).

There is no organizational imperative to collect the relevant rules in such categories separate and apart from functional divisions. For example, every right, as well as each liability for any penalty or interest, whether relating to taxpayers or to the administration, with few

exceptions arises only in the context of a rule described in a functional category. In the broadest sense, the rights of a taxpayer can be understood to include not only what is normally thought of as “rights” (e.g., the right to secrecy, the right to representation), but also essentially everything that is not specifically required of him or her (e.g., the right not to keep unnecessary records, or the right not to have a levy enforced on him or her for monies not lawfully due). Similarly, both penalties and interest, whether owed by taxpayer or government, can be understood to arise wherever among the rules in the functional categories the obligation arises (e.g., a penalty for failure to keep records, a penalty for requiring the taxpayer to keep unnecessary records, a penalty for failure to submit to a lawful levy, or a penalty for forcing submission to an unlawful one, and interest due on any underpayment or overpayment).

There are important benefits to collecting certain general definitions, taxpayer rights, interest, and penalties in separate categories. By and large, the rights, interest, and penalties included in separate categories are those that are broadly applicable throughout much or all of the administrative process. Therefore, rather than repeating each, it is easier to put them in one place and to make clear that they refer to more than one aspect of the administration law. There are also general rules applicable to all penalties (e.g., a reasonable cause exception) that can usefully be grouped with the specific penalty rules. Also, placing certain definitions, taxpayer rights, interest, and penalties into separate sections makes it more likely that the design and therefore the application of each will be more uniform.

## **B. Interrelation of Tax Administration Law with Other Laws**

### **1. Non tax Law**

Tax administration law is intimately connected with various laws (including the state constitution) not specific to taxation. For example, laws concerning the operation of the executive branch may affect the structure and function of the tax administration. Administrative law may affect how regulations and rulings are issued. The civil procedure code may have considerable relevance to numerous aspects of tax administration, including rights to notice of government action, rights to counsel during proceedings, procedures for dispute settlement in civil courts (including the application of civil fines and of appeals), and rules concerning the recovery of debts. Criminal procedure rules typically govern the application of criminal penalties in the tax area.

As a general rule, unless there is a specific and compelling reason, it is probably best not to provide special rules only for tax matters. William of Occam, the great fourteenth-century English natural philosopher, admonished “[d]o not multiply entities unnecessarily.” To do so make things more complicated than they need to be. Where rules relevant to tax procedure are contained in other laws, it may be beneficial to make cross-references to these laws in the text of the tax administration law. In certain cases it may be preferable to modify existing law to fit the unique problems inherent in tax administration. Where possible, it is probably best to make clear what nontax rule is being modified, and to limit the modification to the minimum necessary to effect the specific tax administration purpose.

### **2. Substantive Tax Law**

There is no clear line separating substantive tax law and tax administration law. There are a number of ways of drawing a line, however. One would be to include in the law of

administration any rule that is primarily administrative in nature. Another would be to put into each substantive tax law the administrative rules that are peculiar to that tax, and to put in the general administrative law any rule that applies to more than one type of tax. Most jurisdictions apply a mix of both.

### **3. Location of Tax Administration Law**

The practice of countries differs greatly in terms of where the tax administration provisions are located. In some countries, each substantive tax law contains all the provisions necessary for its administration. In countries that organize all their tax laws into one code, the tax administration provisions can be one or more titles of this code. Yet other countries have what may be called a tax administration law or a general law on taxation. The tax administration provisions may also be contained in more than one law. For example, there may be a law on the tax system, which contains many of the general rules of procedure, and a law on the state tax service, which primarily governs the organization of the state tax service, but also deals with some of its powers as against the taxpayer. The last approach can be confusing, particularly if the same matters are dealt with in both laws.

## **1.5 SOURCES OF INCOME TAX LAWS IN INDIA**

### **1. Income tax Act, 1961 (Amended up to date)**

The provisions of income tax extend to the whole of India and became effective from 1/4/1962 (Sec. 1). The Act contains provisions for –

- (a) Determination of taxable income;
- (b) Determination of tax liability;
- (c) Procedure for assessment, appeals, penalties and prosecutions; and
- (d) Powers and duties of Income tax authorities.

### **2. Annual Amendments**

- (a) Income tax Act has undergone several amendments from the time it was originally enacted through the Union Budget. Every year, a Finance Bill is presented before the Parliament by the Finance Minister. The Bill contains various amendments which are sought to be made in the areas of direct and indirect taxes levied by the Central Government.
- (b) When the Finance Bill is approved by both the Houses of Parliament and receives the assent of the President, it becomes the Finance Act. The provisions of such Finance Act are thereafter incorporated in the Income Tax Act.
- (c) If on the 1st day of April of the Assessment Year, the new Finance Act has not been enacted, the provisions in force in the preceding Assessment Year or the provisions proposed in the Finance Bill before the Parliament, whichever is more beneficial to the assessee, will apply until the new provisions become effective [Sec. 294]

**Note:** Besides these amendments, whenever it is found necessary, the Government introduces amendments in the form of various Amendment Acts and Ordinances.

### **3. Income tax Rules, 1962 (Amended up to date)**

- (a) As per Sec. 295, the Board may, subject to the control of the Central Government, make rules for the whole or any part of India for carrying out the purposes of the Act.

- (b) Such rules are made applicable by notification in the Gazette of India.
- (c) These rules were first made in 1962 and are known as Income tax Rules, 1962. Since then, many new rules have been framed or existing rules have been amended from time to time and the same has been incorporated in the aforesaid rules.

#### 4. Circulars and Clarifications by CBDT

- (a) U/s 119, the Board may issue certain circulars and clarifications from time to time, which have to be followed and applied by the Income tax authorities.
- (b) **Effect of circulars:** These circulars or clarifications are binding upon the Income tax authorities, but the same are not binding on the assessee. However, assessee can claim benefit under such circulars.  
**Note:** These circulars are not binding on the Income Tax Appellate Tribunal or on the Courts.

#### 5. Judicial decision

- (a) **Decision of the Supreme Court:** Any decision given by the Supreme Court shall be applicable as law till there is any change in law by the Parliament. Such decision shall be binding on all the Courts, Tribunals, Income tax authorities, assessee, etc.
- (b) **Contradiction in the decisions of the Supreme Court:** In case, there is apparently contradiction in two decisions, the decision of larger bench, whether earlier or later, shall always prevail. However, where decisions are given by benches having equal number of judges, the decision of the recent case shall be applicable.
- (c) **Decisions given by a High Court or ITAT:** Decisions given by a High Court or ITAT are binding on all assessees and Income tax authorities, which fall under their jurisdiction, unless it is over ruled by a higher authority.

### 1.6 BASIC PRINCIPLES FOR CHARGING INCOME TAX [SEC. 4]

1. Income of the previous year of a person is charged to tax in the immediately following assessment year.
2. Rate of tax is applicable as specified by the Annual Finance Act of that year. Further, though the Finance Act prescribes the rates of tax, in respect of certain income, the Income Tax Act itself has prescribed specific rates, e.g. Lottery income is to be taxed @ 30% (Sec.115BB), Long term capital gain is to be taxed @ 20% (Sec.112), short term capital gain on listed shares u/s 111A is to be taxed @ 15%, etc.
3. In respect of income chargeable to tax, tax shall be deducted at source, or paid in advance (wherever applicable).

Sec. 4 is a charging section and it is the backbone of the Income Tax Act. The tax liability arises by virtue of this section and it arises at the close of a previous year. However, the finalization of amount of tax liability is postponed to the assessment year. It follows the rule that the liability to tax is not dependent upon assessment.

### 1.7 ASSESSMENT YEAR (A.Y.) [SEC. 2(9)]



Assessment year means the period of 12 months commencing on the 1st day of April every year. It is the year (just after the previous year) in which income earned in the previous year is charged to tax. E.g., A.Y.2023-24 is a year, which commences on April 1, 2023 and ends on March 31, 2024. Income of an assessee earned in the previous year 2022-2023 is assessed in the A.Y. 2023-24.

**Tax point:**

- ✓ Duration: Period of 12 months starting from 1st April.
- ✓ Relation with Previous Year: It falls immediately after the Previous Year.
- ✓ Purpose: Income of a previous year is assessed and taxable in the immediately following Assessment Year.

**1.8 PREVIOUS YEAR OR UNIFORM PREVIOUS YEAR [SEC. 3]**

Previous Year means the financial year immediately preceding the Assessment Year. Income earned in a year is assessed in the next year. The year in which income is earned is known as Previous Year and the next year in which income is assessed is known as Assessment Year. It is mandatory for all assessee to follow financial year (from 1st April to 31st March) as previous year for Income-Tax purpose.

**Financial Year**

According to sec. 2(21) of the General Clauses Act, 1897, a Financial Year means the year commencing on the 1st day of April. Hence, it is a period of 12 months starting from 1st April and ending on 31st March of the next year.

It plays a dual role i.e. Assessment Year as well as Previous Year.

Example: Financial year 2022-23 is -

- Assessment year for the Previous Year 2021-22; and
- Previous Year for the Assessment Year 2023-24.

**1.9 ASSESSEE [SEC. 2(7)]**

“Assessee” means,

- a. A person by whom any tax or any other sum of money (i.e., penalty or interest) is payable under this Act (irrespective of the fact whether any proceeding under the Act has been taken against him or not);
- b. every person in respect of whom any proceeding under this Act has been taken (whether or not he is liable for any tax, interest or penalty) for the assessment of his income or loss or the amount of refund due to him;
- c. a person who is assessable in respect of income or loss of another person;
- d. every person who is deemed to be an assessee under any provision of this Act; and
- e. a person who is deemed to be an ‘assessee in default’ under any provision of this Act. E.g. A person, who was liable to deduct tax but has failed to do so, shall be treated as an ‘assessee in default’.

**1.10 PERSON [SEC. 2(31)]**

The term person includes the following:

1. an Individual;
2. a Hindu Undivided Family (HUF);
3. a Company;
4. a Firm;
5. an Association of Persons (AOP) or a Body of Individuals (BOI), whether incorporated or not;
6. a Local authority; and
7. every artificial juridical person not falling within any of the preceding categories.

**Notes:**

- a. On the basis of a well settled principle that “the Crown cannot be charged to tax”, it can be said that unless otherwise specifically mentioned the Union Government cannot be taxed in India.
- b. An association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains.
- c. A firm includes limited liability partnership.

### **1.10.1 Individual**

The word ‘individual’ means a natural person, i.e. human being. “Individual” includes a minor or a person of unsound mind. However, Deities are assessable as juridical person. Trustee of a discretionary trust shall be assessed as an individual.

### **1.10.2 Hindu Undivided Family (HUF)**

A Hindu Undivided Family (on which Hindu law applies) consists of all persons lineally descended from a common ancestor & includes their wives & unmarried daughters.

**Tax point:**

- ✓ Only those undivided families are covered here, to which Hindu law applies. It also includes Jain and Sikh families.
- ✓ Once a family is assessed as Hindu undivided family, it will continue to be assessed as such till its partition.

### **1.10.3 Company [Sec. 2(17)]**

Company means:

- a. any Indian company; or
- b. any body corporate, incorporated under the laws of a foreign country; or
- c. any institution, association or body which is or was assessable or was assessed as a company for any assessment year on or before April 1, 1970; or
- d. any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by general or special order of the Central Board of Direct Taxes to be a company.

### **A. Indian Company [Sec. 2(26)]**

An Indian company means a company formed & registered under the Companies Act, 2013 & includes.

- i. a company formed and registered under any law relating to companies formerly in force in any part of India other than the state of Jammu & Kashmir and the Union territories specified in (c) infra;
- ii. a company formed and registered under any law for the time being in force in the State of Jammu & Kashmir;
- iii. a company formed and registered under any law for the time being in force in the Union territories of Dadra & Nagar Haveli, Goa, Daman & Diu and Pondicherry;
- iv. a corporation established by or under a Central, State or Provincial Act;
- v. any institution, association or body which is declared by the Central Board of Direct Taxes (CBDT) to be a company u/s 2(17).

In the aforesaid cases, a company, corporation, institution, association or body will be treated as an Indian company only if its registered office or principal office, as the case may be, is in India.

### **B. Domestic Company [Sec. 2(22A)]**

Domestic company means:

- i. an Indian company; or
- ii. any other company, which in respect of its income liable to tax under the Act, has made prescribed arrangements for the declaration and payment of dividends (including dividend on preference share), payable out of such income, within India.

### **C. Foreign Company [Sec. 2(23A)]**

Foreign company means a company which is not a domestic company. Company in which public are substantially interested [Sec. 2(18)]

Following companies are said to be a company in which public are substantially interested:

- i. Government Company;
- ii. A company u/s 8 of the Companies Act, 2013;
- iii. Mutual benefit finance company;
- iv. Listed company;
- v. Company in which shares are held by co-operative societies;
- vi. Company which is prescribed by CBDT.

#### **1.10.4 Firm**

As per sec. 4 of Indian Partnership Act, 1932, partnership means “relationship between persons who have agreed to share profits of the business carried on by all or any one of them acting for all”.

Persons, who enter into such business, are individually known as partners and such business is known as a Firm. A firm is, though not having a separate legal entity, but has separate entity in the eyes of Income-tax Act.

**Tax point:**

- ✓ A partnership firm is a separate taxable entity apart from its partners.
- ✓ In Income tax, a Limited liability partnership shall be treated at par with firm.

**1.10.5 Association of Persons (AOP) or Body of Individuals (BOI)**

An AOP means a group of persons (whether individuals, HUF, companies, firms, etc.) who join together for common purpose(s). Every combination of person cannot be termed as AOP. It is only when they associate themselves in an income-producing activity then they become AOP. Whereas, BOI means a group of individuals (individual only) who join together for common purpose(s) whether or not to earn income.

Co-heirs, co-donees, etc joining together for a common purpose or action would be chargeable as an AOP or BOI. In case of income of AOP, the AOP alone shall be taxed and the members of the AOP cannot be taxed individually in respect of the income of the AOP

**Difference between AOP and BOI**

- ✓ In case of BOI, only individuals can be the members, whereas in case of AOP, any person can be its member i.e. entities like Company, Firm etc. can be the member of AOP but not of BOI.
- ✓ In case of an AOP, members voluntarily get together with a common will for a common intention or purpose, whereas in case of BOI, such common will may or may not be present.

**1.10.6 Local Authority**

As per Sec. 3(31) of the General Clause Act, a local authority means a municipal committee, district board, body of Port Commissioners, Panchayat, Cantonment Board, or other authorities legally entitled to or entrusted by the Government with the control and management of a municipal or local fund.

**1.10.7 Artificial Juridical Person**

Artificial juridical person are entities –

- Which are not natural person;
- has separate entity in the eyes of law;
- may not be directly sued in a court of law but they can be sued through person(s) managing them

E.g: Deities, Idols, University, Bar Council, etc.

**Note:** Under the Income-tax Act, such person has been provided exemption from payment of tax under separate provisions of the Act, if certain conditions mentioned therein are satisfied.

**1.11 INCOME [SEC. 2(24)]**

To consider any receipt as income, following points should be kept in mind: -

Cash vs. Kind	Income may be received in cash or in kind. Income received in kind is to be valued as per the rules prescribed and if there is no specific direction regarding valuation in the Act or Rules, it may be valued at market price.	
Significance of method of accounting	Method of accounting is irrelevant	In case of income under the head “Salaries”, “Income from house property” and “Capital gains” method of accounting is irrelevant
	Method of accounting is relevant	In case of income under the head “Profits & gains of business or profession” and “Income from other sources” (other than Dividend) income shall be taxable on cash or accrual basis as per the method of accountancy regularly followed by the assessee.
Notional income	A person cannot make profit out of transaction with himself. Hence, goods transferred from one department to another department at a profit, shall not be treated as income of the business.	
Source of income	Income may be from a temporary source or from a permanent source.	
Capital Revenue receipt vs.	A capital receipt is not liable to tax, unless specifically provided in the Act, whereas, a revenue receipt is not exempted, unless specifically provided in the Act. (Further refer following heading)	
Loss	Income also includes negative income.	
Disputed income	In case of dispute regarding the title of income, assessment of income cannot be withheld and such income, normally, be taxed in the hands of recipient.	
Lump-sum receipt	There is no difference between income received in lump sum or in installment	
Reimbursement	Mere reimbursement of expenses is not an income.	
Legality	The Act does not make any difference between legal or illegal income	
Double taxation	Same income cannot be taxed twice	
Income by mutual activity	In this regard it is to be noted that in case of mutual activities, where some people contribute to the common fund and are entitled to participate in the fund and the surplus arises which is distributed among the contributors of the fund, such surplus cannot be termed as income.	
Pin money	Pin money is money received by wife for her personal expenses & small savings made by a woman from money received from her husband for meeting household expenses. Such receipt is not treated as income. Note: Income on investment out of pin money shall be treated as income	
Award	Award received, by a person related to his business or profession, shall be treated as income incidental to such business or profession. However, award received by a non-professional person is in nature of gift and/or personal testimonial, the taxability thereof is subject to other provisions of the Act	
Embezzlement	Money embezzled is a gain to the embezzler and, therefore, falls within the wider definition of income	

Contingent income	A contingent or anticipated income is not taxable.
Subsidy	Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee, e.g. LPG Subsidy <sup>2</sup> , Subsidy for establishing manufacturing unit in backward area, etc

### 1.12 HEADS OF INCOME [SEC. 14]

According to Sec.14 of the Act, all income of a person shall be classified under the following five heads:

1. Salaries;
2. Income from house property;
3. Profits and gains of business or profession;
4. Capital gains;
5. Income from other sources.

For computation of income, all taxable income should fall under any of the five heads of income as mentioned above. If any type of income does not become part of any one of the above mentioned first four heads, it should be part of the fifth head, i.e. Income from other sources, which may be termed as the residual head.

#### Significance of heads of income

- Income chargeable under a particular head cannot be charged under any other head.
- The Act has self-content provisions in respect of each head of income.
- If any income is charged under a wrong head of income, the assessee may lose the benefit of deduction available to him under the correct head.

#### Distinguish between Heads of income and Sources of income

There are only five heads of income as per Sec. 14 of the Act, but the assessee may generate the income from various sources. In the same head of income, there may be various sources of income. E.g. under the head 'Income from house property', there may be two or more house properties and each house property shall be termed as a source of income. The source of income decides under which head (among the five heads) income shall be taxable.

### 1.13 GROSS TOTAL INCOME (GTI) [SEC. 80B(5)]

Gross total income is the aggregate of income under all the five heads of income after adjusting the set-off & carry forward of losses. Deductions under chapter VIA are provided from GTI, to arrive at Total income or taxable income.

Computation of Total Income for the A.Y. \_\_\_\_

Particulars	Amount
1. Salaries	Xxx
2. income from house property	Xxx
3. Profit or gains of business or profession	Xxx

4. Capital Gains	<b>Xxx</b>
5. Income from other sources	<b>Xxx</b>
<b>Gross Total Income</b>	<b>Xxx</b>
Less: Deduction u/s 80C to 80U	<b>Xxx</b>
<b>Total Income</b>	<b>Xxx</b>

### 1.14 TAX PLANNING, TAX EVASION AND TAX AVOIDANCE

**Tax planning** is a way to reduce tax liability by taking full advantages provided by the Act through various exemptions, deductions, rebates & relief. In other words, it is a way to reduce tax liability by applying script & moral of law. It is the scientific planning so as to attract minimum tax liability or postponement of tax liability for the subsequent period by availing various incentives, concessions, allowance, rebates and relief provided in the Act.

**Tax evasion** is the illegal way to reduce tax liability by deliberately suppressing income or sale or by increasing expenses, etc., which results in reduction of total income of the assessee. Tax evasion is illegal, both in script & moral. It is the cancer of modern society and work as a clog in the development of the nation.

**Tax avoidance** is an exercise by which the assessee legally takes advantages of loopholes in the Act. Tax avoidance is a practice of bending the law without breaking it. It is a way to reduce tax liability by applying script of law only. Most of the amendments are aimed to curb such loopholes.

#### Distinguish between Tax Planning, Tax Evasion, Tax Avoidance and Tax Management

Difference between tax planning, tax avoidance, tax evasion & tax management

Points of distinction	Tax Planning	Tax Avoidance	Tax Evasion	Tax Management
<b>Definition</b>	It is a way to reduce tax liability by taking full advantages provided by the Act through various exemptions, deductions, rebates & relief.	It is an exercise by which the assessee legally takes advantage of the loopholes in the Act.	It is the illegal way to reduce tax liability by deliberately suppressing income or sale or by increasing expenses, etc., which results in reduction of total income of the assessee.	It is a procedure to comply with the provisions of the law.
<b>Feature</b>	Tax planning is a practice to follow the provisions of law within the moral framework	Tax avoidance is a practice of bending the law without breaking it	Tax avoidance is a practice of bending the law without breaking it.	It is implementation or execution part of taxation department of an organisation
<b>Object</b>	To reduce tax liability by	To reduce the tax liability to the	To reduce tax liability by	To comply with the provisions of

	applying script & moral of law	minimum by applying script of law only	applying unfair means.	laws.
<b>Approach</b>	It is futuristic and positive in nature. The planning is made today to avail benefits in future.	It is futuristic but short term in nature, as loophole of the law will be corrected in future by amendments of the law.	It is concerned with past and applied after the liability of tax has arisen. It is done with negative approach to avail benefits by killing the moral of law.	It is concerned with past and applied after the liability of tax has arisen. It is done with negative approach to avail benefits by killing the moral of law.
<b>Benefit</b>	Generally, arises in long run.	Generally, arises in short run.	Generally, benefits do not arise but it causes penalty and prosecution.	Penalty, interest & prosecution can be avoided.
<b>Treatment of law</b>	It uses benefits of the law.	It uses loopholes in the law	It overrules the law.	It implements the law.
<b>Practice</b>	It is tax saving	It is tax hedging.	It is tax concealment.	It is tax administration.
<b>Need</b>	It is desirable	It is avoidable	It is objectionable	It is essential
<b>Morality</b>	It is moral in nature	It is immoral in nature	It is illegal	It is duty

## 1.15 SUMMARY

The taxation system in India is such that the taxes are levied by the Central Government and the State Governments. Some minor taxes are also levied by the local authorities such as the Municipality and the Local Governments. To run the government and manage the affairs of a state, money is required. Taxes are the largest source of income for the government so we can say that tax plays an essential role in the development of our country. For a country like ours which is large and populated, the cost to run the entire nation is enormous; here the taxes assist the government to run functions and duties smoothly. India is suffering a lot from tax evasion.

## 1.16 TECHNICAL TERMS

**AOP:** Association of Persons (AOP)

**BOI:** Body of Individuals (BOI)

**GTI:** Gross Total Income

**HUF:** Hindu Undivided Family



**TDS:** Tax Deduction at Source

**TPR:** Tax Return Preparers

### **1.17 SELF ASSESSMENT QUESTIONS**

1. Define the 'Income-Tax '? Discuss the concept of Income -Tax.
2. Define Indirect Tax? What are the basic differences between Direct Taxes and Indirect Taxes?
3. Explain Previous Year. "Income of Previous Year is assessed in the assessment year that follows." Discuss this rule with exemptions?
4. Define assessee? Explain the types of assessees.
5. State the structure of tax administration.
6. How to calculate the gross total income? Give an example.
7. What do you understand by tax planning, Tax evasion and tax avoidance? Explain the differences between therein.
8. "Income Tax is a tax on income and not on receipts." Explain the statement and give the essential characteristics of the term income.

### **1.18 REFERENCE BOOKS**

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**Dr. Nagaraju Battu**

## Lesson - 2

# COMPUTATION OF TOTAL INCOME

### Objectives of the lesson

After studying this student will be able to:

- Find out the types of incomes received by the assessee .
- Understand the procedure in computation of total income.
- Details of exemptions in every head.

### Structure

- 2.1 Introduction.
  - 2.1.1 Heads of Income.
  - 2.1.2 Gross total income.
- 2.2 Total Income.
- 2.3 Income from salary.
- 2.4 Income from House property.
- 2.5 Income from Business or Profession.
- 2.6 Income from Capital Gains.
- 2.7 Income from other sources.
- 2.8 Self-Assessment Questions: Exercises.

### 2.1 Introduction:

The assessee is put to tax on the basis of his residential status. Income tax is chargeable on the 'total income' of the previous year at the rate prescribed in the Finance Act for the assessment year relevant to that previous year. 'Total income' is defined as the income computed under the provisions of Income Tax Act, 1961.

#### 2.1.1 Heads of Income:

The section 14 of Income Tax Act classifies all incomes under the following heads:

1. Income from Salaries.
  2. Income from House Property.
  3. Income from Business or Profession.
  4. Income from Capital Gains.
  5. Income from Other Sources.
- 
1. **Income from Salaries:** An income is taxable under salary head if there is a relationship of employer and employee. This means there should be a relationship between the payer and the payee. If the relationship does not exist or cannot be proved, then the income will not be deemed to be income from salary.
  2. **Income from House Property:-** The rental income earned from the house property is taxable under the Income from House Property. The income calculated is levied on the expected rent, if the property is not rented out. This would be the rent that would have been received from the property. Income from House Property is the only income that is taxed on a notional basis. Tax is not only levied on the income from house property but income from

commercial property and other forms of property. Various deductions such as tax deduction on a home loan interest are allowed under this income head.

3. **Income from Business or Profession:-** Any income that is earned from a trade/manufacture/commerce/profession shall be taxable under this head.
4. **Income from Capital Gains:-** Any profit or gain earned under a transfer of an asset in the effective financial year shall be chargeable under the head of Income of Capital Gains and shall be deemed to be the income of the financial year in which the transfer took place unless the gain is exempt under Section 54, 54B, 54D, 54EC, 54ED, 54F, 54G or 54GA.
5. **Income from Other Sources:-** Any income that does not come under the above 4 heads of income shall be chargeable under this head. The incomes computed under income from other sources are:
  - a) Interest on bank deposits and securities.
  - b) Dividends.
  - c) Income from sub-letting a house property by a tenant.
  - d) Insurance commission.
  - e) Income from royalty and more.

### 2.1.2 Gross Total Income: (GTI)

Gross Total Income is the aggregate of the incomes computed under various heads of income according to the provisions of the Income Tax Act before making any deduction u/s 80C to 80U.

Section 14 deals with the Gross Total Income and it includes:

Income from Salaries, Income from House property, Income from Business or profession, Income from Capital Gains, Income from Other sources.

### 2.2 Total Income (Sec.5)

Total income of an assessee is Gross Total Income after making deductions U/S 80C to 80U. Total income means the total income referred to in section 5 and computed in the manner laid down in the Income Tax Act. Under Sec.5 different incomes of an assessee are included in his total income on the basis of his residential status. It will be determined after making deductions under section 80C to 80U from gross total income.

#### Computation Of Total Income :

- |  |
|--|
| <p><b>Step 1:</b> Compute the income of an individual under 5 heads of income on the basis of his residential status.</p> <p><b>Step 2:</b> Income of any other person, if includible u/s 60 to 64, will be included under respective heads.</p> <p><b>Step 3:</b> Set off of the losses if permissible, while aggregating the income under 5 heads of income.</p> <p><b>Step 4:</b> Carry forward and set off of the losses of past years, if permissible, from such income.</p> <p><b>Step 5:</b> The income computed under Steps 1 to 4 is known as Gross Total Income from</p> |
|--|

which deductions under sections 80C to 80U (Chapter VIA) will be allowed. However, no deduction under these sections will be allowed from short-term capital gain covered under section 111A, any long-term capital gain and winning of lotteries etc., though these incomes are part of gross total income.

**Step 6:** The balance income after allowing the deductions is known as total income which will be rounded off to the nearest Rs. 10.

**Step 7:** Compute tax on such Total Income at the prescribed rates of tax.

**Step 8:** Allow rebate of maximum Rs. 2,500 under section 87A in case of resident individual having total income upto Rs. 3,50,000.

**Step 9:** Add surcharge @ 10% on total income exceeding Rs. 50,00,000 and upto Rs. 1 crore and 15% of such income tax in case of an individual having a total income exceeding Rs. 1 crore.

**Step 10:** Add education cess @ 2% and SHEC @ 1% on the tax (including surcharge if applicable).

**Step 11:** Allow relief under section 89, if any.

**Step 12:** Deduct the TDS, advance tax paid for the relevant assessment year and double taxation relief under section 90, 90A or 91. The balance is the net tax payable which will be rounded of nearest ten rupees and must be paid as self-assessment tax before submitting the return of income.

### **Total income is accordingly computed as under:**

1) Income from Salaries	xxx
2) Income from House Property	xxx
3) Profit and Gains of Business and Profession	xxx
4) Income from Capital Gains	xxx
5) Income from Other Sources	xxx
Gross Total Income	xxx
Less: Deduction under - (Section 80C to 80 U)	xxx
	-----
Total Income :	xxx
	-----

## **2.3 Income from Salary:**

### **Salary:**

Salary comes into existence as a result of employer-employee relationship. In a employer-employee relationship, employee performs his duties and the employer provides him salary.

### **Allowances:-**

Payment in cash made by the employer to his employee monthly, other than salary is called allowances. These are for meeting some particular requirements connected with the service rendered by an employee. Allowance may be

- Fully taxable allowances
- Fully exempted allowance
- Partly taxable allowance

#### **1. FULLY TAXABLE ALLOWANCE**

- DA- on account of high prices. DP is a part of DA given as per terms of employment and considered as part of basic salary.
- Interim relief allowances.
- City compensatory allowance.
  - Fixed medical allowances
- Overtime allowances
- Hill allowances (above 1000 mtrs)
  - Special allowances
  - Holiday trip allowances
- Festival allowances
- Entertainment allowances ( non-government employees)

## 2. PARTLY TAXABLE ALLOWANCES

### 1. House Rent Allowance: (HRA)

HRA is exempt subject to least of the following

- Actual HRA received
- Rent paid in excess of 10% of salary
- 40% of salary (50% in case of Delhi, Mumbai, Chennai, Kolkata)

➤ Special allowances - exempt up to the amount

- Travelling allowances
- Academic allowances
- Conveyance allowances

➤ Special allowances (personal) - exempt up to the a specified limit

- Children education allowance – 100/m/child-max 2 children
- Children hostel allowances – 300/m/child-max 2 children
- Transport allowances – 3200/m (handicapped employees)
- Underground allowance -800/m
- Tribal area allowances -200/m

Salary = BP+DA forming part of salary +commission on turnover

## 2. FULLY EXEMPTED ALLOWANCES

Foreign allowances-allowances given to government employees for rendering services abroad

Sumptuary allowances to high court and supreme court judges

### PERQUISITES:

Any benefit attached to an office or position in addition to salary or wages (cash/kind)

1. Tax free perks
2. Perks taxable to specified employees only
3. Perks taxable to all employees

### TAX FREE PERKS

- Medical benefit o Employer hospital – fully exempted o Government hospital
- Conveyance facility
- Expenses on refresher course
- Tax paid by the employer on the value perquisites

- Rent free house to ministers
- Leave travel concession

### PERQUISITES TAXABLE TO ALL EMPLOYEES

1. Value of residential accommodation (RFA)
    - Government employees – license fee fixed by govt + 10% cost of furniture)
    - Other employees – 1) If owned by employer
    - 15% of salary ( population exceeds 25 lakh)
    - 10% of salary (population 10-25 lakhs)
    - 7.5% of salary ( population less than 10 lakhs)
  - 2) Taken on lease or rent
    - Actual rent
    - Or 15% of salary whichever is less + 10% cost of furniture
  - 3) Hotel accommodation
    - Up to 15 days –nil • Exceeds 15 days – 24% of salary or hotel bills whichever is least
  - 4) Accommodation provided at site – NIL
- Salary= BP+DP+ Bonus+ commission+ all taxable allowance except normal DA+ Leave encasement during service

### PERQUISITE TAXABLE TO SPECIFIED EMPLOYEES ONLY Specified employee:-

1. He is a director of a company
2. He possess 20% equity shares in a company
3. His salary income exceeds Rs 50000

The following perquisites are taxable for specified employees only

- Car :
  - Valuation of car
  - Owned by employer
    - Used for official purpose only: NIL
    - Used for private purpose only: expenses met by employer+ salary of driver + 10% depreciation
    - Used both for official and private Expenses met by employer
    - 1800pm (small car)
    - 2400pm (large car)
    - Add 900pm (drivers salary)
  - Expenses met by employee:-
    - 600pm (small car)
    - 900pm(large car)
    - Add 900pm(drivers salary)
  - Owned by employee:
    - Used for official purpose only: NIL
    - Used for private purpose only: amount reimbursed by employer
    - Used both official and private purpose Small car: amount reimburse – (1800/m+900/m) Large car: amount reimbursed – (2400/m+900/m)

### PROVIDENT FUND:

It is provided for future.

1. Statutory provident fund (SPF) It is a PF to which Indian PF Act 1925 applies. It is maintained by government or semi government offices. It is fully exempt from tax .

2. Recognized provident fund (RPF) It is a PF to which Indian PF Act 1952 applies. It is maintained by private sector organizations.

3. Un recognized provident fund (URPF) It is PF neither statutory nor recognized. It is approved by PF commissioner but not by the commissioner of income tax.

4. Public provident fund (PPF) Every individual can subscribe this fund any amount being not less than 500 and not more than 150000 in a year.

#### Employer contribution

Exempt 12% of salary Exempted.

Interest Exempt 9.5% Exempted.

Salary = basic pay+ DA if part of pay+ commission on turn over.

#### PROFIT IN LIEU OF SALARY:

Any terminal benefits or payment made instead of salary. It includes

- Compensation for loss of employment
- Payment under URPF or superannuation fund
- Payment under key man insurance scheme
- Payment before joining or after retirement

#### INCOME FROM SALARY (RETIREMENT)

- Gratuity – sec 10(10)
- Pension and commuted value of pension – sec10(10A)
- Retrenchment compensation – section 10 (10B)
- Compensation on voluntary retirement – sec 10(10C)
- Amount from provident fund – sec 10(11)(12)

#### Gratuity sec 10(10):

A. Government employees – fully exempted (sec 10(10))

B. Non-government :-

1. Covered by the payment of gratuity act 1972 (sec 10(10))

ii) Least of the following is exempted

- 15/26 \* last month salary\* completed years of service (6 months and above considered as a year)
- Maximum limit of 2000000
- Actual gratuity received

Salary = BP + DA+ Commission on turnover

2. Not covered by the payment of gratuity act 1972 –(sec 10(10))

Least of the following is exempted

- 15/30 \* average salary\* completed years of service (only completed years are considered) •
- Maximum limit of 2000000.
- Actual gratuity received.

#### Pension and commuted pension (sec. 10(10A))

- Pension – fully taxable under the head salary
- Un commuted pension- fully taxable

- Commuted pension government employees- exempted
- Commuted pension non-government employees:

1\3 of full pension exempted if received gratuity

1\2 of full pension exempted if not received gratuity

Leave encashment -sec 10(10AA)

- Leave encashment during service- fully taxable
- Government employees- exempted
- Non-government employees- least of the following is exempted

Actual amount received

Maximum limit Rs 300000

Last 10 month salary

Average salary \* leave of credit (maximum 30 days in a year)

Retrenchment compensation – sec10 (10B) Least of the following is exempted

Actual amount received

Maximum limit: 500000

15\ 30\* average salary\* completed years (in excess of 6 months considered)

Salary = BP + DA forming part of salary+ Commission on turnover  
Salary = BP+DA forming part of salary + commission on turnover.

Deduction from gross salary

1. Entertainment allowances

- Government employees

Amount received

20% of basic salary

Rs 5000 Whichever is less.

- Non-government employees – Nil

2. Employment tax (professional tax)

3. Standard deduction up to Rs 50000.

**Computation of Income from Salary:**

Particulars	Amount	Amount
Basic salary		Xx
DA		Xx
Advance salary		Xx
Bonus		Xx
Commission		Xx
Provident fund		Xx
Arrears of salary		Xx
Gratuity		Xx
Pension		Xx
Leave encashment		Xx
Allowances	Xx	
Perquisites	xx	



Gross salary		Xx
Deductions U/s 16:	xx	
Income from salary		xxx

#### 2.4 Income from House Property:

Assessee should be the owner of the property.

- The property should not be used for the purpose of assessee's business or profession.

Exemptions regarding income from HP:-

- Income from farm house- agricultural income
- One self-occupied house- exempted
- One palace of ex-ruler – exempted
- Income from property owned by local authorities, trade union, charitable trust, political party, universities, educational institutions, hospitals etc – Exempted

Different types of rental values:

Municipal rental value (MRV) :-

It is the annual rental value of the house property fixed by the municipality.

Fair rental value (FRV) :-

It refers to the rent charged on similar type of property located in the same locality.

Standard rent received (SR):-

It is the maximum rental value fixed by rent control act.

Arrear rent received Rent pertaining to the previous year received in current year.

#### COMPUTATION OF INCOME FROM HP :

Sl.No.	Particulars	Amount	Amount
	Actual Rent received		Xxx
	Less:- Muncipal taxes		Xxx
	Net Annual value(NAV)		xxx
	Less: Standard deduction 30% of NAV	xxx	
	Interest on loan	Xxx	
	Unrealized rent received	xxx	xxx
	<b>Income from House Property</b>		xxx

Interest on loan maximum limit-(for self-occupied house only):-

- Loan before 1-4-1999 Rs 30000.
- Loan after 1-4-1999 Rs 200000.

Interest on loan= PY interest + 1/5 of preconstruction period interest.

Pre-construction period Period between the dates of loan taken and the date of repayment of loan or date of completion of construction whichever is earlier.

## 2.5 INCOME FROM BUSINESS AND PROFESSION :

Following are business incomes:

1. Business or professional income
2. Sale of an import license or receipt of any exports incentive.

Profit earned from illegal business is also taxable

Income of a trade association.

The value of any benefit or perquisite

Interest, salary, bonus, commission or remuneration received by a partner

Computation of business income:-

Netprofitasper P/L A/C	XXX	XXX
Add: 1) Disallowed expenses debited in P/L A/C	XXX	
2) Allowed income not credited in P/L A/C	XXX	
3) Under valuation of closing stock	XXX	
4) Over valuation of opening stock	XXX	
	-----	xxx
Less : 1) Disallowed income credited in P/L A/C	XXX	
2) Allowed expenses not debited in P/L A/C	XXX	
3) Under valuation of opening stock	XXX	
4) Over valuation of closing stock	XXX	
	-----	xxx
Taxablebusinessincome		XXX

Disallowed expenses:

Income tax , Wealth tax , Fringe benefit tax , Municipal tax , All reserves and provisions , Interest on capital , Capital expenditure , Donation , Penalties, Life Insurance Premium , Gift , Personal expenses, Past losses charge to profit and loss account, Payment in excess of Rs 10,000 to a person in a day, Payment outside India where tax is not deducted at source.

Disallowed income :

Interest on securities , Bad debt recovered if disallowed earlier , Income tax refund , Gift, Sale of Capital Asset , Dividend , Lottery , Games, All other income not received exclusively from business or profession.

## 2.6 Income from Capital Gains:

Types of Capital Gains:

1. Short term capital Asset (section 2(42A) – STCG )
2. Long term Capital Asset (section 2 (29A)- LTCG )

Difference between long term capital gain and short term capital gain:-

Long term capital gain	Short term capital gain
Arises out of transfer of long term capital asset.	Arises out of transfer of short term capital asset.
These are taxed at the rate of 20%.	These are taxed at the rate of 15% or the tax rate applicable to all other incomes
Cost of acquisition and cost of improvement are needed to indexed .	No indexing is done. No such option is available here.

If LTCA is acquired before 1/4/2001, then the fair market value is taken as cost of acquisition.	
Exemptions u/s 54,54B,54D,54EC,54ED,54F and 54G can be deducted.	Exemptions u/s 54B,54D, 54G can be deducted.
LTCL can be setoff only against LTCG	STCL can be set off from both LTCG and STCG.

#### Computation of Income from short term capital gain:

Particulars	Amount	Amount
Full value of consideration received or accruing		xxx
Less: Cost of transfer	Xxx	
cost of acquisition.	Xxx	
cost of Improvement.	Xxx	
Gross Short term capital gain		xxx
Less:- Exemption u/s 54 B/ 54 D/ 54 G	xxx	
Taxable Short term capital gain		xxx

#### Computation of Income from long term capital gain:

Particulars	Amount	Amount
Full value of consideration received or accruing		xxx
Less: Cost of transfer	Xxx	
Indexed cost of acquisition.	Xxx	
Indexed cost of Improvement.	Xxx	
Gross Long term capital gain		xxx
Less:- Exemption u/s 54/ 54 B/ 54 C/ 54 D/ 54 F/ 54 G/ 54 GA	xxx	
Taxable Long term capital gain		xxx

Indexed cost of acquisition = cost of acquisition X CII for the year of sale/ CII for the year of acquisition  
 Indexed cost of improvement = cost of improvement X CII for the year of sale /CII for the year of improvement.

#### 2.7 Income from Other Sources:-

Income not chargeable under any other head is chargeable to Tax under this head. Section 56 lays down a list of incomes which are taxable under this head:

Dividend , Gift , Income from royalty , Directors fees , Rent from a vacant land , Insurance commission , Income from undisclosed source, Income from private tuition , Interest on income tax refund Income by way of interest received on compensation or enhanced compensation Sum of money received as an advance or otherwise in the course of negotiations for transfer .

Any sum received by the assessee from his employee as a contribution to provident fund etc. Interest on securities Income from letting of machinery, plant or furniture, Composite rent, Income from subletting of a house property, Interest on Bank deposit, Interest on company deposits, interest on loans etc. Remuneration received from a person other than his employer for evaluation of answer scripts of a Capital Asset.

**Types of securities :**

There are four types of securities.

1. Tax- free government securities Interest on securities is fully exempt from Tax under section 10 (15). Interest on Such securities is neither included in total income nor it is taxed.

2. Less tax government securities These securities are either by central or state government. These are taxable securities but no tax is deducted at source on such securities. Interest on such securities will not be grossed up.

3. Tax free non-government securities These securities are not tax free actually. The tax on the interest amount is actually paid by the company. The assessee get full amount of interest from the company without detecting any tax. For income tax purpose the tax paid by the company on the interest is to be added with the interest received by the assessee and his gross amount shall be included in his total income. This process is called grossing up.

4. Less tax non-government securities These securities are taxable securities and income tax is deducted at source on the amount of interest calculated at the percentage stated on the securities and balance of the amount of industries paid to the security holder. Here the gross amount of interest shall be included in the total income of the assessee.

Tax free securities For all assessee :-

National plan certificate( 10 years)

- National plant saving certificate( 12 years)
- Post office National Savings certificate (12 years/7 years)
- Post office savings bank account
- Individual account- maximum exemption limit Rs. 3500
- Joint account- maximum exemption limit is Rs. 7000

Rates of TDS :-

Interest on securities- issued on behalf of any local authorities statutory corporation listed debentures of a company and other industrial securities- 10%

Interest( any other person)- 10%

Winning from horse race- 30%

Winning from lottery- 30%.

**2.8 Self Assessment Questions:-**

1. Explain about the procedure to calculate income from salary?
2. Write about different heads of income ?
3. Explain about different Capital gains?
4. Mention about different incomes to be included in Income from other sources?

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**Dr. A.KANAKA DURGA**

## Lesson - 3

# TAX LIABILITY AND PROCEDURE OF ASSESSMENT

### Objectives of the lesson:

After studying this student will be able to:

- Find out the types of incomes received by the assessee .
- Understand the procedure in computation of total income.
- Details of exemptions in every head.
- Examine the calculation of tax liability.

### Structure:

- 3.1 Introduction.
- 3.2 Tax slabs, New and old tax regime.
- 3.3 Income tax returns.
- 3.4 Types of Assessment.
- 3.5 Problems.
- 3.6 Self-Assessment Questions.

### 3.1 Introduction to Tax liability:

**Tax liabilities** are the entire amount of tax outstanding within a concerned time horizon, payable to taxing entities like central or state government or local authorities like a municipality. Individuals and institutions are liable to pay taxes on their earned income.

In business, these are considered as short-term debt accounted for on the balance sheet and cleared off within the given year. And, for individuals, these are payable obligations that need to be paid from withholdings or own savings.

The income tax system in India is very progressive. That is, the more you earn the more tax you have to pay. This tax that you pay is used by the government for the development of the country. This money is used for building infrastructure, advancing facilities, funding employees, The tax that you owe to the government as per the income you earn is known as your tax liability. This is the amount that you are liable to pay to the tax authorities. Whether you are an individual or a company, you have to pay taxes. If you evade tax, then you can land in serious trouble and can even go to jail.

### 3.2 Tax slabs:

The income tax slabs are different under the old and the new tax regimes. Further, the slab rates under the **old tax regime** are divided into three categories

- **Indian Residents aged < 60 years + All the non-residents**
- **60 to 80 years:** Resident Senior citizens
- **More than 80 years:** Resident Super senior citizens

Income Slabs	Old Tax Regime (FY 2022-23 and FY 2023-24)			New Tax Regime	
	Age < 60 years & NRIs	Age of 60 Years to 80 years	Age above 80 Years	FY 2022-23	FY 2023-24
Up to ₹2,50,000	NIL	NIL	NIL	NIL	NIL
₹2,50,001 - ₹3,00,000	5%	NIL	NIL	5%	NIL
₹3,00,001 - ₹5,00,000	5%	5%	NIL	5%	5%
₹5,00,001 - ₹6,00,000	20%	20%	20%	10%	5%
₹6,00,001 - ₹7,50,000	20%	20%	20%	10%	10%
₹7,50,001 - ₹9,00,000	20%	20%	20%	15%	10%
₹9,00,001 - ₹10,00,000	20%	20%	20%	15%	15%
₹10,00,001 - ₹12,00,000	30%	30%	30%	20%	15%
₹12,00,001 - ₹12,50,000	30%	30%	30%	20%	20%
₹12,50,001 - ₹15,00,000	30%	30%	30%	25%	20%
₹15,00,000 and above	30%	30%	30%	30%	30%

Revised Income Tax Slab Rate AY 2024-25 (FY 2023-24)– For New Regime

Income Slabs	Income Tax Rates FY 2023-24 (AY 2024-25)
Up to Rs 3,00,000	Nil
Rs 3,00,000 to Rs 6,00,000	5% on income which exceeds Rs 3,00,000
Rs 6,00,000 to Rs 9,00,000	Rs. 15,000 + 10% on income more than Rs 6,00,000
Rs 9,00,000 to Rs 12,00,000	Rs. 45,000 + 15% on income more than Rs 9,00,000
Rs 12,00,000 to Rs 15,00,000	Rs. 90,000 + 20% on income more than Rs 12,00,000
Above Rs 15,00,000	Rs. 1,50,000 + 30% on income more than Rs 15,00,000

Important Points to note if you select the new tax regime:

- Please note that the tax rates in the New tax regime are the **same for all categories of Individuals**, i.e. Individuals, Senior citizens, and Super senior citizens.
- Individuals with net taxable income less than or equal to Rs 7 lakh will be eligible for tax rebate u/s 87A, i.e. tax liability will be NIL under the new regime.

### What is a Surcharge and the applicable rates?

In case the income exceeds a certain threshold, the additional taxes are to be paid over and above existing tax rates. This is an additional tax on the High Income Earners.

Surcharge rates are as below:

10% of Income tax if total income > Rs.50 lakh and < Rs.1 crore,

15% of Income tax if total income > Rs.1 crore and < Rs.2 crore,

25% of Income tax if total income > Rs.2 crore and < Rs.5 crore,

37% of Income tax if total income > Rs.5 crore

**\*In Budget 2023**, the highest surcharge rate of 37% has been reduced to 25% under the new tax regime. (applicable from 1st April 2023)

- Surcharge rates of 25% or 37% will not apply to the income from dividends and capital gains taxable under sections 111A (Short Term Capital Gain on Shares), 112A (Long Term Capital Gain on Shares), and 115AD (Tax on the income of Foreign Institutional Investors). Therefore, the highest surcharge rate on the tax payable for such incomes will be 15%.
- The surcharge rate for an Association of Persons (AOP) consisting entirely of companies will also be limited to 15%.

Additional Health and Education cess at the rate of 4% will be added to the income tax liability.

With the failure to file the return within the due date for FY 2023-24, the taxpayer must opt for concessional rates in the New Tax regime but will have to forgo certain exemptions and deductions available in the existing old tax regime.

In total there are 70 deductions & exemptions that are not allowed, out of which the most commonly used are listed below:

Particulars	Old Tax Regime	New Tax regime (until 31st March 2023)	New Tax Regime (From 1st April 2023)
Income level for rebate eligibility	₹ 5 lakhs	₹ 5 lakhs	₹ 7 lakhs
Standard Deduction	₹ 50,000	—	₹ 50,000
Effective Tax-Free Salary income	₹ 5.5 lakhs	₹ 5 lakhs	₹ 7.5 lakhs
Rebate u/s 87A	12,500	12,500	25,000
HRA Exemption	✓	X	X



Leave Travel Allowance (LTA)	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Other allowances including food allowance of Rs 50/meal subject to 2 meals a day	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Standard Deduction (Rs 50,000)	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input checked="" type="checkbox"/>
Entertainment Allowance Deduction and Professional Tax	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Perquisites for official purposes	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Interest on Home Loan u/s 24b on self-occupied or vacant property	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Interest on Home Loan u/s 24b on let-out property	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Deduction u/s 80C (EPF LIC ELSS PPF FD Children's tuition fee etc)	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Employee's (own) contribution to NPS	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Employer's contribution to NPS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Medical insurance premium – 80D	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Disabled Individual – 80U	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X

Interest on education loan – 80E	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Interest on Electric vehicle loan – 80EEB	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Donation to Political party/trust etc – 80G	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Savings Bank Interest u/s 80TTA and 80TTB	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
Other Chapter VI-A deductions	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input type="checkbox"/> X
All contributions to Agniveer Corpus Fund – 80CCH	<input checked="" type="checkbox"/>	Did not exist	<input checked="" type="checkbox"/>
Deduction on Family Pension Income	<input checked="" type="checkbox"/>	<input type="checkbox"/> X	<input checked="" type="checkbox"/>
Gifts up to Rs 50,000	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Exemption on voluntary retirement 10(10C)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Exemption on gratuity u/s 10(10)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Exemption on Leave encashment u/s 10(10AA)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Daily Allowance	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Transport Allowance for a specially-abled person	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Conveyance Allowance	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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Income Tax Rate for domestic companies – FY 2023-24

Particulars	Old regime Tax rates	New Regime Tax rates
<p>Company opts for section 115BAB (not covered in sections 115BA and 115BAA) &amp; is registered on or after October 1, 2019, and has commenced manufacturing on or before 31st March 2024 and subject to the conditions specified in the section.</p> <p>Applicable from AY 2020-21 and onwards.</p>	–	15%
<p>Company opts for Section 115BAA, wherein the total income of a company has been calculated without claiming specified deductions, incentives, or exemptions and additional depreciation as specified in the section.</p> <p>Applicable from AY 2020-21 and onwards.</p>	–	22%
<p>The company opts for section 115BA registered on or after March 1, 2016 and engaged in the manufacture of any article or thing and does not claim the deduction as specified in the section.</p> <p>Applicable from AY 2017-18 and onwards.</p>	–	25%
<p>Turnover or gross receipt of the company is less than Rs. 400 crore in the previous year 2020-21</p>	25%	25%
<p>Any other domestic company</p>	30%	30%

**NOTE:**

- Additional Health and Education cess at the rate of 4 % will be added to the income tax liability in all cases.
- Surcharge applicable for companies is as below:
- 7% of Income tax where total income > Rs 1 crore,
- 12% of Income tax where total income > Rs.10 crore,
- 10% of income tax where domestic company opted for section 115BAA and 115BAB.

Income tax rate for Partnership firm or LLP as per old/ new regime.

A partnership firm/ LLP is taxable at 30%.

**NOTE:**

- 12% Surcharge is levied on income is more than Rs 1 crore
- Health and Education Cess at the rate of 4% will be applicable
- No concessional rates are introduced for firms LLPs in the next tax regime

Income tax slab rates for FY 2019-20, FY 2020-21, FY 2021-22 and FY 2022-23

Income tax slab for Individual aged below 60 years & HUF

Income Tax Slab	Tax Rates for Individual & HUF Below the Age Of 60 Years & NRIs
Up to ₹2,50,000*	Nil
₹2,50,001 to ₹5,00,000	5%
₹5,00,001 to ₹10,00,000	20%
Above ₹10,00,000	30%

**NOTE:**

- Income tax exemption limit is up to Rs 2,50,000 for Individuals, HUF below 60 years aged and NRIs
- Surcharge and cess will be applicable as discussed above

- An additional 4% Health & education cess will be applicable on the tax and surcharge amount

Income tax slab for Individual aged above 60 years to 80 years

Income Tax Slab	Tax Rates for Senior citizens aged above 60 Years & Less than 80 Years
Up to ₹ 3,00,000*	No tax
₹3,00,000 - ₹5,00,000	5%
₹5,00,000 - ₹10,00,000	20%
More than ₹10,00,000	30%

**NOTE:**

- Income tax exemption limit is up to Rs.3 lakh for senior citizens aged above 60 years but less than 80 years.
- Surcharge and cess will be applicable as discussed above

Income tax slab for Individual aged more than 80 years

Income Tax Slab	Tax Rates for Super Senior Citizens (Aged 80 Years And Above)
Up to ₹5,00,000*	No tax
₹5,00,000 - ₹10,00,000	20%
More than ₹10,00,000	30%

**NOTE:**

- Income tax exemption limit is up to Rs 5 lakh for super senior citizen aged above 80 years.
- Surcharge and cess will be applicable as discussed above

**Income Tax Slab FY 2019-20, FY 2020-21, FY 2021-22 and FY 2022-23 for Domestic Companies**

Turnover Particulars	Tax Rate
Gross turnover up to 250 Cr. in the previous year	25%
Gross turnover exceeding 250 Cr. in the previous year	30%

**NOTE:**

- In addition cess and surcharge are levied as follows:
- Cess: 4% of corporate tax
- Surcharge applicability:
- Taxable income is more than 1 Crore but less than 10 Crores: 7%
- Taxable income is more than 10 Crores: 12%

Income tax is the taxable amount paid to the government for the income earned by individuals, businesses, and institutions within a jurisdiction that enables the government to actively fulfill the public duty.

In India, The Income Tax Act 1961 encompasses the provisions that govern the income tax assessment.

**3.3 Income Tax Returns (ITR)**

An individual whose income for the financial year exceeds basic exemption limits files a statement to the income tax department containing information related to income and deductions, called income tax returns.

**Income Tax Assessment**

The income tax returns filed by individuals are scrutinized and reviewed by the income tax authorities at the end of every financial year, this is called income tax assessment.

In India, the income tax provisions have a structural flow of tax assessment, which must be adhered to by the individuals and the income tax department.

### 3.4 Types of Assessment

- Self-Assessment.
- Summary Assessment.
- Regular Assessment
- Scrutiny Assessment.
- Best Judgment Assessment.
- Re-assessment/income escaping assessment

#### Self Assessment under Section 140 A

Before submitting the return assessee is supposed to find whether he is liable for any tax or interest. For this purpose, section 140(A) has been introduced in the Income Tax Act, where any tax is payable based on any return required to be furnished under sec 139, or sec 142 or 148 or Sec 153A after deducting

- Advance tax if any payable
- TDS/TCS
- Relief u/s 90,91,90A
- MAT credit under 115JAA or 115JD

The assessee shall pay tax & interest before furnishing a return and proof of such payment will be accompanied under the return of income. In short, we can say that the assessee himself determines the income tax payable. The tax department has made available various forms for filing income tax returns. The assessee consolidates his income from various sources and adjusts the same against losses or deductions or various exemptions, if any, available to him during the year. The total income of the assessee is then arrived at. The assessee reduces the TDS and Advance tax from that amount to determine the tax payable on such income. Tax if still payable by him, is called self-assessment tax and must be paid by him before he files his return of income. This process is known as Self-Assessment.

#### Summary Assessments under Section 143(1)

In this type of assessment, the information submitted by the assessee in the return of income is cross-checked against the information that the income tax department has access to, it is a type of assessment carried out without any human intervention, if any tax liability/refund arises on summary assessment, intimation u/s 143(1) will be sent to assessee through e-mail. This intimation should be treated u/s 156(1) or a refund order. No separate demand notice will be issued. In this process, the reasonableness and correctness of the return are verified by the department. The return gets processed online, and adjustments for arithmetical errors, incorrect claims, and disallowances are automatically done.

Summary assessment is the first stage of tax assessment where overview scrutiny will be conducted, no detailed scrutiny will be there to check plausible clerical errors such as,

1. Mathematical miscalculations or arithmetical errors in the return.
2. Incorrect claim
3. Incorrect disallowance
4. Errors occurring from form 16, 16A, or 26AS.

5. Disallowance of expenses u/s 10AA, 80 IA to 80 IE if the return is furnished beyond the due date specified u/s 139(1).

No such adjustment shall be made unless intimation is given to the assessee of such adjustment in writing or electronic mode.

#### Regular Assessment

The income tax department authorizes the assessing officer or income tax authority, not below the rank of an income tax officer, to conduct this assessment. The purpose is to ensure that the assessee has neither understated his income nor overstated any expense or loss or underpaid any tax.

#### Scrutiny Assessment under Section 143(3)

Scrutiny Assessment is one of the assessments of the Income Tax Return under the Income Tax Act. As the name suggests, the Assessing Officer (AO) critically and thoroughly inspects and examines all the details of the Income Tax Return of the assessee to check that such details filed by the assessee are correct and genuine. The AO tries to ensure that the assessee is not using any illegal practice to avoid tax liability in any manner. The AO also gives the opportunity of being heard to the Assessee and thus assessee can produce and substantiate all the details filled in the ITR with evidence. In case any discrepancy, disparity, or inconsistency is found in the ITR then the AO is empowered to charge penalties from the assessee.

#### Best Judgment Assessment under Section 144

This type of assessment is made when the assessee is not complying with the tax provisions. The A.O., in the absence of sufficient information of the assessee, according to the best of his ability, knowledge, and experience makes such judgment. In short, Best judgment assessment refers to a situation where the officer computes the tax payable as the assessee does not comply to provide or maintain necessary source documents or book of accounts to support the claim when requested to submit.

In this scenario, the officer computes the tax liability based on his best judgment. The income tax act specifies certain situations under which the income tax officer can compute tax liability based on best judgment,

- When the assessee does not file an income tax return
- When the assessee does not respond to the notice requesting the submission of documents
- The response of the assessee has crossed the limit permitted by the central board of direct taxes (CBDT)
- When the officer is not satisfied with the documents provided.

#### Income Escaping Assessment under Section 177

Income escaping assessment refers to income that has been omitted from the Income Tax assessment of a particular taxpayer. The proceedings which govern a case of income escaping assessment can be initiated by the income tax department if certain incomes have escaped assessment or income has been assessed at a lower rate or excessive loss or allowances have been allowed. In such a scenario, the assessing officer is entitled to reassess the assessment of the relevant assessment year. An assessing officer should not merely act on rumor or suspicion but rely on substantial evidence before initiating procedures. The assessing officer must conduct his operations in good faith.

Every assessee, who earns income beyond the basic exemption limit in a financial year must file a statement containing details of his income, deductions, and other related information. This is



called the income tax return (ITR). Once you as a taxpayer file the income returns, the Income Tax Department will process it. There are occasions where the return of an assessee gets picked for an assessment. The assessment plays an important role in the examination of the details submitted by a taxpayer by the Income Tax Department.

As per budget 2021, the time limit of opening the case has been reduced from 6 years to 3 years. However, for cases where concealment of income exceeds Rs.50L (Serious Tax evasion cases), cases can be opened for 10 years.

Circumstances under which income is deemed to have escaped assessment are,

1. When the assessee is found to have taxable income but has not filed income tax returns for the financial year.
2. The submitted income tax return is under or overstated
3. Failure to furnish information relating to international income
4. Unaccounted overseas assets
5. When the income of the assessee exceeds the tax exemption limit but has not filed income tax returns.

### 3.5 Problems:-

1. Compute the total income of Mr. Guru from the following particulars of his income for the A.Y. 2023-24.

- i) Salary (After Standard Deduction) 2,80,000
- ii) Dividend received from Indian company 10,000
- iii) Share of profits from HUF 12,000
- iv) Dividend from a co-operative society 6,000
- v) Rental income from house property 10,000

Solution: Computation of total income of Mr. Guru for the A.Y. 2023-24

i)	Income from Salary	2,80,000
ii)	Income from house property	10,000
	Less: 30% statutory deduction	3,000
	Income from house property	7000
Income from other sources:		
iii)	Dividend from Indian company	10,000
iv)	Dividend from co-operative society	6,000
v)	Gross Total Income	3,03,000
vi)	Less: Deductions u/s 80 C to 80 U	Nil
vii)	Total Income	3,03,000

1. The following are the particulars of Mr. Rajesh for the A.Y. 2023-24. Compute the taxable income.
  - Income from house property (computed) 45,000
  - LTCG on building 30,000

- Winning from lottery 80,000
- Life insurance premium paid 1,000
- Interest on Govt. securities 12,000
- Income from cloth business 1,25,000
- Profit from business of growing mushrooms 40,000
- Profit from business of dairy farming 15,000

Solution:

Computation of taxable income of Mr.Rajesh for A.Y. 2023-24

i)	Income from house property	45,000
ii)	Income from business: Income from cloth business	1,25,000
iii)	Profit from business of growing mushrooms	40,000
iv)	Profit from business of dairy farming	15,000
v)	Capital Gain: LTCG	30,000
vi)	Income from other sources: Winning from lotteries	80,000
vii)	Interest on Govt. securities	12,000
viii)	Gross Total Income	3,47,000
ix)	Less: Deduction u/s 80 C for LIP paid Rs.	1,000
x)	Taxable Income	3,46,000

2. The following particulars of income are submitted by Mani Iyer for the A.Y. 2023-24. She lives at Delhi.

- Basic pay 10,000 p.m.
- Dearness allowance @ 10% of salary
- HRA 30% of basic salary.
- Medical allowance Rs 200 p.m. (amount actually spent on her own treatment is Rs. 2,000).
- Wardenship allowance 400 p.m.
- Rent from house Property Rs. 3,000 p.m.
- Contribution to RPF 10% of basic salary.
- House rent paid Rs. 6,000 p.m.
- Donation to approved charitable institution Rs. 20,000

Compute her total income for assessment year 2023-24

Solution: Computation of total income of for the A.Y.2023-24

Income from salary Basic Pay (10,000 × 12 )	1,20,000
Dearness Allowance 10% of BP	12,000
Wardenship allowance	4,800
Medical allowance	2,400
HRA	Nil

RPF Nil	(AS	IT	IS	LESS	THAN	12%)
Less: Standard deduction					50,000	
Income <b>89,200</b>			from		salary	
Income from House Property: Rent from property					36,000	
Less: Statutory deduction (30% of Rs. 36,000)					10,800	
Income <b>25,200</b>			from		house property	
Gross 1,14,400			total		income	
Less: Deduction u/s 80C i.e. contribution of RPF					13,400	
1,01,000						
Less: Deduction u/s 80G for Donation					5,050	
Total 95,950						Income

Note:-

Qualifying limit for Section 80G shall be 10% of adjusted gross total income after considering all deduction u/s 80C to 80U except 80G i.e. 10% of Rs. 1,01,000 which is Rs. 10,100  
50% of qualifying amount is Rs.5,050(50% of 10,100)

4. Mr Ram, who is an Indian citizen and is a resident for income tax purposes, submits the following information for the assessment year 2023-24.

- (a) Gross salary 4,90,000
- (b) Profession tax paid 1,000
- (c) Own contribution to recognized provident fund 10,000
- (d) Employer's contribution to provident fund 10,000
- (e) Dividend from Indian company 2,000
- (f) Income on deposits with a company (gross) 40,000
- (g) Long-term capital gains from house property 50,000
- (h) Short-term capital gain from shares covered under Section 111A 40,000

Compute the total income and tax payable by Ram

Solution:

Computation of Total Income of Ram for the assessment year 2023-24

Income 4,90,000	from	Salary	Gross	Salary
Less: Standard deduction u/s 16 (a)			50,000	
Less: Deduction on account of profession tax			1,000	
51,000				
4,39,000				
2. Income from capital gains				

Long-term capital gain from house property	50,000
Short-term capital gain referred to in Section 111A	40,000
90,000	
Income from other sources Dividend from Indian company Exempt Taxable 2000	
Interest on deposits with company	
40,000	
Gross Total Income	
5,69,000	
Less: Employee's contribution to recognized provident fund u/s 80 C	
10,000	
<b>Total Income</b>	<b>5,59,000</b>

Computation of tax LTCG – 50,000 @ 20% Rs.	10,000
STCG u/s 111A- Rs. 40,000 @ 15%	6,000
Tax on balance Rs.4,69 ,000 (5,59,000- 50,000 - 40,000)	
Tax calculated on 4,69,000 First 2,50,000- Nil Next 2,19,000 @ 5%	10,950.
Tax payable before rebate u/s 87 A (If applicable)	26,950
Add: HEC @ 4%	1078
<b>Total tax payable</b>	<b>28028</b>

### 3.6 Self – Assessment questions:

Short Questions:

1. Persons to file return of income.
2. Tax rates in case of citizens.
3. Tax rates in case of Senior citizens.

Essay Questions:

1. What are the incomes to be included in Assessee's total income?
2. State the procedure in the computation of total income and tax liability?

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**DR. A. KANAKA DURGA**

## **LESSON - 4**

# **CLUBBING OF INCOMES**

### **OBJECTIVES OF THE LESSON**

After studying this lesson, you should be able to:

- To study such incomes which belong to other person but are included and taxed in the hands of assess who try to avoid paying tax on such income in the higher slab of income tax; and
- To understand how an assessee try to shift his income to keep his tax liability at a minimum possible limit by making such arrangements through which his factual income is legally shifted to some other persons close to him

### **Structure**

- 4.1. Introduction
- 4.2. Clubbing of Incomes
- 4.3. Income of a Minor Child
- 4.4. Income from Converted Property
- 4.5. Income from the Accretion to Assets
- 4.6. Clubbing of Negative Income (Losses)
- 4.7. Recovery of Tax
- 4.8. Solved Illustrations
- 4.9. Aggregation of Income
- 4.10. Summary
- 4.11. Keywords
- 4.12. Self-Assessment Question
- 4.13. Suggested Readings

### **4.1. INTRODUCTION**

An assessee is liable to pay tax on his own incomes which are not otherwise exempt from income tax. Under the Indian Income Tax Law, slab system is followed for taxation purpose and the assessee earning higher income are put in the higher tax slab and are taxed by a higher rate. To avoid high rate of taxation, some assesses try to lower their income slab by transferring incomes to the persons falling under either no tax bracket or lower tax slab. Such transferred incomes as well as income earned on such transferred incomes are included in the income of the assessee who has done such transfers. Thus, in some cases, assessee is liable to pay tax on the incomes belonging to others.

### **4.2. CLUBBING OF INCOMES**

A slab system is followed to charge income tax on the total income of an individual. Since, Progressive Tax System is followed, therefore, there are progressive rates of tax and as the income rises (goes up), and the rate of tax also goes up. The tax-payers falling under the higher tax brackets have a tendency to divert partially their income to the close people or relatives, etc., having a lower bracket or fully exempt bracket of income. By doing so, such assesses reduce their own tax rate slab and avoid payment of tax on their income by a higher rate of tax. To limit such practices of tax avoidance, there are provisions U/s- 60 to 65 of Income Tax Act.

According to these provisions, to the extent of transfer of income to the other person or to the extent of income earned by such person on such transfers, it shall be included in the total income of the assessee. Such inclusion of income of other person in the income of assessee is called '**Clubbing of Income**'. Various Provisions of Clubbing of Income are discussed under:

**Transfer of Income without Transfer of Assets:** If an income earned through an asset is transferred by a person to another person without transferring the ownership of the asset, the income from such asset shall be deemed to be the income of the transferor and shall be included in his total income.

**Revocable Transfer of Assets (U/s-61):** Where a revocable transfer is made of an asset by one person to another person, any income arising or derived from such assets shall be deemed to be the income of the transferor and shall be included in his total income.

A transfer shall be deemed to be revocable if:

- i) It contains any provision for the retransfer directly or indirectly of the whole or any part of the income or assets to the transferor; or
- ii) It in any way, gives the transferor a right to reassume power directly or indirectly over the whole or any part of the income or assets.

Transfer includes any settlement, trust, covenant, agreement or arrangement (u/-63)

**Salary, Commission, Fees or any Other Remuneration to the Spouse (U/s-64):**In computing the total income of an individual, there shall be included all such income as arises directly or indirectly to the spouse of such individual by way of salary, commission, fees or any other form of remuneration whether in cash or in kind from a concern in which such individual has a substantial interest. However, these provisions will not apply on the income of such spouse who possesses Technical or Professional Qualifications, and the income is solely attributable to the application of his or her Technical or Professional knowledge and experience.

In case of a company, an individual is deemed to have substantial interest, if he beneficially has at least 20% equity shares along with his relatives at any time during the previous year. The shares must carry voting rights.

In any other case (where the concern is not a company), the individual along with his relatives is entitled to at least 20% of the profits of the concern at any time during the previous year.

If both spouses have substantial interest in a concern and both are in receipt of remuneration from such concern, the remuneration shall be clubbed in the income of that spouse (husband or wife) whose total income is higher excluding such remuneration.

Spouse means husband or wife and the clubbing is limited to the incomes of salary, commission, fees or any other remuneration received by the spouse, directly or indirectly and in cash or kind.

**Income from Assets Transferred to Spouse [Section 64 (1) (iv):** Where an individual transfers his asset (excluding house property) directly or indirectly, to his spouse, any income from such asset is deemed to be the income of the transferor. However, these provisions will not apply in the following circumstances:

- i) If the transfer is made for adequate consideration.
- ii) If the transfer is made under an agreement between the spouses to live apart.

Such separation may be judicial or voluntary.

In the cases, where the consideration is not adequate, proportionate income shall be included in the income of the transferor.

The income from house property transferred to spouse shall be taxed under the head 'Income from House Property' in the hands of transferor and not in the hands of transferee.

**Income from Assets Transferred to Daughter-in-law (Son's wife) [Section 64 (1) (vi)]:** Income arising from transfer of an asset by an individual directly or indirectly on or after the 1<sup>st</sup> day of June 1973 without adequate consideration to son's wife (daughter-in-law) is included in the total income of the transferor.

**Income from Assets Transferred to a Person or Association of Persons for the Benefit of Spouse [Section 64 (1) (vii)]:** Income arising from transfer of an asset directly or indirectly by an individual without adequate consideration to a person or Association of Persons for the immediate or deferred benefit of his or her spouse shall be included in the total income of the transferor to the extent it is for the benefit of the spouse.

**Income from Assets Transferred to a Person or Association of Persons for the Benefit of Son's Wife [Section 64 (1) (viii)]:** Income arising from transfer of an asset after 31.05.1973, directly or indirectly by an individual without adequate consideration to a person or Association of Persons for the immediate or deferred benefit of son's wife, shall be included in the total income of the transferor to the extent it is for the benefit of the son's wife.

**Income to the Spouse or Son's wife from investment of Transferred Asset:** Where the individual has transferred any asset or assets directly or indirectly to the spouse or son's wife and such assets are invested by the transferee.

- a) In any business, such investment being not in the nature of contribution of capital as a partner in a firm or for being admitted to the benefits of partnership in a firm, the amount as calculated in the following manner shall be included in the total income of the transferor =

Value of the asset transferred by the Transferor on the 1 <sup>st</sup> day of previous year X Income from the business to the transferee
Total Investment in the business by the transfer as on the 1 <sup>st</sup> day of previous year

- b) In any business, such investment in the nature of contribution of capital as a partner in a firm, the amount as calculated in the following manner, shall be included in the total income of the transferor =

such capital contribution of the transferee as on 1 <sup>st</sup> day of previous year X Total Income received by the transferee from the firm
Total capital contribution of the transferee as on 1 <sup>st</sup> day of previous year

Thus, the share of income belonging to the assets transferred shall be included in the income of the transferor.

#### 4.3. INCOME OF A MINOR CHILD

Every income of a minor child not being a minor child suffering from any disability of the nature specified in U/s-80U shall be included (clubbed) in the income of his/her parent. Income includes both which arises or accrues to the minor. However, the following incomes shall not be included in the total income of parent:

- a) Income as arises or accrues to the minor child on account of any manual work done by him; or
- b) Income as arises or accrues to the minor child from any activity involving application

of his skill, talent or specialized knowledge and experience.

**Rules of clubbing of a minor's income in the income of parent are as under:**

- a) Where the marriage of his (minor's) parents subsists, income shall be clubbed in the income of that parent whose total income (excluding the income of minor child) is greater, for instance, if in the previous year, exclusive income of mother is Rs.6,00,000 and father's income is Rs.7,00,000 (without adding minor's income in both the cases), and the minor's income in the previous year is Rs.2,00,000, then, minor's income shall be included in the income of the father because his exclusive income is greater.
- b) Where the marriage of his parents does not subsist, the income of the minor child shall be included (clubbed) in the income of that parent who maintains the minor child in the previous year.

Where any income of minor is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent unless the Assessing Officer is satisfied and gives approval for doing so.

If a minor child's income is included in the total income of an individual (any parent), such individual shall be entitled to the following exemption in respect of each minor child separately:

The income of the minor child so included  
Or  
Rs. 1,500 (Whichever is less)

#### **4.4. INCOME FROM CONVERTED PROPERTY**

If an individual who is a member of H.U.F. converts any asset owned by him into asset of HUF without adequate consideration after 31-12-1969, then the income from such asset shall be deemed to be the income of the individual and not of the HUF and shall be included in the total income of the transferor (individual).

If such converted property is partitioned subsequently, the income earned/received from such converted property or transferred property as is received by the spouse of the transferor, shall be deemed to be the income of the transferor, and shall be included in his total income.

#### **4.5. INCOME FROM THE ACCRETION TO ASSETS**

Income arising to the transferee from the property transferred without consideration to him is taxable in the hands of the transferor. However, if an income arises from accretion of such property or from accumulated income of such property to the transferee, it will not be included in the total income of the transferor and shall be taxable in the hands of the transferee.

#### **4.6. CLUBBING OF NEGATIVE INCOMES (LOSSES)**

Losses are also called Negative Incomes. Since incomes of other persons (transferee) may be clubbed in the income of transferor, the negative incomes or losses shall be considered in computing the income of transferor for such purpose. Thus, it may be concluded that for the purpose of clubbing provision income includes loss also.

**Benami Transaction:** When a person enters into a transaction in the name of a person other than the real person, it is called Benami Transaction and the person in whose name the



transaction is made is called Benamidar. The purpose of such transaction is to avoid tax. If the Assessing Officer considers that a particular transaction is Benami, then, he may treat income of such Benami Transaction as the income of real person and it is taxed in the hands of real person.

**Cross Transactions/Transfers:** Cross Transfers are the transfers which are intimately connected by agreement to form part of a single transaction, and each transfer constitutes consideration for the other. In such cross transfers, income shall be clubbed in the hands of deemed transferor and the provisions of Section 64 will be applicable. For instance, if X makes a gift of Rs. 1, 00,000 to the wife of his brother Y to buy a house and at the same time Y gives a gift of some shares owned by him to X's wife. Since, it is a cross transaction, the income of X's wife from such transaction and income of Y's wife shall be considered from transferred assets and will be clubbed in the hands of deemed transferors, i.e., Income of X's wife shall be clubbed in X's income and income of Y's wife shall be clubbed in the hands of Y.

#### 4.7. RECOVERY OF TAX

Tax which is computed on the income of other person and considered as deemed income of the assessee and therefore clubbed in assessee's income; such tax can either be recovered from the assessee or the other person U/s-65. However, the liability of the other person shall be restricted on that portion of tax levied on assessee which is attributable to the income so included. The other person shall become liable after the service of the notice of demand by the Assessing Officer for this purpose. Joint transferees (two or more persons) shall be jointly and severally liable to pay such tax.

#### 4.8. SOLVED ILLUSTRATIONS

##### Illustration – 1

Mr. Vishnu holds 22% shares with voting rights in a company. His wife Sonam is employed in the same company on a salary of Rs. 8,000 per month. Mr. Vishnu has total income of Rs.2,00,000 while his wife Sonam has her other total income of Rs.1,20,000 excluding her salary income. Compute the total income of Mr. Vishnu and Mrs. Sonam according to clubbing provisions for the Assessment Year 2023-24.

**Solution:**

##### Computation of Total Income for Assessment Year 2023-24

	Mr. Vishnu		Mrs. Sonam
	Rs.	Rs.	Rs.
Other Incomes:		2,00,000	
<b>Add:</b> Income from Salary of Mrs. Sonam (8000 X 12)	96, 000		
<b>Less:</b> Standard Deduction	50,000	46,000	
Total other Incomes of Mrs.Sonam			1,20,000
<b>Total Income</b>		<b>1,54,000</b>	<b>1,20,000</b>

##### Illustration – 2

Mr. Pawan transferred an asset without consideration to Suman who is a lady; Suman earned Rs.1,00,000 from such transferred asset in the previous year 2022-23. In the Assessment Year 2023-24, who shall be liable to pay tax on Rs.1,00,000 in the following circumstances:

- If Pawan marries Suman after some time of such transfer of asset.
- If Pawan does not marry Suman and the transfer of asset is revocable.

**Solution:**

- Suman is liable to pay tax on income of Rs.1,00,000 because when the asset was transferred, she was not married to Pawan.
- Since transfer of asset is revocable, income of such asset of Rs.1,00,000 earned by Suman (transferee) shall be taxable in the hands of Pawan (transferor).

**Illustration – 3**

Mr. Tony has substantial interest in a business undertaking. Mr. Tony's wife Merry gets commission income of Rs.30,000 from the same business undertaking. There was a loss of Rs.1,00,000 in the business of undertaking in the previous year. Tony is entitled to 50% of profits. Other incomes of Mr. Tony and Mrs. Merry are Rs.1,00,000 and Rs.60,000 respectively. Compute taxable income of Mr. Tony and Mrs. Merry for the Assessment Year 2023-24.

**Solution:**

**Computation of Taxable Income for A.Y. 2023-24**

	Mr. Tony		Mrs. Merry
	Rs.	Rs.	Rs.
Income from Business or Profession (Loss)		-50,000	
Income from other sources:	1,00,000		
Other Incomes			
<b>Add:</b> Wife's commission	30,000	1,30,000	
Income from other sources			60,000
<b>Taxable Income</b>		<b>80,000</b>	<b>60,000</b>

**Illustration – 4**

The income of a family is given below:

- Mr. Sagar's income from business Rs. 2,00,000
- Mrs. Lahari's (wife of Mr. Sagar) income from salary Rs.2,10,000
- Interest income of minor son of Mr. Sagar Rs.20,000
- Income of Minor son (Master Kundan) of Mr. Sagar by singing and dancing Rs.18,000
- Income from investment of minor daughter of Mr. Sagar, Miss Roshni Rs.22,000

Compute the Total Income of Mr. Sagar, his wife Mrs. Lahari and the Minor son Kundan for Assessment Year 2023-24.

**Solution:**

**Computation of Taxable Income for A.Y. 2023-24**

	Mr. Sagar	Mrs. Lahari	Mst. Kundan
	Rs.	Rs.	Rs.

Income from Business	2,00,000			
Income from salary			2,10,000	
Interest income of minor son		20,000		
<b>Less: Exempt</b>		1,500	18,500	
Investment income of minor daughter, Miss Roshni		22,000		
<b>Less: Exempt</b>		1,500	20,500	
Income from singing and dancing				18,000
<b>Total Income</b>	<b>2,00,000</b>		<b>2,49,000</b>	<b>18,000</b>

**Note:**

- i) Since Mrs. Lahari has greater income (out of father and mother), the income of minor son and minor daughter shall be clubbed with her income.
- ii) Exemption of Rs. 1,500 is allowed for each minor child.
- iii) Though Kundan is minor son, but he has earned income himself by using his skills, hence not clubbed.

**Illustration – 5**

Mr. Sarath makes a gift of Rs.3,00,000 to his wife Mrs. Sandhya on 31.01.2022. Mrs. Sandhya commences the business on 15-02-2022 by investing Rs.5,00,000 which includes gifted amount of Rs.3,00,000 also. During the year ending 31-03-2022 and 31-03-2023, she earns an income of Rs.1,20,000 and Rs.3,60,000 respectively from the said business. Compute the income to be clubbed for assessment year 2022-23 and 2023-24.

**Solution:**

**Computation of Income to be clubbed in the hands of Mr. Sarath for Assessment Year 2022-23**

Amount of gift made by Sarthak invested as on 1 <sup>st</sup> day of previous year X Income from Business
----- Total Investment made by transferee on the 1 <sup>st</sup> day of the previous year

$$= \text{Rs. } \frac{3,00,000 \times 1,20,000}{5,00,000} = \text{Rs. } 72,000$$

**Computation of Income to be clubbed in the hands of Mrs. Sarath for Assessment Year 2023-24**

Amount invested out of assets transferred with inadequate consideration as on as on 1 <sup>st</sup> day of the year X Income from Business
----- Total Investment of transferee as on the 1 <sup>st</sup> day of the previous year

$$= \text{Rs. } \frac{3,00,000 \times 3,60,000}{6,20,000} = \text{Rs. } 1,74,194$$

**Note:**

- i) Since, it is a new business, and the business did not exist on 01-04-2022 therefore, assessment year 1<sup>st</sup> day of previous year shall be date on which business was started, i.e., 15-02-2022.
- ii) For the assessment year 2023-24, previous year commences on 01.04.2022, on this date total investment will be Rs.3,00,000 + Rs. 2,00,000 + Rs. 1,20,000 = Rs.6,20,000 or Rs.5,00,000 initially invested including gifted amount + Rs.1,20,000 profit for A.Y. 2022-23

$$= \text{Rs. } 6,20,000.$$

**Illustration – 6**

Compute the Total Income of Mr. Daniel and his family members from the information given below for the Assessment Year 2023-24:

		<b>Rs.</b>
i)	Income of Mr. Daniel from business	3,00,000
ii)	Salary of Mrs. Daniel (Daniel 's wife) from her employer	2,40,000
iii)	Income from dance performance by Miss S minor daughter of Mr. Daniel.	2,50,000
iv)	Interest received on deposits made by Miss S out of her income from dance performance	45,000
v)	Income from vacant land to Mrs. Daniel, the land gifted to her by her husband before marriage.	30,000
vi)	Salary of Mr. J (Major son of Mr. Daniel) from a firm in which Mr. Daniel and Mrs. Daniel are partners of 10% each.	75,000
vii)	Salary to Mr. Daniel from above firm	60,000
viii)	Salary to Mrs. Daniel from above firm	90,000
ix)	Amount received by Mst. H (Minor son of Mr. Daniel) from lottery	70,000
x)	Salary of Mrs. Daniel from M/s B.J. Ltd., in which Mr. Daniel and his HUF holds 20% equity share capital in equal ratio.	90,000
xi)	Income from house property acquired by Mr. Daniel.	48,000
xii)	Short-term capital gains to Mrs. Daniel from jewellery gifted by her husband last year	50,000

xiii)	Interest from Shri Krishna & Co. to Mrs. Daniel, 40% of amount invested was gifted by her husband	20,000
xiv)	Income from house property sold by Mrs. Daniel to her husband at Rs. 5,00,000 whereas the fair market value was Rs. 7,00,000	1,20,000
xv)	Scholarship received by Mst. H	12,000
xvi)	Cash gift received by Miss S from her dance teacher	75,000
xvii)	Mr. Daniel invested the income earned from house property acquired from his wife and earned 10% interest	12,000
xviii)	Loan is given by Mr. Daniel to his HUF of Rs.5,00,000 on which HUF give 5% interest whereas market rate is 14%.	25,000
xix)	Firm's net profit where Mr. Daniel and Mrs. Daniel are partners of 10% each	3,00,000

**Solution:****Computation of total income of Mr. Daniel for the Assessment Year 2023-24**

	Rs.	Rs.
<b>Income from house property:</b>		
Rent from property acquired with own funds	48,000	
Rent from property transferred by wife for inadequate consideration being proportionate to full consideration (Rs. 1,20,000 X 5,00,000 ÷ 7,00,000)	85,714	1,33,714
<b>Income from business or profession:</b>		
Income from business		3,00,000
<b>Income from capital gains:</b>		
Short-term capital gain on sale of jewellery gifted to Mrs. Daniel. by her husband Mr. Daniel		50,000
<b>Income from other sources:</b>		
Interest from Shri Krishna & Co., to Mrs. Daniel but 40% of the amount invested was of her husband i.e., 40% of Rs. 20,000		
Interest on investments of the income from house property acquired from his wife, as it is the income of the clubbed income	8,000	
Interest from HUF @ 5% on Rs. 5,00,000 (Market rate of interest irrelevant)	12,000	
	25,000	45,000
<b>Gross Total Income</b>		<b>5,28,714</b>

**Computation of total income of Mrs. Daniel for the Assessment Year 2023-24**

	Rs.	Rs.
<b>Income from Salaries:</b>		
Salary from her employer	2,40,000	
Salary from M/s B.J. Ltd.	90,000	3,30,000

<b>Income from House Property:</b>			
Rental income (Proportionate) from house transferred to Mr. Daniel for inadequate consideration (Rs. 1,20,000 X 2,00,000 ÷ 7,00,000)		34,286	34,286
<b>Income from business or profession:</b>			
Salary to Mr. Daniel from a firm		60,000	
Salary to Mrs. Daniel from a firm both as partners to be clubbed, as business income in the hands of that spouse whose other incomes are greater		90,000	1,50,000
<b>Income from other sources:</b>			
Income from vacant land		30,000	
Interest from Sri Krishna & Co. (60%)		12,000	
Income of minor son Mst. H from lottery gross up (Rs. 70,000 X 100 ÷ 70)	Rs.1,00,000		
Less: Exemption u/s 10 (32)	1,500	98,500	
Income of Miss S cash gift from dance teacher	75,000		
Interest received on deposits made by Miss S to be grossed up 45,000 X 100 ÷ 90	50,000		
	1,25,000		
Less: Exemption u/s 10(32)	1,500	1,23,500	2,64,000
<b>Gross Total Income</b>			<b>7,78,286</b>

#### Computation of total income of Mr. J (Major Son) for the Assessment Year 2023-24

	Rs.
<b>Income from Salaries:</b>	
Salary from a firm	75,000
<b>Gross Total Income</b>	<b>75,000</b>

#### Computation of Total Income of Miss. S (Major Daughter) for the Assessment Year 2023-24

	Rs.
<b>Income from Other Sources:</b>	
Salary from dance performance	2,50,000
<b>Gross Total Income</b>	<b>2,50,000</b>

#### Note:

- Scholarship is exempt u/s 10(16)
- Share income from firm is exempt u/s 10(2A)
- Income of minor child is clubbed with the income of the parent (father or mother) whoever's income is greater.
- The house transferred by Mrs. Daniel to her husband is for inadequate consideration. Hence, the income from such house will be taxed in the hands of husband and the wife

in proportion to the value of house transferred and its market value.

- 5) Mr. Daniel has not substantial interest in B.J. Ltd because HUF's share will not be considered to ascertain the substantial interest. Hence, salary received by Mrs. Daniel from M/S B.J. Ltd. will not be included in Mr. Daniel 's income.

#### 4.9. AGGREGATION OF INCOME

U/S-2 (45) describes Total Income for which an assessee is chargeable to tax and which is computed as per the provisions and the manner prescribed in the Act. It means, that the Total Income of an assessee includes all such incomes which are chargeable to tax. However, there are circumstances in which such incomes are also included in assessee's Total Income, on which income tax is not payable. The procedure of including such incomes in an assessee's Total Income, on which income tax is not payable, is termed as 'Aggregation of Income'. According to Section 66 of the Act, in computing the total income of an assessee, there shall be included all incomes on which no income tax is payable. According to Section 86 of the Act, share of an assessee in the income of an Association of Persons (AOP) or Body of Individuals (BOI) is such income. Rules for inclusion of its share are as under:

- 1) If an assessee is a member of Association of Persons (AOP) or Body of Individuals (BOI), the share of assessee in AOP or BOI shall be included in his total income, However, if the AOP or BOI is liable to pay tax on its total income, the assessee shall be entitled to rebate of such income tax on such share of income including any remuneration at the average rate of income tax.
- 2) Where the assessee is a member of AOP or BOI but such AOP or BOI is not liable to pay tax on its total income, the assessee shall not be entitled to rebate of income tax on his share of income from such AOP or BOI. It means the assessee will pay tax on such income.
- 3) If the total income of AOP or BOI is chargeable to tax at the maximum marginal rate or any higher rate, under any provision of this Act, the share income of the member assessee of such AOP or BOI shall not be included in his Total Income. In such case, the assessee's share of income from AOP or BOI shall be exempt from tax.

#### 4.10. SUMMARY

Deemed Incomes include cash credits, unexplained investments, Jewellery and other valuable articles that are in the possession of the assessee. Unexplained expenditure and Hundi borrowings and repayments also fall in this category.

When following incomes of other persons are included in assessee's total income, it is called as clubbing of Income. Following are such cases:

- 1) Transfer of Income without transfer of asset.
- 2) Income transferred under revocable transfer of the ownership of the asset.
- 3) Income of spouse:
  - a) Income of spouse from a concern by way of Salary, Commission etc. in which such individual has substantial interest is included in the total income of such individual.
  - b) When an individual transfers an asset to spouse without adequate consideration or in connection with an agreement to live apart, any income from such asset will be deemed to be the income of the transferor.

Any income arising to daughter-in-law from assets transferred to her by the individual without adequate consideration. Any income arising from assets transferred by the individual to any person or association without adequate consideration for the benefit of spouse is included in the total income of the transferor. Any income arising to any person or association from assets transferred to it by the individual after May 31, 1973, under the circumstances described in (5) above, for the benefit of son's wife is included in the total income of the transferor. Any income of H.U.F. from the self-acquired property of a member of H.U.F. converted into the property of his H.U.F. will be included in the total income of the member concerned. From income derived by spouse or son's wife from the assets transferred to them and invested by them, proportionate amount of profit share of transferee will be included in the income of the transferor. Any income of a minor child shall be included in the income of the parent whose total income is greater. This condition applies subject to the subsistence of marriage of parents or in the income of the parent who maintains the minor child if the marriage of parents does not subsist. On the income of minor so included in the parent's income, a deduction of Rs. 1,500 or the amount of minor's income whichever is less, is allowed as deduction. However, the income of a physically or mentally handicapped minor child does not attract clubbing in the parent's income.

#### 4.11. KEY WORDS

**Revocable Transfer:** It means such transactions, if the whole property or any income of this property is retransferred to the transferor or the transferor has right to get repossession directly or indirectly on the whole asset or its income.

**Deemed Income:** Deemed Incomes include cash credits, unexplained investments, Jewellery and other variable articles that use to be in the possession of the assessee. Unexplained expenditure and Hundi borrowings and repayments also fall in this category.

**Cross Transfer:** Cross Transfers are the transfers which are intimately connected by agreement to form part of a single transaction, and each transfer constitutes consideration for the other. In such cross transfers, income shall be clubbed in the hands of deemed transferor and the provisions of Section 64 will be applicable.

**Unexplained Money:** If in any financial year, there is money, jewellery, gold, silver or any valuables, which are not shown in the books, and a satisfactory explanation is not provided, the money, jewellery or gold shall be treated as income of that year and shall be taxed accordingly.

**Benami Transactions:** When any person with the aim of saving tax, transfers the income to any artificial person, then such transactions are known as Benami transactions.

#### 4.12. SELF ASSESSMENT QUESTIONS

1. What do you mean by Clubbing of Income? In what circumstances is the income of one person treated as income of another?
2. Write the provisions relating to the clubbing of incomes of Minor Child.
3. How are following incomes treated under Income Tax Act, 1961?
  - (a) Mr. A gifted Rs.1,00,000 to his son Mr. B on his 16<sup>th</sup> Birthday on 2<sup>nd</sup> October, 2017. The money was deposited in a Nationalised Bank @ 10% per annum.



During the year ending on 31<sup>st</sup> March 2023 Mr. B received Rs.10,000 as interest income.

- (b) A Minor made a fixed deposit of Rs.1,00,000 in a partnership firm in which his father and mother are partners. The deposit carries interest @20% per annum. The incomes of father and mother other than from the firm are Rs.15,000 and Rs.20,000 respectively.
4. Decide about the person in whose hands the following incomes shall be taxable:
- (i) Mr. Jeevan transfers 1,000 debentures of Rs.100 each carrying 15% interest to Mr. Ramesh on the condition that if price is not paid within 1 year, the debentures will revert back to Mr. Jeevan.
- (ii) Master Dinesh (Age 16 years) had following incomes during 2022-23:
- |   |        |
|---|--------|
| (a) Interest on Bank Deposits                 | 6,000  |
| (b) Interest on Debentures                    | 8,000  |
| (c) Interest on fixed deposits with a company | 9,000  |
| (d) Income from a singing concert held by him | 40,000 |
| (e) His father's total income                 | 69,400 |
| (f) His mother's total income                 | 69,500 |
- (iii) Mr. Satish transfer a shop (monthly rent Rs.4,000) to his relative Mr. Balu on the condition that shop will revert back to Mr. Satish on the death of Mr. Balu.
5. Mr. John's income computed under the head 'salaries' is Rs.1,69,500. Last year he received arrears of salary and gifted Rs.1,25,000 out of these to his wife. Mrs. John invested on 01-01-2021 Rs.5,00,000 in 15% Bonds issued by a company. These debentures were financed by Mrs. John as under:
- (a) Rs.1,25,000 received as gift from Mr. John.
- (b) Rs.3,00,000 out of her Stridhan.
- (c) Rs.75,000 as loan taken from bank @18 per annum.
- On 01-01-2022 the company paid interest to Mrs. John. She invested this in fixed deposit with a bank @12 per annum interest for the period of 01-01-2022 to 31-3-2023 was Rs.2,250.
- Compute gross total income of Mr. John and Mrs. John for the assessment year 2023-24 explaining all the points clearly.

#### 4.13. SUGGESTED READINGS

1. R. K. Jain, Nikhil Gupta, Manoj Kumar Agrawal, Sanjeev S. Thakur, '**Practical Problems in Income Tax**', Scorer Guru Publications, Agra, 2023.
2. Dr. H. C. Mehrotra, Dr. S. P. Goyal, '**Problems and Solutions in Income Tax - Assessment Year 2022-23**', Sahitya Bhawan Publications, Agra, 2022.
3. Dr. H.C. Mehrotra, Dr. S.P. Goyal, '**Corporate Tax Planning & Management A.Y 2020-21 & 2021-22**', Sahitya Bhawan Publications, Agra, 2020.

**Dr. G. Naga Raju**

## LESSON - 5

# SET-OFF LOSSES AND CARRY FORWARD LOSSES

### Objectives

After studying this unit, you should be able to:

- To study the concept of set-off of losses and various provisions regarding the set-off of losses; and
- To understand how an assessee should carry forward and set-off of losses and various provisions regarding carry forward and set-off of losses.

### Structure

- 5.1. Meaning of Set-off of Losses
- 5.2. Provisions regarding Set-ff of Losses
- 5.3. Meaning of Carry Forward and Set-off of Losses
- 5.4. Provisions regarding Carry Forward and Set-off of Losses
- 5.5. Order of Set-off
- 5.6. Solved Illustrations
- 5.7. Summary
- 5.8. Keywords
- 5.9. Self-Assessment Questions
- 5.10. Suggested Readings

### 5.1. MEANING OF SET-OFF OF LOSSES

An assessee may have various sources of income under any head of income but this is not necessary that in a previous year all these sources will generate income only. In fact, there may be a condition in which one or more source of income may generate losses while some other source of income may generate profit or gains under the same head of income. Since assessee is taxed on the net income, such losses are made good (Adjusted) against the gains or profits of other sources. This adjustment of losses is called 'Setting off of Losses'. Similarly, there may be profit under one head of income and loss in another head of income. This loss of one head can also be set off (Adjusted) against the profits/gains of another head.

### 5.2. PROVISIONS REGARDING SET-OFF OF LOSSES

Following are the provisions of Income Tax Act relating to set off of Losses:

**Inter Source Adjustment (Set off) (Section 70):** Where the net result for any assessment year in respect of any source falling under any head of income is a loss, the assessee shall be entitled to have the amount of such loss set off against the income from any other source under the same head. This is called Inter-Source Adjustment. For example, if an assessee has four house properties. Three of them yield net taxable income, but from the fourth there is net loss. The assessee can set-off the loss of one house property against the income of the remaining house properties. Similarly, if an assessee has four businesses of different nature in a particular year, from two businesses there is a taxable profit and from remaining two businesses there is loss. The loss of these two businesses can be set off against the profits of the other two businesses.

**Exceptions:**

- i. Speculation Losses can be set off only against profits, if any of another speculation business carried on by the assessee.
- ii. Loss of Tax-free source of income cannot be set off against profits in any other source. For example, agricultural loss cannot be set off against income in any other source.
- iii. Losses from activity of owning and maintaining race horses cannot be set off from any other source of income except under the income of same head.
- iv. Losses from other businesses will not be allowed to be set off against winnings from races, lotteries, etc.
- v. Long-term capital loss can only be set off against Long-term capital gain. Short-term capital gain cannot be used for this purpose.
- vi. Short-term capital loss can be set off from gains of any capital asset.
- vii. Losses from lottery etc cannot be set off against winning from lotteries, card games, etc.
- viii. Losses of specified business referred in Section 35 AD can only be set off from the income of other specified business.

**Inter Head Adjustment (Set off) (Section 71):** Where in respect of any assessment year, the net result of the computation under any head of income is a loss, the assessee shall be entitled to have the amount of such loss, set-off against his income, if any, assessable under any other head of income. However, there are, certain exceptions to this general rule, which are as under:

**Exceptions:**

- i) Loss in a speculation business cannot be set off against any other income.
- ii) Loss of a specified business referred in Section 35 AD can only be set-off from the income of other specified business.
- iii) Income in other heads cannot be utilized in setting off of losses under the head capital gains.
- iv) Losses arising from the business of owning and maintaining race horses are not allowed to be set off against any other income.
- v) Loss from business or profession cannot be set off against incomes under the head 'Salaries'.
- vi) In any assessment year, loss of income under the head 'Income from house property' can be set-off against income of any other head of income subject to the restriction of Rs. 2 lakhs.
- vii) Loss from an exempted source of income is not allowed to be set-off against any taxable income.
- viii) Losses from lotteries, betting, cross word puzzles, gambling etc. cannot be set off either against income under other heads or against income from any other sources under the same head.
- ix) Any loss from any source is not allowed to be set-off against winnings from races, cards game, lotteries, bets, etc.

**Set-off of Losses of General Business or Non-Speculation Business:** General Business includes any non-speculation business. Any loss from business (except speculation business) or profession is eligible to be set-off against any other income falling under the same head or any other head including income from speculation business but excluding income under the

head 'Salaries'.

Losses of illegal business cannot be set-off against profits of a legal business. However, such losses (illegal losses) can be set off against profits of illegal business. Losses of discontinued business can also be set-off.

**Set-off of Losses of Speculation Business [Section 73(1)]:** Losses related with speculation business can be set off only from profits and gains (if any) of another similar business (i.e., speculation business) carried on by the assessee and not against the income of any other head.

**Set off of Losses of Specified Business [Section 73A] (w.e.f. AY 2010-11):** Any loss computed in respect of any specified business referred to in Section 35 AD shall not be set off except against profits and gains, if any, of any other specified business. It cannot be set off from the income of any other business.

**Set off of Losses under the Head Capital Gains:**

Capital Losses can be: (a) Short-term and (b) Long-term.

i) Short-term capital Loss can be set off from any Capital Gain i.e., Short-term gain or Long-term gain.

ii) Long-term capital Loss can only be set off against Long-term Capital Gains.

**Set-off of Losses from Owning and Maintaining Race Horses [Section 74A (3)]:** The amount of loss incurred by the assessee in the activity of owning and maintaining race horses in any assessment year shall be set off only against income of same activity (i.e. owning and maintaining race horses). This type of loss cannot be set off against the income from any other source.

**Set off of Losses of Lottery, Betting, Gambling, Crossword Puzzles or Card Games, etc:** These losses are not allowed to be set off against any income including winnings of lotteries, crossword puzzles, races, card games, etc.

**Set off of Losses of Partnership Firm:** Where the assessee is a firm, its losses can be set off from its own (firm's) income. The rules of setting off losses shall be the same as they (rules) apply in case of non – firm assessee and explained earlier. No partner can set off his share of loss in the firm against his/her personal income.

**Set off of Losses of Association of Persons (AOP) or Body of Individuals (BOI):** Losses of AOP or BOI can be set off from their own income. The rules for setting off of losses shall be the same as they apply in case of general assessees. Members of AOP or BOI cannot set off their share of loss in the losses of AOP or BOI, from their personal income.

### 5.3. MEANING OF CARRY FORWARD AND SET OFF OF LOSSES

As already discussed in the previous pages, set off of losses means setting off losses against the income of the same year. Where the losses are more than the incomes of the same year, the whole of the loss cannot be set off against the income of same assessment year. In this situation, the losses which could not be set off (Excess of losses over incomes) shall be carried forward and can be set off against the income of succeeding year or years provided the losses have been determined in pursuance of a return filed by the assessee within the time allowed u/s 139 (1) or within such further time as may be allowed by Assessing Officer. This process is termed as carry forward and set off of losses. Loss from house property is allowed to be carried forward even though the return is not filed within the due time limit u/s 139(1).

### 5.4. PROVISIONS REGARDING CARRY FORWARD AND SET OFF OF LOSSES

All losses cannot be carried forward for setting off in succeeding years. Only following specified losses are allowed to be carried forward and set off in succeeding assessment year/years:

**Loss from House Property [Section 71(B)]:** Loss under the head 'Income from House Property' can be set off against any other head of income subject to a maximum Rs. 2 Lakhs for any assessment year and any unabsorbed portion of such loss can be carried forward to be set off against the income only under the 'Income from House Property' in maximum subsequent 8 assessment years.

**Losses of General Business [Section 72]:** It is not possible to set off full amount of losses of general business in the same previous year, such 'Not Set off Losses' can be carried forward and set off against the profits of subsequent year or years subject to following provisions:

- Such 'Not Set off Losses' can be carried forward and set off only against the profits under the head 'Profits and Gains of Business or Profession' Thus, if 'Not Set off Losses' are carried forward and set off in subsequent years, such losses cannot be set off against any other head of income except business or profession income.
- Such 'Not Set off Losses' can also be set off against incomes (not falling under the head 'Profits and Gains of Business or Profession') which arises due to a Business Activity.
- Such 'Not Set off Losses' shall be carried forward maximum for 8 assessment years immediately succeeding the assessment year for which the loss was first computed.
- The assessee who owns the business at the time when it (business) suffered losses is entitled to carry forward such losses. Thus, if the business is transferred to a new owner, then the new owner cannot carry forward 'Not Set off Losses.'
- Not set off Losses can be carried forward and set off against profits or gains of business or profession even if the business in which loss incurred has been discontinued.
- Brought forward losses of a specified business (referred to in Section 35 AD) can be set off in the subsequent years against the income of any specified business.
- If a business undertaking is discontinued because of losses due to natural calamities like floods, cyclones etc, but later revived within 3 years thereafter, the unabsorbed losses of such undertaking shall be carried forward and set off against the profits of the revived business or any other business for maximum upto 8 years as reckoned from the year in which the business is restarted.
- Such losses cannot be carried forward and set off unless the details of such losses are furnished in the income tax return filed by the assessee under the provisions of Section 139. However, delay in submission of return may be condoned if new conditions are satisfied.

**Accumulated Losses and Unabsorbed Depreciation:** In addition to business losses (a) unabsorbed depreciation, (b) unabsorbed capital expenditure on scientific research and (c) unabsorbed expenditure on family planning can also be carried forward indefinitely although as per Income Tax Law these are not business losses. These losses can be set off against the income under any head except salaries in the following order:

- i) Current year's depreciation [Section 21(1)]
- ii) Current year capital expenditure on scientific research and current year expenditure on family planning to the extent allowed.
- iii) Brought forward business or profession losses [Section 71(1)]
- iv) Unabsorbed depreciation [Section 32(2)]
- v) Unabsorbed capital expenditure on scientific research [Section 35(4)]
- vi) Unabsorbed expenditure on family planning [Section 21(1) (9)]

It is necessary that the details of all such losses must be given in the return of income and the return must be filed before due date u/s 139 (1) otherwise the loss cannot be carried forward. The rules for carry forward and set off of unabsorbed depreciation and accumulated losses in different situations are as under:

**a) In certain cases of Amalgamation [Section 72A]**

As per Section 72 A(1), where there has been an amalgamation of a company (i) owning an industrial undertaking or a ship or a hotel with another company or, (ii) a banking company amalgamates with a specific bank or (iii) one or more public sector company or companies engaged in the business of operation of aircraft amalgamates with one or more public sector company or companies engaged in similar business, the accumulated loss and the unabsorbed depreciation of the amalgamating company for the previous year in which the amalgamation was effected can be carried forward. Thus, subject to certain conditions for set off, the amalgamated company shall be eligible to carry forward and set off the loss and unabsorbed depreciation of the amalgamating company. If the prescribed conditions u/s 72(i) are not complied with, the set off and carry forward shall not be allowed to the company, eligible for doing so.

**b) In certain cases of Demerger [Section 72A]**

U/s 72 A(4) in case of a demerger of an undertaking, the accumulated loss and the allowance for unabsorbed depreciation of the demerged company shall be allowed to be carried forward and set off in the hands of resulting company. Such accumulated losses and unabsorbed depreciation transferred by the demerged company to the resulting company can be carried forward and set off by the resulting company.

**c) In cases of succession of a firm or a proprietary concern by company:**

As per provisions of Section 72 A (6), where a firm or a proprietary concern is succeeded by the company which fulfills the prescribed conditions, the accumulated loss and the unabsorbed depreciation of predecessor firm or proprietary concern shall be deemed to be the loss or allowance for depreciation of the successor company for the previous year in which business reorganization was effected and other provisions of set off and carry forward of loss and unabsorbed depreciation shall apply accordingly.

**d) In cases of succession of a private company or an unlisted public company by a Limited Liability Partnership (LPP):**

Under the provisions of Section 72 A(6A), due to reorganization of business, a private company or unlisted public company is succeeded by a Limited Liability Partnership fulfilling the conditions laid down in Section 47 (xiii)(b), the accumulated loss and the unabsorbed depreciation of the predecessor company shall be deemed to be the loss and the unabsorbed depreciation of the predecessor company, shall be deemed to be the loss or allowance for depreciation of the successor Limited Liability Partnership of the previous year in which such succession has taken place, other provisions of set off and carry forward of loss and depreciation shall apply accordingly.

**e) In cases of scheme of amalgamation of Banking Company in certain cases [Section 72AA]**

Under the provisions of Section 72 AA, if there has been an amalgamation of Banking Company with any other Banking Institution, under a scheme sanctioned and brought into force, other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

**f) In cases of Business Reorganization of Co-operative Banks [Section 72AB]**

Under the provisions of Section 72 AB, if two cooperative Banks have an amalgamation, then, the accumulated loss and unabsorbed depreciation of the predecessor Co-operative Bank can be set off and carried forward by the successor co-

operative Bank. All other provisions of the Act relating to set-off and carry forward of the losses and unabsorbed depreciation shall apply accordingly.

**Loss of Speculation Business [Section 73]:** Where it is not possible to fully set off losses of speculation business against the profits of another speculation business in the same year, then 'Not Set off Losses' can be carried forward for the purpose of setting off such losses from the profits of speculation business.

However, such carry forward of 'Not Set off Losses' can be made for a maximum period of 4 assessment years immediately succeeding the assessment year for which the loss was first computed.

**Losses of Specified Business [Section 73A]:** According to Section 73 A, for any assessment year if any loss computed in respect of Specified Business has not been wholly set off against any other Specified Business in the same assessment year, then 'Not set off' such losses can be carried forward in the following assessment year, and

- i) It shall be set off against the profits and gains, if any, of any Specified Business carried on by him assessable for the assessment year.
- ii) If the loss cannot be wholly so set off, the amount of loss 'not so set off' shall be carried forward to the following assessment year and so on till it is fully set off out of profits of any Specified Business.

**Capital Losses [Section 74]:**

- a) 'Not Set off' Short Term Capital Loss of a previous year may be carried forward to be set off against the Capital Gains (whether Long-term Capital Gain or Short-term Capital Gain) arising in eight (8) subsequent years immediately succeeding the assessment year for which the loss was first computed.
- b) 'Not Set off' Long-Term Capital Loss of a previous year may be carried forward to be set off against the Long-Term Capital Gains, arising in subsequent eight (8) years immediately succeeding the assessment year for which the loss was first computed.

**Losses on Account of Owning and Maintaining RaceHorses [Section 74A]:** 'Not Set Off' Losses from the activity of Owning and Maintaining Race Horses may be carried forward for maximum 4 assessment years immediately succeeding the assessment year in which such loss was first computed. Such 'Not Set off Losses' can be carried forward but are allowed to be set off from the profits of owning and Maintaining Race Horses only subject to the condition that such activities must have been continued till the losses are carried forward. If such activities related to race horses are discontinued, losses of such discontinued, business cannot be carried forward.

**Losses of Firms:** Partners of the firm share the profits of the firm and it is exempt in their hands, but losses of the firm are not shared among the partners. The law related to set off and carry forward of losses of firms are broadly same as already discussed in the previous pages, however, some main points are given as under:

- a) The firm can only set off and carry forward and set off its own losses and not the partners.
- b) Firm's "Not Set Off" business losses can be carried forward for 8 assessment years and set off against business income of subsequent years.
- c) Unabsorbed Depreciation, Capital Expenditure on Scientific Research and Family Planning are allowed to be carried forward for being set off in the subsequent assessment years and there is no time limit prescribed for such carry forward.

**Losses of Firm in Case of Change in Constitution [Section 78 (1)]:** It there is a change in the constitution of the firm due to retirement or death of a partner, on insolvent of one or more partner, on admission of one or more partners in the firm, or on change in the profit sharing ratio of the partners, then, under above of the any situation and if there is any loss to

deceased partner, it cannot be carried forward.

**Losses in Case of Change in succession of Firm [Section 78 (2)]:** Losses of a firm related to pre-succession period cannot be carried forward and set off by successor in the post succession period.

**Losses in Case of Change in Succession in Business by Inheritance:** If the succession has occurred due to inheritance, losses of a firm related to pre-succession period can be carried forward and set off by the successor against the profits of post-succession period.

**Losses in Case of Certain Companies [Section 79]:**

- i) If there is a change in the shareholders of a company (in which there is no substantial interest of the public in general) in the previous year, then losses incurred in any year prior to the previous year shall be carried forward and set off against the income of previous year provided that shareholders having 51% voting rights should be old shareholders on the last day of the year or years in which the loss was incurred and the change should be in minority shareholding only.
- ii) In the case of a company, not being a company in which the public are substantially interested but being an eligible start-up as referred to in Section 80-IAC, the loss incurred in any year prior to the previous year shall be carried forward and set off against the income for the previous year, if all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred:-
  - a) Continue to hold those shares on the last day of such previous year; and
  - b) Such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated.

This provision shall not apply in the following cases:

- i) The death of a shareholder.
- ii) On account of transfer of shares by way of gift to any relative of the shareholders making such gift.

**Losses of Lottery, Crossword Puzzles, Gambling, Betting, etc:** These losses cannot be carried forward; however, they can be set off in the same year in which they occur against the incomes of the similar sources.

**Losses in Case of Association of Persons (AOP) or Body of Individuals (BOI):** Losses of AOP or BOI shall be set off and carried forward by the AOP or BOI itself. It will not be apportioned among members. In other words, rules regarding set off and carry forward of losses of AOP or BOI are the same as are applicable in case of a firm assessee.

**Loss Arising in Case of Bonus Stripping [Section 94 (8)]:** Bonus stripping is a situation when purchase or sale of units of a listed company is transacted in a manner, which would result in short term capital loss that can be adjusted against any other capital gains.

In Bonus Stripping, shareholders acquire units before the company makes any bonus issue. Once the company issues bonus units, the investors sell the original units which they had held earlier. This can result into short term capital loss. Later, after one year they dispose the bonus units. This situation enables the shareholders to enjoy two fold benefits.

- i) Short-term capital loss for the sale of original units can be set off against any capital gains.
- ii) Benefit of concessional rate of tax at the rate of 10% can be availed on the long-term gains made on the sale of the bonus unit.

To prevent the practice of Bonus Stripping Section 94 (8) has been inserted. According to the said Section [94 (8)], if an investor sells or transfers all or any of the original units within a period of 9 months after record date (date on which bonus units is allotted), while continuing to hold all or any of the bonus units, then the loss, if any arising from such transfer shall be



ignored for the purpose of calculating income chargeable to tax and the amount of the loss so ignored shall be deemed to be the cost of purchase or acquisition of additional units (bonus units). Thus, the shareholders will not be allowed to book the above-mentioned loss on original units against other capital gains.

**Return of Losses (Section 74):** No loss can be carried forward and set off unless it is determined in pursuance of a return filed as per provisions of Section 139(3) before the Assessing Officer within the time limits prescribed or within the extended time permitted. If the return of loss is filed after the allowed time limit or prescribed time limit, the delay may be condoned, if certain conditions are satisfied.

## 5.5. ORDER OF SET-OFF

If the assessee is entitled to claim depreciation, capital expenditure, etc and carried forward business losses, the order of set off will be as under:

- i) Current year depreciation [Section 32 (1)]
- ii) Current year capital expenditure on scientific research and family planning to the extent allowed.
- iii) Brought forward business or profession losses [Section 72(1)]
- iv) Unabsorbed Depreciation [Section 32 (2)]
- v) Unabsorbed Capital expenditure on scientific research [Section 35 (4)]
- vi) Unabsorbed expenditure on family planning [Section 36 (i) (ix)]

## 5.6. SOLVED ILLUSTRATIONS

### Illustration – 1

Mr. 'X' an individual, furnished you the following information in connection with the assessment year 2023-24:

	Rs.		Rs.
Taxable income under head 'salaries'	+2,00,000	Food grains business	+1,00,000
Interest on securities	-50,000	Petha business	-1,50,000
<b>Income from house property:</b>		Speculation business	-50,000
House 'A' (let out)	+2,00,000	<b>Taxable capital gains:</b>	
House 'B' (deemed let out)	-1,00,000	Short-term gain	+1,00,000
House 'C' (self-occupied for interest on borrowed capital)	-50,000	Short-term loss	-2,00,000
<b>Income from business or profession:</b>		Long-term gain (land & building)	+2,00,000
		<b>Income from other sources:</b>	
Cloth business	+1,00,000	Income from card game	+1,00,000
		Income from maintaining race horses	- 50,000

Compute taxable income of “X” for the Assessment Year 2023-24.

**Solution:**

**Computation of Taxable Income of Mr. 'X' for the Assessment Year 2023-24**

		<b>Loss Rs.</b>	<b>Profit Rs.</b>
<b>Income from salaries</b>			2,00,000
<b>Income from house property:</b>	Rs.		
House 'A' (let out)	+ 2,00,000		
House 'B' (deemed let out)	- 1,00,000		
House 'C' (self-occupied)	- 50,000		50,000
<b>Income from business or profession:</b>			
Cloth business	+ 1,00,000		
Food grains business	+ 1,00,000		
Petha business	- 1,50,000		50,000
<b>Speculation business (Loss)</b>		50,000	
<b>Capital gains:</b>			
Short-term capital gain	+ 1,00,000		
Short-term capital loss	- 2,00,000		
Long-term capital gain	+ 2,00,000		1,00,000
<b>Income from other sources:</b>			
Card game	+ 1,00,000		
Less: Losses on interest on securities	N/A		1,00,000
Maintenance of race horses (Loss)		50,000	
<b>Losses carried forward</b>		1,00,000	
<b>Taxable income</b>		-	<b>4,50,000</b>

**Note:**

- 1) Speculation business loss of Rs.50,000 can be set off against speculation business profits only.
- 2) Loss of Rs.50,000 from activity of owning and maintaining race horses can be set off against the income from the same source only.
- 3) Short-term capital loss Rs.2,00,000 has been set off against short-term and long-term capital gains.
- 4) No loss can be set off against winnings.

**Illustration-2**

From the following information, compute the taxable income of Mr. Mahesh for the assessment year 2023-24.

		<b>Rs.</b>
i)	Income from Salary	4,00,000
ii)	Income from House Property	80,000
iii)	Loss from a Specified Business referred to in Section 35 AD	(-) 60,000
iv)	Business Loss	(-) 3,80,000
v)	Short-term Capital Loss	(-) 1,20,000
vi)	Long-term Capital gain	4,80,000

**Solution:**

**Computation of total income of Mr. Mahesh for the Assessment Year 2023-24**

		<b>Rs.</b>	<b>Rs.</b>
<b>Income from Salary</b>			4,00,000
<b>Income from House Property</b>		80,000	
<b>Less: Business Loss Set-off</b>		(-)20,000 <sup>1</sup>	60,000
<b>Business Loss</b>		3,80,000	
<b>Less: (i) Set-off against Capital Gains</b> (Rs.4,80,000– 1,20,000)	3,60,000		
<b>(ii) Set-off against House Property Income</b>	20,000	3,80,000	Nil
Loss from specified Business (Not allowed to be set-off)		(-) 60,000	
<b>Income from Capital Gains:</b>			
Long-term Capital Gains		4,80,000	
<b>Less: Short-term Capital Gains</b> (Loss)		1,20,000	
		3,60,000	
<b>Less: Business Loss Set-off</b>		3,60,000	Nil
<b>Gross Total Income</b>			4,60,000
<b>Less: Deduction U/s 80</b>			Nil
<b>Total Income</b>			<b>4,60,000</b>

**Note:**

1.

	<b>Rs.</b>
a. Long-term Capital Gain	4,80,000
<b>Less : Short-term Capital Loss</b>	1,20,000

	3,60,000
Balance of LTCG to be used in set-off the Business Loss	3,60,000
<b>Balance</b>	<b>Nil</b>

2. Business Loss (3,80,000 – 3,60,000) = Rs. 20,000 shall be set off against income from House Property.
3. Business Loss cannot be set off against salary income.

### Illustration-3

From the following particulars of income or losses of Mr. Shamim, compute his total income for the assessment year 2022-23 and 2023-24:

		<b>2022-23 Rs.</b>	<b>2023-24 Rs.</b>
i)	Profit and losses of business	- 1,02,000	+ 20,000
ii)	Long-term capital gains	+ 36,000	+ 24,000
iii)	Interest on Govt. securities	+ 30,000	+ 36,000
iv)	Income from house property	+ 24,000	+ 24,000
v)	Income from other sources	+ 6,000	+ 8,000
vi)	Income from setting up and operating cold chain facility (specified business referred u/s 35 AD)	- 50,000	+ 35,000

### Solution:

#### Computation of total income of Mr. Shamim for the Assessment Year 2022-23

		<b>Loss Rs.</b>	<b>Profit Rs.</b>
Income from house property		-	24,000
Income from business or profession		-1,02,000	-
Income from specified business		-50,000	-
Income from capital gain (long-term)			36,000
<b>Income from other source:</b>	Rs.		
Interest on Govt. securities	30,000		
Income from other sources	6,000		36,000
			96,000
Less: Set off of current business losses			-1,02,000
Loss of specified business can be set off only against the profits of another specified business. Hence, it will be carried forward		-50,000	
<b>Business losses carried forward</b>			<b>-6,000</b>

#### Computation of total income of Mr. Shamim for A.Y.2023-24

	Rs.	Rs.
Income from house property	-	24,000
Income from business or profession	20,000	-
Less: Set off of losses of 2021-22	-6,000	14,000
Income from specified business	35,000	
Less: Set off of c/f losses of 2021-22	-50,000	
<b>Loss from specified business to be carried forward</b>	<b>-15,000</b>	
Income from capital gains (long-term)		24,000
<b>Income from other sources:</b>		
Interest on Govt. securities	36,000	
Interest from other sources	8,000	44,000
<b>Gross Total Income</b>		<b>1,06,000</b>

**Note:**

- 1) Business loss of assessment year 2022-23 can be set off against any income under any head during the assessment year 2022-23. But during 2023-24, it can be set off only out of business profits.
- 2) Brought forward loss of specified business u/s 35AD can be set off during subsequent years. Loss of Rs. 50,000 c/f from the assessment year 2022-23 could be set off during 2023-24 to the extent of Rs. 35,000 only. Rest of the loss of Rs. 15,000 shall be carried forward for an indefinite period for set off.

**Illustration-4**

Mr. Shambhu furnishes the following particulars of his incomes and losses for the assessment year 2023-24.

	Rs.
i) Taxable Income from Salary	50,000
ii) Income from House Property (Net)	16,000
iii) Profit from Readymade Garments Business	40,000
iv) Speculation profits	10,000
v) Long-term capital gains	24,000
vi) Short-term capital gains	8,000
vii) Share of profits from a Partnership Firm	7,800
viii) Current Year Depreciation	4,500

The items brought forward from the assessment year 2019-20 are as follows:

	Rs.
i) Unabsorbed Depreciation	5,000
ii) Speculation Loss	15,000
iii) Long-term Capital Loss	15,000

iv)	Short-term Capital Loss	6,000
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Compute gross total income of Mr. Shambhu for the assessment year 2023-24.

### Solution:

#### Computation of Gross Total Income of Mr. Shambhu for the Assessment Year 2023-24

		Loss Rs.	Profit Rs.
1.	<b>Taxable Income from Salary</b>		50,000
2.	<b>Income from House Property</b>		16,000
3.	<b>Income from Business:</b>		
	(a) Non-speculative Income:		
	(i) Profit from Readymade Garments	40,000	
	(ii) Profit from Firm-exempt u/s 10(2) (A)	-	
		40,000	
	<b>Less: Current year's Depreciation</b>	(-) 4,500	
		35,500	
	<b>Less: Set-off of Unabsorbed depreciation b/f</b>	(-) 5,000	30,500
	(b) Speculative Income:		
	Profit from Speculation Business	10,000	
	<b>Less: Set-off of Speculation Loss upto extent of Profit</b>	10,000	Nil
	Balance of speculation loss of Rs. 5,000 will be carried forward		
4.	<b>Capital Gains:</b>		
	Long-term Capital Gains	24,000	
	<b>Less: Long-term Capital Loss</b>	15,000	
		9,000	
	<b>Add: Short-term Capital Gains, after adjusting STCL (Rs. 8,000 – Rs. 6,000)</b>	2,000	11,000
	<b>Gross Total Income</b>		<b>1,07,500</b>

**Note:** Share of Partner's income is exempt.

### Illustration-5

On the basis of following information given by Shri Kapil, compute his gross total income for the assessment year 2023-24.

		Rs.
1)	Income from House Property	30,000
2)	Income from Business before charging the following allowances	52,000
	i) Depreciation of current year	15,000
	ii) Current year's revenue expenditure on scientific research	10,000
3)	Income from Speculation Business	4,000

The following losses and allowances were brought forward from the previous years:

- i) Business losses of previous years 2010-11 Rs. 10,000 and 2019-20 Rs.12,000 were brought forward.
- ii) Unabsorbed depreciation for previous years 2013-14 Rs.12,000 and 2019-20 Rs.10,000 was brought forward.
- iii) Non-set-off of capital expenditure Rs. 18,000 on scientific research for the previous year 2018-19 was brought forward.
- iv) Loss from speculation business Rs. 10,000 for the assessment year 2021-22 was brought forward.

**Solution:****Computation of gross total income of Shri Kapil for the Assessment Year 2023-24**

	Rs.	Rs.	Rs.
<b>1) Income from House Property</b>			30,000
<b>2) Income from Business:</b>			
a) Non-speculative Business		52,000	
Less:			
i) Current year's Depreciation	15,000		
ii) Revenue Expenditure on scientific Research	10,000		
iii) Business Loss (2019-20)	12,000		
iv) Unabsorbed Dep. of 2013-14 (No time limit for deduction)	12,000		
v) Unabsorbed Dep. of 2019-20 (up to balance of business profit)	3,000	52,000	Nil
b) Speculative Business			
Profit from Speculative Business	4,000		
Less: Loss from Speculative Business (2021-22)	(-)10,000		
Balance of Loss from Speculation (to be carried forward)	(-)6,000		
Adjustment of loss from Income of other head of income:			
i) Unabsorbed Dep. of 2019-20 (Rs.10,000-3,000)		7,000	
ii) Capital Expenditure on Scientific Research		18,000	(-) 25,000
<b>Gross Total Income</b>			<b>Rs.5,000</b>

**Note:**

1. Loss of 2010-11 cannot be set off as 8 years limit is lapsed.
2. Rs. 4,000 speculation business loss cannot be set-off against salary income.

**5.7. SUMMARY**

Income Tax is levied on the total income of any assessee of a previous year. Total income is calculated by aggregating the income of the assessee under different sources of income falling under one head of income and then all the heads of income are put together to find out the net result in the shape of total income. Similarly, when the income of all heads is aggregated, the loss under one head is set-off against the income of another head and if at all the total result is a loss, the same is carried forward over to future years for setting off. Section 70-79 of Income Tax Act deal with the provisions regarding set-off and carry-forward and set-off losses. All these provisions are divided under two heads, viz., (a) Set-off losses; (b) Carry forward and set-off of losses.

When any loss relating to any particular previous year is set-off against the income of same previous year, it is called 'set-off of losses'. If any loss related to any previous year (or assessment year) cannot be set-off either under the same head or against the incomes of other heads during same previous year (or assessment year), such a loss can be carried forward to future previous years (or assessment years) for setting off against incomes of future previous years (or assessment years). Such carry forward and set-off in falling under various heads of income are allowed the benefit of carry forward and set-off against income of future years.

## 5.8. KEY WORDS

**Long-term Capital Loss:** Long-term capital loss from the transfer of a capital asset shall be allowed to be set off only out of the long-term capital gain from the transfer of another long-term capital asset. However, short-term capital loss shall be allowed to be adjusted out of long-term as well as short-term capital gain.

**Speculation Loss:** Any loss computed in respect of speculation business carried on by assessee shall not be set-off except against profits and gains, if any, of another speculation business.

**Unabsorbed Depreciation:** Unabsorbed depreciation is that amount of unutilised depreciation which the assessee will not be able to claim as an expense in his income tax returns due to lack of sufficient profit in the profit & loss account. Such unabsorbed depreciation can be set off against any heads of income and the remaining balance can be carried off till for any number of assessment years.

## 5.9. SELF ASSESSMENT QUESTIONS

1. Explain the provisions of Income Tax Act, 1961 regarding carry forward and set-off losses.
2. Are there any special provisions for setting-off losses in respect of speculation business, firms assessed as firm and firm assessed as A.O.P.?
3. The following are the particulars of income/loss of Mr. Aravind. You are required to set-off losses and carry forward and set-off where necessary:

Particulars	Assessment Year 2022-23	Assessment Year 2023-24
Income from Salary (Computed)	15,000	15,000
Income from Interest on Securities (Gross)	5,000	5,000
Loss from Business	53,000	15,000
Short-term Capital gain	8,000	--



Long-term Capital gain (Land)	21,000	---
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4. From the following particulars compute the total income of Mr. David for the assessment year 2023-24:

	Rs.
Loss from house property	-8,000
Short-term capital gain on sale of shares	95,000
Long-term capital loss on sale of bonds	-85,000
Other Sources: Interest on Government Securities	18,000

The assessee has unabsorbed depreciation of Rs.35,000 being brought forward from 2020-21. Assessee had closed the business and all the assets have been disposed of.

5. From the particulars given below, compute the total income for the assessment year 2023-24:

		Rs.
(i)	Income from let-out house (computed)	6,000
(ii)	Annual Rental value of his self-occupied house	4,000
(iii)	Municipal Taxes	400
(iv)	Profit from electric goods business after depreciation	10,000
(v)	Profit from agency business	3,000
(vi)	Speculation gain from gold	2,000
(vii)	Long-term capital gain from land	7,000
(viii)	Short-term capital gain	2,000
Following losses have been brought forward from 2022-23 previous year		
(i)	Loss from electric goods business	6,000
(ii)	Loss from an agency business	1,000
(iii)	Speculation loss from silver	4,000
(iv)	Unabsorbed Depreciation	1,000
(v)	Long-term capital loss (land)	4,400
(vi)	Short-term capital loss	3,000

## 5.10. SUGGESTED READINGS

1. R. K. Jain, Nikhil Gupta, Manoj Kumar Agrawal, Sanjeev S. Thakur, 'Practical Problems in Income Tax', Scorer Guru Publications, Agra, 2023.
2. Dr. H. C. Mehrotra, Dr. S. P. Goyal, 'Problems and Solutions in Income Tax - Assessment Year 2022-23', Sahitya Bhawan Publications, Agra, 2022.
3. Dr. H.C. Mehrotra, Dr. S.P. Goyal, 'Corporate Tax Planning & Management A.Y 2020-21 & 2021-22', Sahitya Bhawan Publications, Agra, 2020.

Dr. G. Naga Raju

## **LESSON – 6**

### **PROCEDURE FOR ASSESSMENT OF ADVANCE PAYMENT OF TAX**

#### **OBJECTIVES**

After studying this lesson, you should be able to:

- ❖ To Understand the Concept of Advance Payment of Tax
- ❖ To Know the Features of Advance Payment of Tax
- ❖ To Analyze the Procedure and Computation of Advance Tax Payment
- ❖ To describe the Consequences of Non-Payment of Advance Tax Payment

#### **STRUCTURE OF THE LESSON:**

- 6.1. Introduction
- 6.2. Features of Advance Payment Tax
- 6.3. Persons liable to pay advance Tax
- 6.4. Benefits of Advance Payment Tax
- 6.5. Procedure for computation of advance tax
- 6.6. Due Dates for Payment of Advance Payment Tax
- 6.7. Consequences of Non Payment of Advance Tax
- 6.8. Summary
- 6.9. Key Words
- 6.10. Self Assessment Questions
- 6.11 Reference Books

#### **6.1. INTRODUCTION**

Advance Tax is the income tax which is paid by the taxpayer in advance instead of making a lump sum payment at the end of the financial year. It is basically the tax which you pay as you earn. The taxpayer has to pay the amount in installments as per the due date given by the Income Tax Department.

According to Income Tax Act, assesses are required to pay tax in advance in a previous year if their tax liability for the year is likely to be Rs, 10,000 or more. Advance tax is payable on the total income of an assessee that is chargeable to tax in an assessment year.

Advance tax is applicable when an individual has sources of income other than his/ her salary. For instance, if one is earning through capital gains, interest on investments, lottery, house property or business, the concept becomes relevant.

#### **6.2. FEATURES OF ADVANCE TAX PAYMENT**

- **Installment payments:** Advance tax is paid in installments rather than as a lump sum at the end of the financial year. Taxpayers estimate their tax liability and make installment payments accordingly.
- **Due dates:** The advance tax payments are required to be made on specific due dates as prescribed by the Income Tax Department. These advance tax due dates are usually spread throughout the financial year.
- **Calculation based on estimated income:** Taxpayers are required to estimate their total income for the financial year and calculate their tax liability based on the applicable tax rates. The advance tax amount is determined using this estimated income.

- Multiple payment deadlines: Generally, advance tax payments are made in four installments, with due dates falling in June, September, December, and March. The payment schedule may vary depending on the type of taxpayer.
- Penalty for non-compliance: Failing to pay advance tax or underpaying the required amount may attract penalties and interest charges imposed by the Income Tax Department. It is essential to meet the prescribed payment obligations to avoid such penalties.
- Exemptions: Certain individuals, such as senior citizens who do not have income from business or profession, are exempt from the requirement of paying advance tax. They can pay the entire tax liability at the time of filing their income tax returns.
- Online payment facility: The Income Tax Department provides online platforms and electronic payment methods to facilitate the payment of advance tax. Taxpayers can make their payments through Internet banking, credit/debit cards, or other online modes.
- Adjustments and refunds: If a taxpayer has overestimated or underpaid their advance tax liability, adjustments can be made in subsequent installments or at the time of filing the final tax return. Any excess payment made can be claimed as a refund.

### 6.3. PERSONS LIABLE TO PAY ADVANCE TAX:

A taxpayer whose total tax liability is more than Rs.10000 after adjusting TDS in a fiscal year must pay advance tax.

It applies to all categories of taxpayers, including – freelancers, professionals, salaried and senior citizens.

- **Freelancers, Professionals and Salaried Taxpayers**

Individuals whose tax liability in a fiscal year amounts to Rs.10000 or more have to pay advance tax. Regardless, senior citizens who are 60 years of age or older and do not own a business are exempt from advance tax.

- **Presumptive Earnings (Businesses)**

Taxpayers who choose a presumptive tax regime under Section 44AD are required to pay the entire advance tax liability in one installment on or before 15th March. Nonetheless, they can also pay their tax liabilities by the 31st of March.

- **Presumptive Income (Professionals)**

Independent professionals like - architects, doctors, lawyers, consultants, etc., come under the purview of the presumptive tax regime under Section 44ADA.

Under the said tax regime, professionals have to pay the entire advance tax liability in a single installment either on or before the 15th of March. They also have the option to pay the whole amount by the 31st of March.

### 6.4. BENEFITS OF ADVANCE TAX

There are major advantages of Advance tax payments, and they are-

- Advance tax aids in lowering taxpayer worry. Taxpayers do not have to worry about running out of money or making last-minute tax payments when they pay their taxes in advance.
- It expedites the collection of taxes.
- It assists organizations in effectively managing their finances and offers an estimate of the income received during the fiscal year.

- It raises Government funds since the government can receive interest on the money collected.
- People who pay their taxes in advance avoid falling behind on their obligations.

### **6.5. PROCEDURE FOR COMPUTATION OF ADVANCE TAX**

Tax can be computed on the current income (estimated by the taxpayer) at the rates in force during the financial year. From the tax so computed, tax deducted or collected at source will be deducted and the balance tax payable will be used to compute the advance tax liability.

Also, relief of tax allowed under section 90 or section 90A or any deduction under section 91 or any tax credit allowed to be set off as per section 115JAA or section 115JD will also be deducted while computing the advance tax liability.

Correct calculation of one's advance tax is necessary. There can be interest for default in payment of advance tax. One must understand the advance payment of tax to ensure one doesn't get any interest on late payment of advance tax. Go through the following steps to calculate advance payment of tax.

**Step 1:** The taxpayers must estimate their annual tax obligations. The advance payment of tax is based on the estimated earnings. It must include income from all the sources like business, interest, rent, etc.

**Step 2:** Calculate the applicable taxable income for the year. Advance payment of tax is not applied to the salary income. Add revenue from the different sources to the salaried income to find the gross revenue.

**Step 3:** Check the latest tax slabs to find the tax obligation for your total income.

**Step 4:** You should deduct the TDS amount for these different earnings. It is the tax that will be cut at the payment point. Refer to the different tax slabs to determine TDS liability

**Step 5:** If the tax obligation exceeds ₹10,000 after the TDS cut, advance payment of tax is applicable. The individual must adhere to the due dates to pay advance tax.

### **6.6. DUE DATES FOR THE PAYMENT OF ADVANCE TAX**

To adhere to the advance tax regulations, you must make payments promptly. By 15 June or earlier, at least 15% of your tax liability should be paid. By 15 September, this amount increased to 45%, and by 15 December, it reaches 75%. The full payment is expected by 15 March.

The exact payable amount on each due date varies based on your taxpayer category. In case your income estimates change during the year, you have the flexibility to adjust the advance tax amount accordingly.

When determining the income tax on your estimated total income, there are various elements to take into account. Firstly, it is important to calculate any relief that may be applicable U/s- 87A, as this can help reduce your tax liability. Once this relief is applied, you will arrive at the income tax amount after considering the relief provided U/s- 87A.

Subsequently, it is necessary to factor in any surcharge that may be applicable based on your estimated income. This surcharge can potentially increase your tax liability. Adding the surcharge to the tax amount after relief U/s- 87A will give you the total tax liability.

In addition to the above, it is crucial to consider the Education Cess and the SHEC (Secondary and Higher Education Cess), as they form additional components of the tax. Including these in your calculations will provide you with the total tax liability.

Furthermore, it is worth noting that there may be other forms of relief available to you, apart from the relief under section 87A, which can further reduce your tax liability. Additionally, if you have any Tax Deducted at Source (TDS) applicable to your income, you can subtract this amount from your total tax liability.

### Due date of Advance Tax Payment for both individual and corporate taxpayers

Advance Tax Due Date	Amount of Advance Tax
On or before June 15	Up to 15% of advance tax liability
On or before September 15	45% of advance tax less advance tax already paid
On or before December 15	75% of advance tax less advance tax already paid
On or before March 15	100% of advance tax less advance tax already paid

Due date of advance tax payment for individuals opted for presumptive taxation scheme u/s 44AD/44ADA - Business and Profession income.

Due Date	Amount of Advance Tax
On or before 15th March	100% of advance tax

#### Illustration – 1:

Mr. Kumar is a Medical Officer. Although Mr. Kumar is in profession specified under Section 44AA (1) but he doesn't opt for the presumptive taxation scheme of Section 44ADA. His estimated tax liability for the financial year 2022-23 amounted to Rs. 1,00,000. By which dates he should pay advance tax and how much?

#### Solution:

Mr. Kumar being a Doctor is in profession specified under section 44AA(1) but he doesn't opt for the presumptive taxation scheme of section 44ADA. Hence, he has to pay advance tax in four installments as given hereunder: His first installment of advance tax will fall due on 15<sup>th</sup> June, 2022. He should pay 15% of his tax liability in advance, hence, he should pay Rs. 15,000 on account of advance tax by 15<sup>th</sup> June, 2022. His second installment of advance tax will fall due on 15<sup>th</sup> September, 2022. By 15<sup>th</sup> September, he should pay 45% of his liability in advance, i.e., Rs. 45,000. Assuming that he has already paid Rs. 15,000 as advance tax by 15<sup>th</sup> June, he should pay balance of Rs. 30,000 on account of advance tax by 15<sup>th</sup> September, 2022. Thus, total payment of advance tax till 15<sup>th</sup> September will amount to Rs. 45,000. His third installment of advance tax will fall due on 15<sup>th</sup> December, 2022. By 15<sup>th</sup> December, he should pay 75% of his liability in advance, i.e., Rs. 75,000. Assuming that he has already paid Rs. 45,000 as advance tax till 15<sup>th</sup> September, he should pay balance of Rs. 30,000 on account of advance tax by 15<sup>th</sup> December, 2022. Thus, total payment of advance tax till 15<sup>th</sup> December, 2022 will amount to Rs.

75,000. His fourth and final installment of advance tax will fall due on 15<sup>th</sup> March, 2023. By 15<sup>th</sup> March, he should pay 100% of his liability in advance, i.e., Rs. 1,00,000. Assuming that he has already paid Rs. 75,000 as advance tax till 15<sup>th</sup> December, he should pay balance of Rs. 25,000 on account of advance tax by 15<sup>th</sup> March, 2023. Thus, total payment of advance tax till 15<sup>th</sup> March, 2023 will amount to Rs. 1,00,000.

**Illustration – 2:**

Mr. Raja is an architect. Although Mr. Raja is in profession specified under Section 44AA(1) but he doesn't opt for the presumptive taxation scheme of Section 44ADA. His estimated tax liability for the year amounts to Rs. 1,00,000. He has paid advance tax of Rs. 15,000 by 15<sup>th</sup> June. In the month of August one of his clients paid fee of Rs. 1,80,000 after deducting tax at source of Rs. 20,000 (Such fees of Rs. 1,80,000 was considered at earlier occasion for estimating the tax liability of taxpayer). In this case how much of advance tax he is required to pay in the remaining installments?

**Solution:**

Considering the above dates, Mr. Raja has to pay 15% of his estimated tax liability by 15<sup>th</sup> June. Hence, he has to pay Rs. 15,000 on account of advance tax by 15<sup>th</sup> June. While computing the advance tax liability, the taxpayer can deduct the tax at source from his income. In this case, at the time of estimation of first installment there was no TDS credit with Mr. Raja. His estimated tax liability without TDS amounted to Rs. 1,00,000. In the month of August he received Rs. 1,80,000 after deduction of tax of Rs. 20,000, hence, he got a TDS credit of Rs. 20,000. His tax liability after granting of credit of TDS will come to Rs. 80,000.

In second installment, i.e., by 15<sup>th</sup> September he should pay up to 45% of his revised tax liability. Thus, he should pay up to Rs. 36,000 (i.e., 45% of Rs. 80,000) by 15<sup>th</sup> September. He has already paid Rs. 15,000 by 15<sup>th</sup> June and, hence, he should pay balance of Rs. 21,000 by 15<sup>th</sup> September. In third installment, i.e., by 15<sup>th</sup> December he should pay 75% of his estimated tax liability. Thus, he should pay Rs. 60,000 (i.e., 75% of 80,000) by 15<sup>th</sup> December. He has already paid Rs. 36,000 till 15<sup>th</sup> September and, hence, he should pay balance of Rs. 24,000 by 15<sup>th</sup> December (i.e., Rs. 60,000 – Rs. 36,000). Finally in fourth and final installment, i.e., by 15<sup>th</sup> March he should pay 100% of his estimated tax liability. Thus he should pay Rs. 80,000 by 15<sup>th</sup> March. He has already paid Rs. 60,000 till 15<sup>th</sup> December and hence, he should pay Rs. 20,000 by 15<sup>th</sup> March (i.e., Rs. 80,000 - Rs. 60,000).

**Illustration – 3:**

Mr. Rana is an engineer. Although Mr. Rana is in profession specified under Section 44AA(1) but he doesn't opt for the presumptive taxation scheme of Section 44ADA. His estimated tax liability for the year amounts to Rs. 2,00,000. He has paid advance tax of Rs. 30,000 by 15<sup>th</sup> June. In the month of August he got a contract from a multinational company. After incorporating the receipts of the new contract, his revised tax liability for the year amounts to Rs. 3,00,000. In this case, how much advance tax he is required to pay in each installment?

**Solution:**

Considering the above dates, Mr. Rana has to pay 15% of his estimated tax liability by 15<sup>th</sup> June. Hence, he has to pay Rs. 30,000 on account of advance tax by 15<sup>th</sup> June (in June he was not aware of the contract and, hence, Rs. 30,000 will be payable in first installment of advance tax liability). After making payment of first/second installment of advance tax, if there is a change in the tax liability, the taxpayer can revise the quantum of advance tax in the remaining installment(s) and pay the tax as per revised estimate.

In this case, after payment of first installment, he got the contract from the multinational company and his revised estimated tax liability came to Rs. 3,00,000, hence, he has to pay advance tax considering the revised liability of Rs. 3,00,000. In second installment, i.e., by 15<sup>th</sup> September, he should pay up to 45% of his revised liability. Thus, he should pay up to Rs. 1,35,000 (i.e., 45% of Rs. 3,00,000) by 15<sup>th</sup> September. He has already paid Rs. 30,000 by 15<sup>th</sup> June and, hence, he should pay balance of Rs. 1,05,000 by 15<sup>th</sup> September. In third installment, i.e., by 15<sup>th</sup> December he should pay 75% of his estimated tax liability. Thus, he should pay up to Rs. 2,25,000 (i.e., 75% of 3,00,000) by 15<sup>th</sup> December. He has already paid Rs. 1,35,000 till 15<sup>th</sup> September and, hence, he should pay balance of Rs. 90,000 by 15<sup>th</sup> December (i.e., Rs. 2,25,000 – Rs. 1,35,000). In Fourth and final installment, i.e., by 15<sup>th</sup> March he should pay 100% of his estimated tax liability. Thus, he should pay up to Rs. 3,00,000 by 15<sup>th</sup> March. He has already paid Rs. 2,25,000 till 15<sup>th</sup> December and, hence, he should pay balance of Rs. 75,000 by 15<sup>th</sup> March (i.e., Rs. 3,00,000 – Rs. 2,25,000).

#### Illustration – 4:

Ms. X is employed in a company and also works as a freelancer. Her salary income amounts to 10 lakh rupees before any deductions or exemptions. From her freelancing work, she receives net receipts of approximately Rs. 10 lakh after deducting expenses. Ms. A invests 1.5 lakh rupees in Public Provident Fund (PPF) and pays 25,000 rupees for her medical insurance. Additionally, she earns 15,000 rupees as interest on her fixed deposits. Her employer has already deducted TDS of Rs. 100,000 for her salary income. Based on these details, her final calculation and advance tax liability are as follows:

#### Solution:

#### COMPUTATION OF ADVANCE PAYMENT TAX LIABILITY

Income Estimate	Amount (Rs.)	Amount (Rs.)
Income from Salary	10,00,000	
<b>Less:</b> Standard deduction	50,000	
Income from Salary		9,50,000
Income from Profession	10,00,000	
Income from other source	15,000	
Gross Total Income		1,965,000
Deductions under Chapter VIA		
80C	1,50,000	
80D	25,000	
Total Deductions		1,75,000
<b>Total Income</b>		<b>17,90,000</b>
Tax Payable as per OLD Regime		3,49,500
Education Cess		13,980
Total Tax Liability		3,63,480
TDS deducted		100,000
<b>Tax Payable as Advance Tax</b>		<b>263,480</b>
<b>Due Date</b>	<b>Advance Tax Payable</b>	<b>Advance Tax</b>
15th June	15% of advance tax liability	39,522
15th September	45% of Advance tax liability	79,044

15th December	75% of Advance Tax Liability	79,044
15th March	100% of Advance tax Liability	65,870

## 6.7. CONSEQUENCES OF NON PAYMENT OF ADVANCE TAX

If the installments as above are not paid / short paid, then penal interest is charged as under:

**Interest under section 234A:** Interest to be levied on late filing of Income Tax Return.

**Interest Liability:** Interest is calculated @ 1% per month on the balance tax liability from the due date of filing the return till the date of actual filing of Income Tax Return.

**Interest under section 234B:** Your tax liability after reducing TDS for the financial year is more than Rs 10,000 and you did not pay any advance tax.

**OR**

You paid advance tax, but advance tax paid is less than 90% of 'assessed tax'.

**Interest Liability:** Interest is calculated @ 1% on Assessed Tax less Advance Tax from end of financial year to the date of filing of Income Tax Return.

**Interest under section 234C:** Interest to be levied on defaulters of Advance Tax Installment Payments.

**Interest Liability:** The interest on delayed payment of advance tax in case of a taxpayer other than the one opting for presumptive income u/s 44AD is as below.

## 6.8. SUMMARY

Particulars	Rate of Interest	Period of Interest	Amount on which Interest is calculated
If Advance Tax paid on or before June 15 is less than 15% of the Amount	1% per month	3 Months	15% of Tax Amount minus tax already deposited before June 15
If Advance Tax paid on or before Sep 15 is less than 45% of the Amount	1% per month	3 Months	45% of Tax Amount minus tax already deposited before Sep 15
If Advance Tax paid on or before Dec 15 is less than 75% of the Amount	1% per month	3 Months	15% of Tax Amount minus tax already deposited before Dec 15
If Advance Tax paid on or before March 15 is less than 100% of the Amount	1% per month	Till payment of tax	100% of Tax Amount minus tax already deposited before March 15

Advance tax is an important aspect of income tax in India, requiring individuals, professionals, and businesses to make installment payments of their estimated tax liability throughout the financial year. In general, taxpayers are required to pay tax only for the income of the preceding year. However, if the tax payable is in excess of ten thousand rupees, the tax should be remitted to the government before the due date mentioned in the Act. The purpose of incorporating Advance Tax provisions in the Act is to ensure that revenue reaches the Government without delay. According to Section 208 of Income Tax Act 1961, every person whose estimated tax liability for the financial year exceeds Rs.10, 000 has to pay tax in advance.



**6.9. KEY WORDS**

**Advance Tax:** Advance tax is the income tax that is paid in advance instead of lump sum payment at year end. It is the tax that you pay as you earn. These payments have to be made in instalments as per due dates provided by the income tax department.

**6.10. SELF ASSESSMENT QUESTIONS**

1. What is the payment of Advance Tax?
2. Explain the Features of Advance Payment Tax?
3. Give the Format Computation of Advance Tax?
4. Explain the Due dates of Advance Payment Tax?
5. What are the Benefits of Advance Payment Tax?

**6.11. REFERENCE BOOKS**

1. R. K. Jain, Nikhil Gupta, Manoj Kumar Agrawal, Sanjeev S. Thakur, '**Practical Problems in Income Tax**', Scorer Guru Publications, Agra, 2023.
2. Dr. H. C. Mehrotra, Dr. S. P. Goyal, '**Problems and Solutions in Income Tax - Assessment Year 2022-23**', Sahitya Bhawan Publications, Agra, 2022.
3. Dr. H.C. Mehrotra, Dr. S.P. Goyal, '**Corporate Tax Planning & Management A.Y 2020-21 & 2021-22**', Sahitya Bhawan Publications, Agra, 2020.

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# LESSON – 7

## REFUND, APPEALS AND REVISIONS

### OBJECTIVES OF THE LESSON:

The Objectives of the lesson are:

- ❖ To Understand the Concept of Refund
- ❖ To Know the Interest on Refund in Income Tax
- ❖ To Study Appeals and Revisions of Income Tax Act 1961

### STRUCTURE OF THE LESSON:

- 7.1 Introduction
- 7.2 Eligibility for Income tax refund
- 7.3 Claim an ITR Refund
- 7.4 **Time Limit for Claiming Refund of Tax [ Sec. 239(2) ]**
- 7.5 Refund of Tax on Appeal etc. [ Sec. 240]
- 7.6 Interest on Delayed Refunds of Tax (Sec. 243)
- 7.7 Interest on refunds of Tax [ Sec. 244A]
- 7.8 Appeals and Revision
- 7.9 Summary
- 7.10 Self Assessment Questions
- 7.11 Reference Books

#### 7.1. REFUND - INTRODUCTION

The term "tax refund" refers to a reimbursement made to a taxpayer for any excess amount paid in taxes to the federal or State Government. Taxpayer may get back some of the tax paid by him/her during a certain financial year if he/she has paid more tax than what he/she actually owes for that financial year. This is an income tax refund and can be claimed under Section 237 of the Income Tax Act 1961. However, the claim of an income tax refund by a taxpayer through ITR is not final and must be verified by the Income Tax Department. Refund is to be claimed by the person who has made excess payment of tax. However, where the income of one person is included in the total income of another person, the latter alone is entitled to a refund in respect of such income. Thus, a minor child, whose income is clubbed with that of the father, is not entitled to any refund in respect of that income. If a refund is due in such a case, it should be claimed by the father. Similarly, where due to death, incapacity, liquidation or other cause, a person is unable to claim any refund due to him, the legal representative or the trustee or guardian or receiver, as the case may be is entitled to claim or receive such refund for the benefit of such person or his estate.

In the following the case, refund is granted by the Assessing Officer:

Where an assessee furnishes the return of his income, the Assessing Officer is required to determine his total income and tax liability on assessment. If the amount of taxes pre-paid by the assessee by way of advance tax or tax deducted at source or tax paid on self-assessment, exceeds the amount of tax determined on assessment, officer is required to refund such excess and intimation is sent to the assessee.

#### 7.2. ELIGIBILITY FOR INCOME TAX REFUND

The taxpayer is eligible for an ITR refund if he/she meets the following eligibility conditions:

- If the total tax paid by the taxpayer in the financial year is more than 100% of the tax liability assessed.
- The TDS deductions the taxpayer pays are more than the final tax liability in the financial year.
- If the taxpayer has made any tax-saving investment at the end of the financial year.
- If the taxpayer has paid tax on his income in a foreign country having DTAA (Double Taxation Avoidance Agreement) with India.
- The taxpayer has paid extra tax due to an error in the assessment of the tax amount.

### **7.3. CLAIM AN ITR REFUND**

The taxpayers can expect to claim the income tax refund within twelve months post the prevailing assessment year. However, the due date is subject to fluctuation in some conditions mentioned below-

- The taxpayer can claim the refund amount within the successive assessment of six years. CBDT (Central Board of Direct Taxes) will not accept refund requests post this period. CBDT does not give interest on income tax refunds.
- The verifying officer will only accept delayed tax refunds if it is left to be verified by them.
- The tax refund claim for a single assessment year should not exceed INR 50 lakhs.

### **7.4. TIME LIMIT FOR CLAIMING REFUND OF TAX [Sec. 239(2)]**

No such claim shall be allowed, unless it is made within the period specified hereunder, namely:-

- (a) where the claim is in respect of income which is assessable for any assessment year commencing on or before the 1st day of April, 1967, 4 years from the last day of such assessment year;
- (b) where the claim is in respect of income which is assessable for the assessment year commencing on the first day of April, 1968, 3 years from the last day of the assessment year;
- (c) where the claim is in respect of income which is assessable for any other assessment year, [one] year from the last day of such assessment year;
- (d) where the claim is in respect of fringe benefits which are assessable for any assessment year commencing on or after the first day of April, 2006, 1 (one) year from the last day of such assessment year.

### **7.5. REFUND OF TAX ON APPEAL, etc. [ Sec. 240 ] REFUND, APPEALS AND REVISIONS**

- (1) Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the Assessing Officer shall refund the amount to the assessee without his having to make any claim in that behalf: It is further provided that—
  - (a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;
  - (b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee]

**7.6. INTEREST ON DELAYED REFUNDS OF TAX [ Sec. 243 ]**

- (1) Central Government shall pay the assessee simple interest at 15% p.a. [fifteen per cent per annum ] on the amount directed to be refunded from the date immediately following the expiry of the period of 3 months aforesaid to the date of the order granting the refund.
- (2) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Chief Commissioner or Commissioner whose decision shall be final.
- (3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment years.

**Interest on Refund of Tax Where No Claim Is Needed [ Sec. 244 ]**

When a taxpayer has paid an excessive tax than what he is liable to pay, the assessee is eligible to claim excess tax paid as a refund. The excess tax paid can be in the form of Advance Tax (AT), Tax Deducted at Source (TDS) or Self-Assessment Tax(SAT). The taxpayer has to wait for some days after filing the income tax return to receive an income tax refund. The assessee will receive interest on the refund for this period. Where a refund is due to the assessee in pursuance of an order and the Assessing Officer does not grant the refund within a period of 3 month [three months] from the end of the month in which such order is passed, the Central Government shall pay to the assessee simple interest at 15% p.a. [fifteen per cent per annum ] on the amount of refund due from the date immediately following the expiry of the period of 3 months [three] months aforesaid to the date on which the refund is granted.

**7.7. INTEREST ON REFUNDS OF TAX [Sec. 244A]**

Where refund of any amount becomes due to the assessee, he shall be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner namely

- (a) where the refund is out of any tax paid or collected at source or paid by way of advance tax or treated as paid, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of 1½ % [one-half per cent] for every month or part of a month comprised in the period from the 1st day of April of the assessment year to the date on which the refund is granted. Provided that no interest shall be payable if the amount of refund is less than 10% [ten per cent] of the tax on regular assessment.
- (b) in any other case, such interest shall be calculated at the rate of 1½% [one-half per cent] for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

**7.8. APPEALS AND REVISION**

An Appeal is a petition against an order of Assessing Officer. When Assessee is not satisfy with an order of Assessing Officer. He may file an Appeal against this orders may apply for its Revision to the Commissioner of Income Tax. Income Tax Act 1961 provides a remedial measure to an aggrieved assessee in the form of Appeal against the order issued by different Income Tax Authorities.

**Appeals:**

1. Appeal to Commissioner (Appeal)

2. Appeal to Appellate Tribunal
3. Appeal to High Court
4. Appeal to Supreme Court.

### **7.8.1. APPEAL TO THE COMMISSIONER (APPEALS) (Sec. 252)**

Any assessee aggrieved by any order of an officer may appeal to the commissioner (Appeals) against such order provision of it –

1. Appeasable order –
  - a. When assessee denies his liability
  - b. An order imposing a fine for alleged failure to attend in response to summons or give any evidence/documents.
  - c. An order in relation to the assessed loss in self assessment /Best judgment assessment.
  - d. An order for after rectification liability of tax is increased
  - e. An order related to assessment/Recalculation u/s 147 or 150.
  - f. An order treating the assessee as the agent of non-resident
  - g. An order on a question of partition of a HUF.
  - h. An order under which a person is treated as assessee in default for his failure to deduct TDS.

### **7.8.2. APPEALS TO THE APPELLATE TRIBUNAL (Sec.253)**

The Central government shall constitute an Appellate tribunal consisting of as many judicial and accountant member as it think fit, to exercise. The powers and discharge the functions conferred on the Appellate Tribunal by this Act. This tribunal is constituted and works under the ministry of law and has nothing to do with the CBDT.

1. **Appealable order** – Any assessee aggrieved by any of the following order may appeal to the appellate tribunal against order may appeal to the Appellate tribunal against such order –

- a. An order passed by a Commissioner (Appeals) ordering rectification/disposal of appeal/imposing a penalty.
- b. An order passed by an Assessing Officer for search initiated/ books of accounts/documents/ any assets.
- c. An order passed by commissioner revision of orders prejudicial to revenue penalty for failure to answer question, sign statement etc.
- d. An order passed by chief commissioner/Director General/A Director

#### **Form, fees & Time of Appeal:**

The Appeal should be filled in form No. 36 to Appellate Tribunal it should be verified in the prescribed manner within 60 days of the date of order, Assessment officer/Assessee must be filed the appeal. Appeal must be accompanied by a fee where the total income of the assessee as computed by the assessing officer

#### **Documents to be filed –**

In mailing an appeal to the Tribunal, the following documents shall be sent in triplicate

- i. Memorandum of appeal
- ii. Grounds of appeal
- iii. Copy of (Deputy Commissioner (Appeals) /Commissioner's (Appeals) order)

- iv. Copy of grounds of appeal and statement of facts before the (Deputy Commissioner (Appeals) /Commissioner's (Appeals) order)
- v. Copy of order of the assessing officer.
- vi. Challan for payment of fees prescribed rate.

#### Order of Appellate Tribunal –

The Appellate tribunal may after giving both parties an opportunity of being heard, pass such orders thereon as it think fit. It may at any time within four years from the date of its order. A copy of order shall be sent to the assessee as well as the commissioner. If no point of law is involved in the orders of the Tribunal, its orders are final.

#### **7.8.3. APPEAL TO HIGH COURT (National Tax Tribunal) (Sec. 260-A)**

The following main points should be kept in mind in respect of Appeal to high court/National tax Tribunal

1. The Chief Commission/Commissioner/an assessee aggrieved by any order passed by the appellate Tribunal may file an appeal to the high court (NTT) and such appeal shall be -
  - a) Filed within 120 days from the date on which the order appealed against is received by the assessee/ chief commissioner/commissioner
  - b) In the form of a memorandum of appeal precisely stating therein the substantial question of law involved.
2. Fees should be submitted with the memorandum of appeal.
3. If assessee wants to Appeal against the order then he should be payment of Tax duties 25% of Total Amount before appeal.
4. An assessee can represent their side by himself or may appoint as a authorised person to CA/ Lawyer for representation of case.
5. High Court shall decide the question of law so formulated and deliver such judgment there on containing the grounds on which such decision is founded any may award such cost as it deems fit.
6. High Court may determine any issue which – - Has not been determined by the appellate Tribunal or. - Has been wrongly determined by the appellate tribunal by reason of a decision on such question of law.
7. Any civil court has no right to deal or action on order/decision of high court.

#### **7.8.4. APPEAL TO SUPREME COURT (Sec.261)**

Appeal to supreme court from any judgment of the high (National Tax Tribunal) delivered on a reference made u/s 256 in any case which high court certifies to be a fit one for appeal to the supreme court. The cost of the appeal shall be in the discretion of the Supreme Court. Where the judgment of the high court is varied/reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 260 in the case of a judgment of the high court.

#### **Revision:**

Revision may be in the following two situations

#### **Revision of orders prejudicial to Govt. revenue – Sec. 263:**

The commissioner may call for examine the record of any proceeding under Act and if the considers that any order passed by Assessing officer is erroneous in so far as it is prejudicial to the interests of revenue, he may after giving an opportunity to assessee of being heard & causing to be made such inquiry as he deems necessary. No order shall be made after the expiry of two years from the end of financial year. Order/decision of revision by commissioner shall be given within 2 year from the ending of financial year of Appeal.

**2. Revision of other order – Sec-264) for assessee:**

In the case of any order passed by an authority subordinate to him. Commissioner/his own motion/an application by the assessee for revision. Call for the record of any proceeding under Act in which any such order has been passed and make such inquiry/cause to be made & may pass such order prejudicial to the assessee, as he think fit. Every application shall be accompanied by a fee of Rs. 500 Assessee can apply for revision within in one year from the end of financial year. Order/decision of revision by commissioner shall be given within 1 year from the ending of financial year of Appeal.

**7.9. SUMMARY**

An income Tax Refund is issued when the tax paid to the government is more than the actual amount of tax due. This could be due to excessive tax deductions or excess payment of advance tax. It is your right to claim an income tax refund in such a situation. Taxpayers can view their TDS refund status online via the Income Tax Department website.

**7.10. TECHNICAL TERMS**

**Tax Refund:** The term "tax refund" refers to a reimbursement made to a taxpayer for any excess amount paid in taxes to the federal or State Government. Taxpayer may get back some of the tax paid by him/her during a certain financial year if he/she has paid more tax than what he/she actually owes for that financial year.

**Appeal:** An Appeal is a petition against an order of Assessing Officer. When Assessee is not satisfy with an order of Assessing Officer. He may file an Appeal against this orders may apply for its Revision to the Commissioner of Income Tax.

**Revision:** The commissioner may call for examine the record of any proceeding under Act and if the considers that any order passed by Assessing officer is erroneous in so for as it is prejudicial to the interests of revenue, he may after giving an opportunity to assessee of being heard & causing to be made such inquiry as he deems necessary.

**7.11. SELF ASSESSMENT QUESTIONS**

1. What is Refund and explain how to claim the Income tax Refund?
2. Explain the interest on Refunds of Tax?
3. Explain the different types Income tax Appellate Authorities?
4. Explain the different Situations of Revision?
5. Explain the time limit of Claiming refund of Tax?

**7.12. REFERENCE BOOKS**

1. Students' Guide to Income Tax Including GST By: Dr. Vinod K Singhania and Dr. Monica Singhania
2. Law & Practice of Income Tax by M.K. Pithisaria and CA Abhishek Pithisaria
3. Handbook on Taxation (Includes Income Tax and GST) By: T.N. Manoharan & G.R. Hari
4. Income Tax (Direct Tax) By: R.G. Saha & Usha Devi. N

**Dr. Shaik Anwar Basha**

# **LESSON -8**

## **FILING OF RETURN**

### **OBJECTIVES OF THE LESSON**

The objectives of the lesson are:

- To understand the concept of Income -Tax Returns filing;
- To know the forms for filing return of income for different assessee ;
- To describes the mode of furnishing Income-Tax Return;
- To understand the classes in return of income for file returns ;
- To know the procedure and importance of PAN & TAN in filing of returns and
- To acquaint the process of online filing of returns and form 26 AS.

### **STRUCTURE OF THE LESSON**

- 8.1. Introduction
- 8.2. Persons need to file a return [SEC.139 (1)]
- 8.3. Compulsory Filing of Returns [SEC. 139 (1)]
- 8.4. Return Filed to Employer by Salaried Employees [SEC. 139(1A)]
- 8.5. Return Filed in Computer Readable Media
- 8.6. Return through Tax Return Preparers (TRP) [SEC. 139B]
- 8.7. Forms for Filing Returns
- 8.8. Mode of Furnishing Income-Tax Return
- 8.9. Time Limit for Filing Return
- 8.10. Fee for Default in Furnishing Return of Income
- 8.11. Assessee (es) to File Return [SEC.139 (1)]
- 8.12. Revised Return [SEC. 139(5)]
- 8.13. Defective Return [SEC. 139(9)]
- 8.14. Verification of Return [SEC. 140] Amended
- 8.15. Permanent Account Number (SEC 139 A)
- 8.16. Tax Deduction Account Number [SEC.203 A]
- 8.17. Online Filing of Returns
- 8.18. Form 26 AS
- 8.19. Summary
- 8.20. Technical Terms
- 8.21. Self Assessment Questions
- 8.22. Reference Books

### **8.1 INTRODUCTION**

The Income –Tax Act, 1961 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information as to his total income and tax payable. The format for filing of returns by different assessees is notified by the CBDT. The particulars of income earned under different heads, gross total income, and deduction from gross total income, total income and tax payable by the assessee or generally required to be furnished in a return of income. In short, a return of income is the declaration of income by the assessee in the prescribed format.



## 8.2 PERSONS NEED TO FILE A RETURN

As per provisions of sec. 139(1), following persons need to file a return of income in the prescribed form and within the prescribed time –

Section	Assessee	Size of Income
139 (1) (a)	A company or a firm	Irrespective of size of income (even where there is a loss)
139 (4A)	Trusts	
139 (4B)	Political parties	
139 (4C)	Scientific research association; News agency; etc.	
139 (4D)	Any University / College / other institution referred to on Sec. 35(1) (ii) or (iii)	Irrespective of size of income (even where there is a loss)
139 (4E)	Business Trust	
139 (4F)	Investment Fund referred to in sec. 115UB	
139 (1) (b)	Any other person	Where income before giving effect to sec. 54, 54B, 54D, 54EC, 54F, 54G, 54GA, 54GB and chapter VIA (i.e., deduction u/s 80C to 80U) exceeds the maximum amount which is not chargeable to income tax.

## 8.3 COMPULSORY FILING OF RETURN [SEC. 139 (1)]

As per section 139 (1), it is compulsory for companies and firms to file a return of income or loss for every previous year on or before the due date in the prescribed form.

In case of a person other than a company or a firm, filing of return of income on or before the due date is mandatory, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeds the basic exemption limit.

Any person, being resident other than not ordinarily resident, shall furnish, a return, within due date, in respect of his income or loss for the previous year irrespective of the fact that his total income does not exceed basic exemption limit or does not have any taxable income, if he:

- i. holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or
- ii. is a beneficiary of any asset (including any financial interest in any entity) located outside India.

However, an individual being a beneficiary of any asset (including any financial interest in any entity) located outside India would not be required to file return of income under this clause, where, income, if any, arising from such asset is includable in the income of the person referred to in (a) above in accordance with the provisions of the income tax Act, 1961.

Further every person, being an individual or a HUF or an AOP/BOI, whether incorporated or not, or an artificial juridical person-

- whose total income or the total income of any other person in respect of which he is assessable under this Act during the previous year
- without giving effect to the provisions of Chapter VI-A or section 54/54B/54D/54EC/54F
- exceeded the basic exemption limit

is required to file a return of his income or income of of such other person on or before the due date in the prescribed form and manner and setting forth the prescribed particulars.

**Exception:** An individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred above in accordance with the provisions of this Act.

- “Beneficial owner” in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.
- “Beneficiary” in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

#### **Mandatory furnishing of return in case of high value transactions [7th proviso to sec. 139(1)]**

New A person (other than firm and company), who is not required to furnish a return as per aforesaid provision, and who during the previous year:

- a) has deposited an aggregate amount exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or
- b) has incurred expenditure of an aggregate amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or
- c) has incurred expenditure of an aggregate amount exceeding ₹ 1 lakh towards consumption of electricity; or
- d) fulfils such other conditions as may be prescribed,

Shall furnish a return of his income on or before the due date in such form and verified in such manner and setting forth such other particulars, as may be prescribed.

#### **8.4 RETURN FILED TO EMPLOYER BY SALARIED EMPLOYEES / BULK FILING OF RETURN BY SALARIED EMPLOYEE [SEC. 139(1A)]**

The Scheme is optional and provides an additional mode of furnishing return of income by persons deriving salary income.

Under the scheme, eligible employee may furnish his return of income in the prescribed Form together with relevant documents to his eligible employer.

The employer will transcribe the data of such returns on computer readable media using an authorised Bulk Return Preparation Software (BRPS) and shall furnish these returns in specified form and in specified manner, including in a computer readable media (like floppy, CD- ROM, diskette, magnetic cartridge tape) to the designated Assessing Officer by the due date. The return furnished under such scheme shall be deemed to be a return furnished u/s 139(1).

**1. Eligible employee** means an individual –

- (a) Deriving salary from an eligible employer or Drawing and Disbursing Officer (DDO) at any one of the specified cities;
- (b) Who has been allotted Permanent Account Number (PAN); and
- (c) Whose total income does not include income under the head “Profits and gains of business or profession”.

**2. Eligible employer** means an employer who –

- (a) has a minimum of 50 employees with income exceeding maximum amount not chargeable to tax for the relevant financial year assessed at any specified city; and
- (b) has been allotted tax deduction account number (TAN).

and includes Drawing and Disbursing Officer (DDO) in the case of the Central Government or the Government of a State or Public Sector Company.

**Specified cities:** Ahmadabad, Bangalore, Baroda, Bhopal, Chandigarh, Chennai, Delhi, Gandhi nagar, Hyderabad, Jaipur, Jabalpur, Kolkata, Mumbai, Nagpur, Pune and Thane.

**Exceptions**

However, following returns shall not be furnished under the scheme –

- (a) Return of income for any Assessment Year other than the current Assessment Year;
- (b) Return of income where no PAN or incorrect PAN of the employee has been quoted;
- (c) Return under block assessment;
- (d) Return of an employee having more than one employer during the previous year;
- (e) Return of employee who is not in receipt of his salary from the ‘eligible employer’ as on the last day of the previous year, for which the return is being furnished;
- (f) A revised return of income.

**8.5 RETURN FILED IN COMPUTER READABLE MEDIA [SEC. 139(1B)]**

Any person, required to furnish a return of income, may furnish the return in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media), and in such manner as prescribed in the scheme notified by the Board in the Official Gazette and subject to such conditions as may be specified therein. Notes: • The scheme is optional. • Return must be filed on or before due date. • The return furnished under such scheme shall be deemed to be a return furnished u/s 139(1).

**8.6 SCHEME FOR SUBMISSION OF RETURN THROUGH TAX RETURN PREPARERS (TRP) [SEC. 139B]**

A TRP is an individual who has been authorized to enable any specified class (es) of person to prepare and furnish their returns of income. The scheme framed under the above provision shall specify:

- i. The manner in which the TRP shall assist the person furnishing the return of income,
- ii. The educational and other qualifications to be possessed,
- iii. The training and other conditions required to be fulfilled, by a person to act as a TRP,
- iv. The code of conduct for the TRP,
- v. Duties and obligation of the TRP

- vi. The manner in which authorization may be withdrawn; and
- vii. Any other matter.

**Note:** The TRP shall also affix his signature on such return. Specified class (es) of person means resident individual and resident HUF other than person whose accounts are required to be audited.

#### **Person not eligible to become TRP**

- i. Chartered Accountant
- ii. Any legal practitioner who is entitled to practice in any civil court in India.
- iii. Any officer of a scheduled bank cannot be the TRP of the assessee who maintains a Current account or has other regular dealing with such bank.

#### **Educational Qualification of TRP**

An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost Accountants of India, shall be eligible to act as Tax Return Preparer.

### **8.7 FORMS – RETURN OF INCOME**

Rule 12 provides following Form for filing return of income for different assessee:

ITR - 1 (Sahaj)	For Individuals having Income from Salaries, one house property (does not have any brought forward loss), other sources [Interest (does not have any loss under the head) etc. but except winnings from lottery or income from race horses] and having total income upto ₹ 50 lakh However, the form is not to be used for an individual who is either Director in a company or has invested in unlisted equity shares or has any brought forward / carry forward loss under the head 'Income from House Property' or has to furnish return under seventh proviso to section 139(1) of the Income Tax Act.
ITR – 2	For Individuals and HUFs not carrying out business or profession under any proprietorship
ITR – 3	For individuals and HUFs having income from a proprietary business or profession
ITR - 4 (Sugam)	For presumptive income from Business & Profession
ITR – 5	For person other than (i) Individual; (ii) HUF; (iii) Company; & (iv) Person filing Form ITR-7
ITR – 6	For Companies other than companies claiming exemption u/s 11
ITR – 7	For persons including companies required to furnish return u/s 139(4A) or 139(4B) or 139(4C) or 139(4D) or 139(4F)
ITR – V	Income Tax Return Verification Form [Where the data of the aforesaid Return of Income has transmitted electronically without digital signature]

### **8.8 MODE OF FURNISHING INCOME-TAX RETURN**

The following are the modes of furnishing income tax return:

- a. Paper Return
- b. Electronic Return with Digital Signature
- c. Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V

d. Transmitting the data electronically in the return under electronic verification code

**1. Compulsory E-Return:**

Person	Condition	Mode
Company	-	Electronically with digital sign
Political Party	-	
Firm or LLP or Individual or HUF	Audit u/s 44AB required	
Individual or HUF	Where total income assessable during the previous year of a person: a. being an individual of the age of 80 years or more at any time during the previous year; or b. whose income does not exceed ₹ 5 lakh and no refund is claimed in the return of income, and who furnishes the return in Form No. ITR-1 or Form No. ITR-4	Any of the given mode
Any other person		Any mode other than paper mode

2. A resident Individual (other than not-ordinarily resident) or a resident HUF (other than not-ordinarily resident) must file the return of income electronically (with or without digital sign) if he/it has:

- a) Assets (including financial interest in any entity) located outside India; or
- b) Signing authority in any account located outside India.

3. Further, any person who has claimed any relief u/s 90 or 90A or 91, is required to file return electronically.

4. Form ITR 1 cannot be used by a person who:

(a) is an ordinarily resident and has, —

- (i) assets (including financial interest in any entity) located outside India; or
- (ii) signing authority in any account located outside India; or
- (iii) income from any source outside India

(b) has claimed any relief of tax u/s 90 or 90A or deduction of tax u/s 91

(c) has agricultural income, exceeding ₹ 5,000;

(d) has total income, exceeding ₹ 50 lakh;

(e) has income taxable u/s 115BBDA; or

(f) has income of the nature referred to in sec. 115BBE

(g) is either Director in a company or has invested in unlisted equity shares or has any brought forward / carry forward loss under the head 'Income from House Property' or

(h) has to furnish return under 7th proviso to sec. 139(1)

5. Form ITR 4 cannot be used by a person who

(a) is an ordinarily resident and has,—

- (i) assets (including financial interest in any entity) located outside India; or
- (ii) signing authority in any account located outside India; or
- (iii) income from any source outside India

(b) has claimed any relief of tax u/s 90 or 90A or deduction of tax u/s 91

(c) has agricultural income, exceeding ₹ 5,000;

- (d) has income taxable u/s 115BBDA; or  
 (e) has income of the nature referred to in sec. 115BBE  
 (f) is either Director in a company or has invested in unlisted equity shares or has any brought forward / carry forward loss under the head 'Income from House Property' or
6. Where an assessee is required to furnish a report of audit specified u/s 10(23C)(iv), (v), (vi) or (via), sec. 10A, sec. 12A(1)(b), sec. 44AB, sec. 80-IA, sec. 80-IB, sec. 80-IC, sec. 80-ID, sec. 80JJAA, sec. 80LA, sec. 92E or sec. 115JB, he shall furnish the same electronically. Apart from said report, the return shall paper less.

### 8.9 TIME LIMIT FOR FILING RETURN OF INCOME [EXPLANATION 2 TO SEC. 139(1)]

Amended A return should be filed on or before the following due date (of respective assessment year):

Assessee	Due Date
• Where the assessee is required to furnish a report in Form 3CEB u/s 92E pertaining to international transaction(s)	30th November
• Where the assessee is a company not having international transaction(s)	31st October
• Any other assessee	
- Where accounts of the assessee are required to be audited under any law	31st October
- Where the assessee is a partner in a firm and the accounts of the firm are required to be audited under any law	31st October
- In any other case	31st July

### 8.10 FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME [SEC. 234F]

Where a person required furnishing a return of income u/s 139, fails to do so within the due date, he shall pay fee of:

Case	Fee
Fee Total income does not exceed ₹ 5 lakh	₹ 1,000
Total income exceeds ₹ 5 lakh	
- If the return is furnished on or before 31st December of the assessment year	₹ 5,000
- In any other case	₹ 10,000

### 8.11 ASSESEE (ES) TO FILE RETURN

The following class of assessee must file a return before the due date as per sec 139 (1):

#### 8.11.1 Belated Return [SEC. 139(4)]

If an assessee fails to file return within the time limit allowed u/s 139 (1) or within the time allowed under a notice issued u/s 142(1), he can file a belated return.

**Time limit:** Assessee may file such return –

- before the end of the relevant assessment year; or

- before the completion of assessment (u/s 144), - whichever is earlier. However, if an assessee files a belated return, he would be liable to fee u/s 234F and interest u/s 234A.

### 8.11.2 Return of Income of Charitable Trust [SEC. 139(4A)]

Every person who is in receipt of –

- income from property held under the trust or other legal obligation wholly or partly for charitable or religious purpose; or
  - income by way of voluntary contribution on behalf of such trust or institution,
- and if such income before allowing exemption u/s 11 or 12 exceeds the maximum amount which is not chargeable to tax, must file a return before the due date as per sec.139(1).

**Penalty:** Where an assessee fails to file return of income under this section, within the time limit, it shall be liable to pay a penalty of ₹ 100 per day during which such failure continues [Sec. 272A (2)].

### 8.11.3 Return of Income of Political Party [SEC. 139(4B)]

The chief executive officer (whether such chief executive officer is known as Secretary or by any other designation) of any political party is required to furnish a return in respect of income of such political party, if the amount of gross total income before allowing exemption u/s 13A exceeds the maximum amount not chargeable to tax.

### 8.11.4 Return of Income of Scientific Research Association, etc. [sec. 139(4c)]

Every –

- Research Association referred to in sec. 10(21);
- News agency referred to in sec. 10(22B);
- Association or institution referred to in sec. 10(23A) or sec. 10(23B);
- Specified Employee Welfare Fund referred to in sec. 10(23AAA);
- Any university or other educational institution referred to in sec. 10(23C)(iiiad) or (iiiab);
- Any hospital or other medical institution referred to in sec. 10(23C)(iiiiae) or (iiiic);
- Fund or institution referred to in sec. 10(23C)(iv);
- Trust or institution referred to in sec. 10(23C)(v);
- Any university or other educational institution referred to in sec. 10(23C)(vi);
- Any hospital or other medical institution referred to in sec. 10(23C)(via);
- Mutual Fund referred to in sec. 10(23D);
- Securitization trust referred to in sec. 10(23DA);
- Investor Protection Fund referred to in sec. 10(23EC) or sec. 10(23ED);
- Core Settlement Guarantee Fund referred to in sec. 10(23EE);
- Venture Capital Company or Venture Capital Fund referred to in sec. 10(23FB);
- Trade union or an association of such union referred to in sec. 10(24);
- Body or authority or Board or Trust or Commission referred to in sec. 10(46) or 10(29A);
- Infrastructure debt fund referred to in sec. 10(47),

must file a return, if the total income without giving effect to the provisions of sec. 10, exceeds the maximum amount which is not chargeable to income-tax.

**Penalty:** Where an assessee fails to file return of income under this section, within the time limit, it shall be liable to pay a penalty of ₹ 100 per day during which such failure continues [Sec. 272A (2)].

**8.11.5 Return of Income by a University/ College etc. [SEC. 139(4D)]**

Every University, college or other institutions referred to in sec. 35(1) (ii) or (iii) is required to furnish a return in respect of income or loss irrespective of size of income or loss.

**8.11.6 Return of Income of a Business Trust [SEC. 139(4E)]**

Every business trust, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of its income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply if it were a return required to be furnished u/s 139(1).

**8.11.7 Return of Income of Investment Fund [SEC. 139(4F)]**

Every investment fund referred to in sec. 115UB, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished u/s 139(1).

**8.12 REVISED RETURN [SEC. 139(5)]**

If an assessee discovers any omission or wrong statement (bonafide in nature) in the return filed, he can revise his return u/s 139(5).

**Time limit:** Assessee may file the revised return –

- before the end of the relevant assessment year; or
- before completion of regular assessment,  
Whichever is earlier?

**8.13 DEFECTIVE RETURN [SEC. 139(9)]**

When a return is termed defective - A return of income is said to be defective where all the following conditions are not fulfilled:

- The return is furnished without paying self-assessment tax along with interest, if any.
- The annexure, statements and columns in the return of income have been duly filled in.
- The return is accompanied by the following documents –
  - (a) a statement showing the computation of tax liability;
  - (b) the audit report u/s 44AB (where the report has been submitted prior to the furnishing of return, a copy of audit report together with proof of furnishing the report);
  - (c) the proof of tax deducted or collected at source, advance tax paid and tax paid on self-assessment;
  - (d) where regular books of account are maintained by the assessee:
    - (i) copies of Manufacturing A/c, Trading A/c, Profit and Loss A/c or Income and Expenditure A/c or any other similar account and Balance Sheet;
    - (ii) in the case of –
      - A proprietary business or profession - the personal account of the proprietor;
      - A firm, AOP or BOI - personal account of the partners or members; or
      - A partner or member of the firm, AOP or BOI - his personal account in the firm, association of persons or body of individuals;where regular books of account are not maintained by the assessee –
  - (e) where regular books of account are not maintained by the assessee:



- (i) a statement indicating the amount of turnover or gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amount have been computed; and
  - (ii) the amount of sundry debtors, sundry creditors, stock and cash balance as at the end of the previous year.
- (f) where the accounts of the assessee have been audited, copies of the audited Profit and Loss A/c, Balance Sheet and a copy of the Auditor's report; g. Cost audit report u/s 233B of the Companies Act, 1956 (if any).

**Effect:** Where the Assessing Officer considers that the return of income furnished by the taxpayer is defective, he may intimate the defect to the taxpayer and give him an opportunity to rectify the defect(s).

**Time limit for rectification:** The assessee must rectify the error within a period of 15 days from the date of intimation (served on the assessee) or within such extended time as allowed by the Assessing Officer. Where the taxpayer rectifies the defect after the expiry of the period of 15 days or such extended period but before the assessment is completed, the Assessing Officer can condone such delay.

**Consequence when defect is not rectified:** If defect is not rectified within the time limit, the Assessing Officer will treat the return as an invalid return and provisions of the Act will apply as if the taxpayer had failed to furnish the return at all

#### 8.14 VERIFICATION OF RETURN [SEC. 140] Amended

The return of income is required to be verified:

Assessee	Cases	Verified by
Individual	In general	Individual himself
	Where the individual concerned is absent from India	Individual himself or by the duly authorized person of such individual
	Where the individual is mentally incapacitated	Guardian of such individual or any other person competent to act on his behalf
	Where by any other reason it is not possible for the individual to verify the return.	Any person duly authorised by him
HUF	In general	Karta
	Where the 'karta' is absent from India or is mentally incapacitated	Any adult member of the family.
Firm	In general	Managing partner
	If due to any reason it is not possible for managing partner to verify or where there is no managing partner	Any adult partner
Limited Liability Partnership	In general	Designated partner
	If due to any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such	Any partner or any other prescribed person
Local Authority	Principal Officer	

Political Party	Chief Executive Officer	
Company	In general	Managing Director (MD)
	If due to any reason it is not possible for MD to verify or where there is no MD	Any director or any other prescribed person
	Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, 2016	Insolvency professional appointed by such Adjudicating Authority
	Non-resident company	A person holding a valid power of attorney. Copy of such power of attorney must be attached with the return.
	Company in process of winding up	Liquidator of the company
	Where the management of the company has been taken over by the Central or State Government	Principal officer
Any other association	Any member or principal officer	
Any other person	Such person or any other person competent to act on its behalf.	

### 8.15 PERMANENT ACCOUNT NUMBER [SEC.139 A]

Permanent Account Number (PAN) is an alpha-numeric (ten characters) code given to a person by income tax department for the purpose of identification of the assessee. A person can have only one PAN.

#### ALLOTMENT OF PAN

##### A. On Application

Compulsory application for allotment of PAN As per sec. 139A & rule 114, following persons are under statutory obligation to apply for PAN within the time limit stated as under:

Who is to apply for PAN	When to apply for PAN
Any person whose total income exceeds maximum exempted limit.	On or before 31st May of the relevant assessment year
Any resident person other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year	
Any person who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred above or any person competent to act on behalf of the person referred above or who intends to enter into prescribed transactions	
Any person whose sales or turnover or gross receipts are likely to exceed ₹ 5,00,000 in any previous year	On or before the end of the relevant financial year
Any person who is required to furnish return u/s 139(4A) i.e. trust and charitable institution	
Any person who is entitled to receive any sum or income, on which	

tax is deductible under in any financial year	
Any person who requires export-import code	Before making any export or import.
Assessee under the GST	Before making application for registration under GST.

### Penalty for failure to apply for PAN

Failure to apply for PAN or to quote PAN in prescribed documents (discussed later in this chapter) attracts penalty of ₹ 10,000 u/s 272B.

### Voluntary application for allotment of PAN [Sec. 139A (3)]

The section empowers a person to apply for a PAN, even though; the person does not fall under any of the categories as mentioned above. However, a person, who has been already allotted a PAN under new series, shall not apply for another PAN.

### Interchangeability of PAN and Aadhar [Sec. 139A (5E)]

Every person who is required to furnish or intimate or quote his PAN, and who,—

- (a) has not been allotted PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of the PAN, and such person shall be allotted a PAN in such manner as may be prescribed;
- (b) has been allotted a PAN, and who has intimated his Aadhaar number in accordance with provisions of sec. 139AA, may furnish or intimate or quote his Aadhaar number in lieu of the PAN.

### Whom to apply (either compulsory or voluntary)

The application is to be made to the Assessing Officer or any other person who has been assigned the function of allotment of PAN. However, where no such Assessing Officer or other person has been assigned such function then application shall be made to the Assessing Officer having jurisdiction over the person.

Form of application – The prescribed forms are as under:

Case	Form
For Indian Citizen / Indian Company / Entities incorporated in India / Unincorporated entities formed in India	49A
In other cases	49AA

### B. Suo-moto allotment of PAN

- As per sec 139A (1B) for the purpose of collecting any information which may be useful for the purposes of the Act, the Central Government may, by way of notification, specify any class of person to apply within prescribed time to the AO for allotment of PAN.
- Section 139A (2) empowers the Assessing Officer to allot a PAN to any person other than the person falling under the categories mentioned above.

## 8.16 TAX DEDUCTION ACCOUNT NUMBER [SEC.203 A]

Also known as the TAN, tax deduction account number, is a ten digit alphanumeric number that is issued by the Income Tax Department. The first 4 components of the TAN are alphabets, the next 5 are numbers and the last is an alphabet name of the TAN holder who can be a company, firm, individual, etc. Under Section 203A of the Income Tax Act, 1961, it is compulsory to quote TAN on all TDS or TCS returns.

TAN should be obtained by every person responsible for Tax Deduction at Source (TDS) or Tax Collection at Source (TCS). It is mandatory to quote TAN in all TCS or TDS transactions, including any e-TCS/TDS return, TDS/TCS payment challan and TDS/TCS certificates.

### **8.16.1 Importance of TAN**

Any person required to obtain a TAN will face difficulty filing tax returns when he/she does not apply for it. Failure to quote the TAN number in returns or documents will result in a penalty of ₹ 10,000. TAN should be quoted in the following documents:

- TCS or TDS statements/returns,
- Challans for TDS/TCS payments,
- Submission of TCS/TDS certificates
- Collection or submission of a wide variety of IT-related forms.

### **8.16.2 Structure of TAN**

The TAN, being a ten-digit alphanumeric number, has a unique structure. The structure of TAN is as follows:

- The first four digits are letters – First three letters represent the jurisdiction where the TAN is issued. The fourth letter is initial of the entity or individual applying for the TAN.
- The last digit is a letter at the end – The last one letter is a unique letter generated by the system.
- The next five digits are numerical – The numerical in the middle are unique numbers generated by the system.

### **8.16.3 TAN Application Process**

There are two modes for applying for a TAN:

#### **Offline**

The applicant should fill and submit Form 49B (Form of application for allotment of tax deduction and collection account number) to any TIN-Facilitation Center (TIN-FC) of Protean with the required fees for allotment of TAN. An applicant can also download the TAN application from the NSDL website and submit the filled form along with the fees to the TIN-FC. In the case of an in-person TIN application, there is no need to furnish any supporting documents to the IT department.

#### **Online**

Applicants can apply online for TAN through the NSDL website. Applicants should read the instructions, fill the online form and submit it. After submission of the form online, they will receive the acknowledgement number. They must print the acknowledgement number and send it to the NSDL office at Pune. They can pay the required fees online or through a demand draft or cheque.

Once the IT department receives the TAN application, they will verify the details and issue the TAN of the applicants to NSDL. The NSDL will send the TAN details to the applicant's address provided in Form 49B or send an email with the TAN details.

### **8.16.4 TAN Application Fees**

The processing fee for the TAN application is Rs.65 (including Goods and Service Tax).

### 8.16.5 TAN Search

The taxpayers can view the TAN of the tax collector or deductor from the e-filing portal. The taxpayers should click on the 'Know PAN Details' option on the homepage under the 'Quick Links' section. They need to select the category of the deductor, enter the deductor's name, state, and taxpayer's mobile number and click on the 'Continue' button.

Next, the taxpayers need to validate with OTP, and a list of records that matches the deductor's name will be displayed. When the taxpayers click on the deductor's name, they can view the deductor's basic and AO details.

### 8.17 ONLINE FILING OF RETURNS

An Income-Tax Return is a form that enables a taxpayer to declare his income, expenses, tax deductions, investments, taxes, etc. The Income-tax Act, 1961 makes it mandatory for a taxpayer to file an income tax return under various scenarios. However, there may be various other reasons to file an income tax return even in the absence of requisite income, like carrying forward losses, claiming an income tax refund, for availing the VISA, loan from banking institutions, term insurance, etc.

E-filing refers to the process of filing an Income Tax Return (ITR) online, using the Internet. By accessing the new income tax portal using PAN-based login credentials, individuals can take advantage of a range of features that simplify the tax filing process.

The Income Tax Department provides the facility for e-filing an income tax return. Before discussing the steps involved in e-filing an ITR, it is essential for a taxpayer to keep the following documents/information readily available for e-filing their ITR.

- PAN and Aadhaar
- Bank Statements
- Form 16
- Donation receipts
- Stock trading statements from the broker platform
- Insurance policy paid receipts related to life and health
- Bank account information linked to PAN
- Aadhaar registered mobile number for e-verifying the return
- Interest certificates from banks

#### Step-by-Step on How to E-file ITR on the Income Tax Portal

##### Step1: Login

- Visit the official Income Tax e-filing website and click on 'Login'.
- Enter your PAN in the User ID section.
- Click on 'Continue'.
- Check the security message in the tick box.
- Enter your password
- 'Continue'

##### Step 2: Go to 'File Income Tax Return'

- Click on the 'e-File' tab > 'Income Tax Returns' > 'File Income Tax Return'

##### Step 3: Select the right 'Assessment Year'

Select 'Assessment Year as 'AY 2024-25' if you file for FY 2023-24. Similarly, select 'AY2023-24' if you are filing for FY 2022-23 and use the mode of filing as 'Online'. Select the filing type correctly as original return or revised return.

**Step 4: Select the status**

Select your applicable filing status: Individual, HUF, or Others.

For filing of persons like you and me, select 'Individual' and 'Continue'.

**Step 5: Select the ITR type**

- Now, select ITR type. The taxpayer must first ascertain which ITR form they must fill out before filing returns.
- There are a total of 7 ITR forms available, of which ITR 1 to 4 is applicable for individuals and HUFs. For example, individuals and HUFs without income from business or profession but with capital gains can use ITR.
- Find out which ITR you should be filing.

**Step 6: Choose the reason for filing ITR**

In the following step, you will be prompted to specify the reason for filing your returns.

Select the appropriate option that is applicable to your situation:

- Taxable income is more than the basic exemption limit
- Meets specific criteria and is mandatorily required to file ITR
- Others

**Step 7: Validate the pre-filled information**

Most of the details, such as your PAN, Aadhaar, Name, date of birth, contact information, and blank details will be pre-filled. Validate these details carefully before you proceed further. Also, provide your bank account information. If you have already provided these details, ensure they are pre-validated.

As you proceed step by step, ensure to disclose all relevant income, exemptions, and deduction details. Most of your information will be pre-filled based on the data provided by your employer, bank, etc. Review the information carefully to ensure it is correct. Confirm the summary of your returns, validate the details and make the payment of balance taxes, if any.

**Step 8: e-Verify ITR**

The last and cerchal step is to verify your return within the limit (30 days). Failing to verify your return is equivalent to not filing at all. You have the option to e-verify your return using different methods such as Aadhaar OTP, electronic verification code (EVC), Net Banking, or by sending a physical copy of ITR-V to CPC, Bangalore.

**8.18 FORM 26 AS**

Form 26 AS is a statement that provides details of any amount deducted as TDS or TCS from various sources of income of a taxpayer. It also reflects details of advance tax self-assessment tax paid, and high-value transactions entered into by the taxpayer.

Tax Credit Statement or Form 26AS is an important document for tax – filing. Gone are the days when one has to download Form 26AS to file IT returns manually. The scope of the statement has now been expanded to include details of foreign remittances, mutual funds purchases, dividends, refund details, etc.

Form 26AS gives a consolidated record of every tax-related information associated with your PAN (Permanent Account Number). It can be viewed and downloaded easily from the TRACES website. It is useful to verify the contents of the TDS certificate and ensure that the TDS deducted from your income is actually deposited with the income tax department.

**Information Available on Form 26 AS**

Form 26 AS is a statement that shows the below information:

- Tax deducted on your income by all the tax deductors
- Details of tax collected source by all the tax collectors
- Advance tax paid by the taxpayer
- Self-assessment tax payments
- Regular assessment tax deposited by the taxpayers (PAN holders)
- Details of income tax refund received by you during the financial year
- Details of the high-value transaction regarding shares, mutual funds, etc.
- Details of tax deducted on sale of immovable property
- Details of TDS defaults (after processing TDS return) made during the year
- Turnover details reported in GSTR-3B

### 8.19 SUMMARY

ITR filing is the process by which a taxpayer has to file a report of his total income earned in a financial year. Through Income Tax Department's official portal, an individual can complete their filing of returns. It has been notified with seven various forms - ITR 1, ITR 2, ITR 3, ITR 4, ITR 5, ITR 6 and ITR 7. Permanent Account Number (PAN) is an alpha-numeric (ten characters) code given to a person by income tax department for the purpose of identification of the assessee. A person can have only one PAN. However, TAN should be obtained by every person responsible for Tax Deduction at Source (TDS) or Tax Collection at Source (TCS). To know the online filing of returns that is E-filing. E-filing refers to the process of filing an Income Tax Return (ITR) online, using the Internet. Form 26 AS is a statement that provides details of any amount deducted as TDS or TCS from various sources of income of a taxpayer. It also reflects details of advance tax self-assessment tax paid, and high-value transactions entered into by the taxpayer.

### 8.20 TECHNICAL TERMS

- AO:** Assessing Officer  
**EVC:** Electronic Verification Code  
**PAN:** Permanent Account Number  
**TAN:** Tax deduction Account Number  
**TCS:** Tax Collection at Source  
**TDS:** Tax Deduction at Source  
**TPR:** Tax Return Preparers

### 8.21 SELF ASSESSMENT QUESTIONS

1. Define the 'return'? Discuss the concept of Income -Tax Returns filing.
2. What are the forms filing return of income for different assessee? Discuss.
3. Describes the mode of furnishing Income-Tax Return.
4. What are the classes of assessee in return of income for file returns? Explain
5. State the procedure and importance of PAN & TAN in filing of returns.
6. What do you understand by online filing of returns? Discuss the steps therein.
7. Describes the form 26 AS.

### 8.22 REFERENCE BOOKS

1. V.P.Gaur and D.R.Narang, 'Income Tax Law and Practice', Kalyan Publication House, New Delhi.
2. Mahendra B. Gabhawala, 'Direct Tax Ready Reckoner with Planning', Bharat Law House Pvt Ltd, 2019.
3. Dr Vinod K .Singhania and Dr Kapil Snghania, ' Direct Taxes Law and Practice', Taxmann, 2023.
4. Dr Girish Ahuja and Dr Ravi Gupta, 'Direct Tax Ready Reckoner with Planning', Commercial Law Publisher (India) Pvt Ltd, 2023.
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**VISHNU VADDE**



## **LESSON -9**

### **ASSESSMENT PROCEDURE OF INCOME TAX**

#### **OBJECTIVES OF THE LESSON**

The objectives of the lesson are:

- To understand the concept of Income -Tax Assessment;
- To describe the intimation or assessment by income tax department ;
- To know best judgement assessment;
- To understand the power of joint commissioner to issue directions in certain cases ;
- To know the procedure for rectification of mistake and
- To acquaint demand notice.

#### **STRUCTURE OF THE LESSON**

- 9.1. Introduction
- 9.2. Self-Assessment [Sec. 140A] Amended
- 9.3. Intimation or Assessment by Income tax department
- 9.4. Inquiry before assessment
- 9.5. Faceless inquiry or Valuation [Sec. 142B] New
- 9.6. Intimation / Assessment by Assessing Officer
- 9.7. Intimation [Sec. 143(1)]
- 9.8. Scrutiny Assessment u/s 143(3)
- 9.9. New Scheme for Scrutiny [Sec. 143(3A) to (3C)] Amended
- 9.10. Best Judgment Assessment [Sec. 144]
- 9.11. Faceless Assessment [Sec. 144B] New
- 9.12. Power of Joint Commissioner to issue directions in certain cases [Sec. 144A]
- 9.13. Rectification of Mistake [Sec.154]
- 9.14. Demand Notice [Sec.156]
- 9.15. Summary
- 9.16. Technical Terms
- 9.17. Self Assessment Questions
- 9.18. Reference Books

#### **9.1. INTRODUCTION**

##### **RIGHTS AND POWERS OF AN AUDITOR-**

An auditor must have certain powers to perform his duties honestly and successfully. The conferred rights and powers of the auditor cannot be restricted or curtailed by the Articles of Association of the Company or by the Board.

Every taxpayer has to furnish the details of his income to the Income-tax Department. These details are to be furnished by filing the 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 its correctness. The process of examining the return of income by the Income Tax department is called an “Assessment”. Assessment means to assess the income of the assessee i.e. to decide the income

and tax liability of the assessee on the basis of return filed, information gathered or to the best of judgment of income tax department. It begins with self-assessment i.e. assessment by the assessee himself. The assessment also includes re-assessment and best judgment assessment. The various kinds of assessment under the Income Tax Act, 1961.

### 9.2 SELF-ASSESSMENT [SEC. 140A] Amended

In self-assessment, assessee itself is responsible to determine its taxable income, tax liability and to pay tax accordingly. Provision of sec. 140A is as follows –

- a) Where any tax is payable (after deducting relief, rebate, advance payment of tax or tax deducted or collected at source or MAT or AMT credit, if any, or any tax or interest payable u/s 191(2)) on the basis of return furnished the assessee is required to pay such tax before filing the return.

**Tax point:** A return furnished without paying self-assessment tax & interest, if any, shall be treated as defective return.

- b) If any interest is payable for delayed filing of return (u/s 234A) or default in payment of advance tax (u/s 234B) or for deferment of advance tax (u/s 234C) or fee (u/s 234F) is payable for filing return after due date, then such interest or fee should be paid along with self-assessment tax.

**Note:** While calculating above interest for the purpose of self-assessment, tax on the total income declared in the return shall be considered.

- c) Where the amount paid by the assessee falls short of the aggregate of tax, interest and fee, the amount so paid shall first be adjusted towards fee and thereafter towards interest payable and the balance, if any, shall be adjusted towards tax payable.
- d) After assessment, any amount paid under this section shall be deemed to have been paid towards such assessment.
- e) If an assessee fails to pay whole or any part of such tax or interest or both in accordance with the provisions of sec. 140A, he shall be deemed to be an assessee in default.

#### Illustration 1.

Mr. Rohan Teja paid ₹ 42,000 together with return. Show the treatment u/s 140A from following data:

Tax liability	₹ 82,000
Interest payable u/s 234A (as per returned income)	₹ 750
Interest payable u/s 234B (as per returned income)	₹ 3,730
Interest payable u/s 234C	₹ 1,660
Fee u/s 234F	₹ 5,000
Advance tax paid	₹ 1,500
TDS	₹ 6,000

#### Solution:

Amount payable together with filing return for the A.Y.2023-24

Particulars	Amount	Amount
Tax liability		82,000
Add :Fee payable u/s 234F	5,000	
Interest payable u/s 234A	750	
Interest payable u/s 234B	3,730	

Interest payable u/s 234C	1, 660	11, 140
Total		93, 140
Less: Advance tax paid	1, 500	
TDS	6, 000	7, 500
Amount payable		85, 640

### 9.3 INTIMATION OR ASSESSMENT BY INCOME TAX DEPARTMENT

After submission of return or on non-submission of return by the assessee, assessment is made by the Income tax department. The Assessing Officer can assess the income of the assessee in any of the following manner:

- i. Intimation u/s 143(1);
- ii. Scrutiny Assessment u/s 143(3);
- iii. Best Judgment Assessment u/s 144;
- iv. Income Escaping Assessment u/s 147

For making assessment, the Assessing Officer can make an inquiry. Provisions relating to inquiry before assessment are as under:

### 9.4 INQUIRY BEFORE ASSESSMENT

- 1 Issue of notice to the assessee [Sec. 142(1)]
  - to submit a return [Sec. 142(1)(i)]
  - to produce accounts, documents etc. [Sec. 142(1)(ii) & (iii)]
- 2 Making inquiry [Sec. 142(2)]
- 3 Giving direction to get books of account audited [Sec. 142(2A) to (2D)]
- 4 Opportunity of being heard [Sec. 142(3)]
- 5 Estimate by Valuation Officer in certain cases [Sec. 142A]

#### 9.4.1 Issue of notice to the assessee [Sec. 142(1)]

For the purpose of making assessment, the Assessing Officer may serve a notice on any person –

- who has submitted a return u/s 139; or
- in whose case the time allowed u/s 139(1) for furnishing the return has expired.

Such notice may relate to any of the following matter –

- i. **Notice to submit a return [Sec. 142(1)(i)]:** If the assessee has not submitted a return of income within specified time, the Assessing Officer may require him to submit a return in the prescribed form on or before the date specified in the notice.  
**Tax point:** In case assessee has not furnished the return of income, it is not mandatory for the Assessing Officer to issue notice u/s 142(1)(i) if he wishes to make best judgment assessment.
- ii. **Notice to produce accounts, documents etc. [Sec. 142(1)(ii)]:** The Assessing Officer may ask the assessee to produce such documents or accounts as he may require. Exception: Assessing Officer shall not require the production of any accounts pertaining to a period more than 3 years prior to the previous year.
- iii. **Notice to furnish information [Sec. 142(1)(iii)]:** Assessing Officer may require the assessee to furnish in writing information in such form and on such points or matters as he may require (including a statement of all assets and liabilities of the assessee, whether

included in the accounts or not). However, prior approval of the Joint Commissioner shall be obtained before requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts.

**Tax point:** Notice u/s 142(1)(i) can be served only if return has not been submitted where as notice u/s 142(1)(ii) & (iii) can be served whether return has been furnished or not.

#### 9.4.2 Making inquiry [Sec. 142(2)]

For the purpose of obtaining full information in respect of the income (or loss) of any person, the Assessing Officer may make such inquiry, as he considers necessary.

**Tax point:** U/s 142(1) Assessing Officer collects information from the assessee, however u/s 142(2) Assessing Officer has the power to collect information from any source.

#### 9.4.3 Giving direction to get books of account audited [Sec. 142(2A) to (2D)]

The Assessing Officer (after giving reasonable opportunity to the assessee) may direct the assessee to get his accounts audited if he is of the opinion that it is necessary to do so having regard to the –

- nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee; and
- Interest of revenue.

Such direction can be issued even if the accounts of the assessee have already been audited u/s 44AB or any other law for the time being in force.

**Time Limit for audit report:** The audit report shall be furnished by the assessee within the period specified by the Assessing Officer. The Assessing Officer has power to extend such period on an application made by the assessee or suomotu. However, the aggregate period (fixed originally and extended) shall not exceed 180 days from the date on which such direction is received by the assessee.

**Form of audit report:** The chartered accountant shall submit the report in Form 6B to the assessee. Thereafter such report is to be submitted by the assessee to the Assessing Officer within such period as allowed by the Assessing Officer.

**Audit fees:** The audit fees and audit expenditure shall be determined by the Principle Chief Commissioner / Principle Commissioner / Chief Commissioner / Commissioner (which shall be final) and paid by the Central Government.

**Consequences of failure to get books of account audited:** In case assessee fails to get books of account audited, it –

- will be liable to Best Judgment Assessment u/s 144; and
- attracts penalty and prosecution.

**Note:** Penalty etc. are attracted only if there is a default by the assessee. If accountant nominated by the Commissioner refuses to audit the accounts, the assessee cannot be held responsible

**9.4.4 Opportunity of being heard [Sec. 142(3)]** The assessee must be given an opportunity of being heard in respect of any material gathered on the basis of any inquiry u/s 142(2) or any audit u/s 142(2A) and is proposed to be utilised for the purpose of the assessment.

**Note:** Sec. 142(3) shall not be applicable in case of assessment u/s 144.

**9.4.5 Estimation by Valuation Officer in certain cases [Sec. 142A]**

- ✓ The Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit a copy of report to him.
- ✓ “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957
- ✓ The Assessing Officer may make a reference to the Valuation Officer whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.
- ✓ The Valuation Officer, on a reference made, shall, for the purpose of estimating the value of the asset, property or investment, have all the powers that he has under section 38A of the Wealth-tax Act, 1957.
- ✓ The Valuation Officer shall, estimate the value of the asset, property or investment after taking into account such evidence as the assessee may produce and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.
- ✓ The Valuation Officer may estimate the value of the asset, property or investment to the best of his judgment, if the assessee does not co-operate or comply with his directions.
- ✓ The Valuation Officer shall send a copy of the report of the estimate made to the Assessing Officer and the assessee, within a period of 6 months from the end of the month in which a reference is made.
- ✓ The Assessing Officer may, on receipt of the report from the Valuation Officer, and after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

**9.5 FACELESS INQUIRY OR VALUATION [Sec. 142B] New**

The Central Government may notify a scheme for the purposes of issuing notice u/s 142(1) or making inquiry before assessment u/s 142(2), or directing the assessee to get his accounts audited u/s 142(2A) or estimating the value of any asset, property or investment by a Valuation Officer u/s 142A, so as to impart greater efficiency, transparency and accountability by:

- (a) eliminating the interface between the income-tax authority or Valuation Officer and the assessee or any person to the extent technologically feasible;
- (b) optimizing utilization of the resources through economies of scale and functional specialisation;
- (c) introducing a team-based issuance of notice or making of enquiries or issuance of directions or valuation with dynamic jurisdiction.

The Central Government may direct (upto 31-03-2022) that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

**9.6 INTIMATION / ASSESSMENT BY ASSESSING OFFICER**

The Assessing Officer makes the following order:

**Intimation [Sec. 143(1)]**

On the basis of return filed; or

**Regular assessment**

- On the basis of further evidence gathered by him [Scrutiny Assessment u/s 143(3)].
- On the basis of best of his judgement [Best Judgement Assessment u/s 144].

### 9.7 INTIMATION [SEC. 143(1)]

Where a return has been made u/s 139 or in response to a notice u/s 142(1), such return shall be processed in the following manner, namely:—

- a. the total income or loss shall be computed after making the following adjustment:
  - i. any arithmetical error in the return;
  - 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 after the due date;
  - 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 u/s 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or 80-IE, if the return is furnished after the due date;
- b. the tax, interest and fee, if any, shall be computed on the total income computed above;
- c. the sum payable by (or the amount of refund due to), the assessee shall be determined after adjustment of the tax, interest and fee, if any, by any TDS, TCS, advance tax paid, any relief, tax paid on self-assessment and any amount paid otherwise by way of tax, interest or fee;
- d. an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee; and
- e. the amount of refund due to the assessee in pursuance of the determination shall be granted to the assessee.
- f. An intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax or interest or fee is payable by, or no refund is due to, him.

**Time limit for intimation:** No intimation shall be sent after the expiry of 1 year from the end of the financial year in which the return is made. The period of limitation will run from the date of filing of latest revised return.

### 9.8 SCRUTINY ASSESSMENT U/S 143(3)

Where the Assessing Officer or the prescribed income-tax authority (here-in-after collectively referred to as 'Assessing Officer') considers it necessary to ensure that the assessee has not –

- understated his income; or
- declared excessive loss; or
- under paid the tax,

he can make a scrutiny in this regard and gather such information and evidence as he deems fit. And on the basis of such information and evidence so collected, he shall pass an assessment order. Such order shall be treated as regular assessment order.

#### Conditions for scrutiny assessment

- A return has been furnished u/s 139 or in response to a notice u/s 142(1); and
- Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated his income, declared excessive loss or under-paid the tax.

**Procedure**

**Notice for scrutiny [Sec. 143(2)]** Assessing Officer shall serve on the assessee a notice requiring the assessee, on a date specified in the notice, to produce, or cause to be produced, any evidence on which assessee may rely, in support of the return.

**Time limit of notice:** No notice 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.

**Order:** After collecting such information and hearing such evidence as the assessee produces in response to the notice u/s 143(2) and after taking into account all relevant materials, which the Assessing Officer has gathered; The Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

**Time limit for completion of scrutiny assessment**

Assessment u/s 143(3) should be completed within 12 months from the end of the relevant assessment year.

**Special procedure in case of research association etc. [Proviso to Sec. 143(3)]**

Applicable to

- Research association referred in sec. 10(21);
- News agency referred in sec. 10(22B);
- Association or institution referred in sec. 10(23A);
- institution referred in sec. 10(23B); fund or institution referred in sec. 10(23C)(iv);
- trust or institution referred in sec. 10(23C)(v);
- any university or other educational institution referred in sec. 10(23C)(vi);
- any hospital or other medical institution referred in sec. 10(23C)(via)
- any university or college u/s 35(1)(ii) or (iii)
- which is required to furnish the return of income u/s 139(4C) or (4D)

**Assessment Order**

An order for assessment of such assessee shall be made after giving effect to the provisions of sec. 10. However in the following case assessment of such assessee shall be made without giving effect to the provisions of sec. 10—

- i. The Assessing Officer has intimated the Central Government or the prescribed authority about contravention made by above assessee of respective provision of sec. 10 on the basis of which exemption has been granted; and
- ii. Approval granted to such assessee has been withdrawn or rescinded by such authority.

**9.9 NEW SCHEME FOR SCRUTINY [SEC. 143(3A) TO (3C)] Amended**

The Central Government may make a scheme for the purposes of making assessment of total income or loss— of the assessee u/s 143(3) or 144 so as to impart greater efficiency, transparency and accountability by:

- a. eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;
- b. optimizing utilization of the resources through economies of scale and functional specialisation;
- c. introducing a team-based assessment with dynamic jurisdiction.

The Central Government may, for the purpose of giving effect to the scheme, direct (within 31-03-2021) that— any of the provisions of this Act relating to assessment of total

income or loss shall not apply or shall apply with such exceptions, modifications and adaptations.

Every notification issued shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

### **9.10 BEST JUDGMENT ASSESSMENT [SEC. 144]**

Under this section, assessment shall be made by the Assessing Officer to the best of his judgment after considering all relevant materials which he has gathered.

Assessing Officer cannot reduce the tax liability of the assessee by assessment under this section.

**Tax point:** A refund cannot be granted u/s 144.

**Situation in which it is applicable:** In the following situations assessment shall be made under this section –

- a. If the person fails to file the return u/s 139(1), 139(4) or 139(5); or
- b. If the person fails to comply with the terms of notice u/s 142(1); or
- c. If the person fails to comply with the directions u/s 142(2A) requiring him to get his accounts audited; or
- d. If the person fails to comply with the terms of notice u/s 143(2), requiring his presence or production of evidence and documents.

### **Opportunity of being heard**

The assessment u/s 144 can only be made after giving the assessee a reasonable opportunity of being heard. Such opportunity shall be given by serving a “Show cause notice” calling upon the assessee to show cause(s), on a date and time specified in the notice, why the assessment should not be completed to the best of judgment of the Assessing Officer.

**Exception:** Such opportunity need not be given, where notice u/s 142(1) has already been issued.

### **Time limit for completion of assessment [Sec. 153(1)]**

12 months from the end of relevant assessment year

### **Other points**

Non-maintenance of proper accounts: As per sec. 145(3), if the Assessing Officer is not satisfied with the correctness or the completeness of the accounts of the assessee or if no regular method of accountancy or accounting standards [as notified by the Central Government u/s 145(2)] is followed by the assessee, the Assessing Officer may make an assessment in the manner provided u/s 144.

### **9.11 FACELESS ASSESSMENT [SEC. 144B] New**

The assessment u/s 143(3) or u/s 144, in the specified cases, shall be made in a faceless manner as per the following procedure:

- i. the National Faceless Assessment Centre shall serve a notice on the assessee u/s 143(2);
- ii. The assessee may, within 15 days from the date of receipt of notice (as referred above), file his response to the National Faceless Assessment Centre.
- iii. Where the assessee:
  - (a) has furnished his return of income u/s 139 or in response to a notice issued u/s 142(1) or u/s 148(1), and a notice u/s 143(2) has been issued by the Assessing Officer or the prescribed income-tax authority, as the case may be; or
  - (b) has not furnished his return of income in response to a notice issued u/s 142(1) by the Assessing Officer; or



- (c) has not furnished his return of income u/s 148(1) and a notice u/s 142(1) has been issued by the Assessing Officer, the National Faceless Assessment Centre shall intimate the assessee that assessment in his case shall be completed in accordance with the procedure laid down under this section.
- iv. The National Faceless Assessment Centre shall assign the case selected for the purposes of faceless assessment under this section to a specific assessment unit in any one Regional Faceless Assessment Centre through an automated allocation system;
- v. Where a case is assigned to the assessment unit, it may make a request to the National Faceless Assessment Centre for—
- (a) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;
- (b) conducting of certain enquiry or verification by verification unit; and
- (c) seeking technical assistance from the technical unit;
- vi. Where a request for obtaining further information, documents or evidence from the assessee or any other person has been made by the assessment unit, the National Faceless Assessment Centre shall issue appropriate notice or requisition to the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit;
- vii. The assessee or any other person, as the case may be, shall file his response to the notice referred above, within the time specified therein or such time as may be extended on the basis of an application in this regard, to the National Faceless Assessment Centre;
- viii. Where a request for conducting of certain enquiry or verification by the verification unit has been made by the assessment unit, the request shall be assigned by the National Faceless Assessment Centre to a verification unit in any one Regional Faceless Assessment Centre through an automated allocation system;
- ix. Where a request for seeking technical assistance from the technical unit has been made by the assessment unit, the request shall be assigned by the National Faceless Assessment Centre to a technical unit in any one Regional Faceless Assessment Centre through an automated allocation system;
- x. The National Faceless Assessment Centre shall send the report received from the verification unit or the technical unit, based on the request to the concerned assessment unit;
- xi. Where the assessee fails to comply with the notice referred to in (vi) or notice issued u/s 142(1) or with a direction issued u/s 142(2A), the National Faceless Assessment Centre shall serve upon such assessee a notice u/s 144 giving him an opportunity to show-cause, on a date and time to be specified in the notice, why the assessment in his case should not be completed to the best of its judgment;
- xii. The assessee shall, within the time specified in the aforesaid notice or such time as may be extended on the basis of an application in this regard, file his response to the National Faceless Assessment Centre;
- xiii. However, if the assessee fails to file response to the notice within the time specified therein or within the extended time, if any, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;
- xiv. The assessment unit shall, after taking into account all the relevant material available on the record make in writing, a draft assessment order or, in a case where intimation referred to in (xiii) is received from the National Faceless Assessment Centre, make in

- writing, a draft assessment order to the best of its judgment, either accepting the income or sum payable by, or sum refundable to, the assessee as per his return or making variation to the said income or sum, and send a copy of such order to the National Faceless Assessment Centre;
- xv. The assessment unit shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any;
- xvi. The National Faceless Assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to—
- (a) finalise the assessment, in case no variation prejudicial to the interest of assessee is proposed, as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or
  - (b) provide an opportunity to the assessee, in case any variation prejudicial to the interest of assessee is proposed, by serving a notice calling upon him to show cause as to why the proposed variation should not be made; or
  - (c) assign the draft assessment order to a review unit in any one Regional Faceless Assessment Centre, through an automated allocation system, for conducting review of such order;
- xvii. The review unit shall conduct review of the draft assessment order referred to it by the National Faceless Assessment Centre whereupon it may decide to—
- (a) concur with the draft assessment order and intimate the National Faceless Assessment Centre about such concurrence; or
  - (b) suggest such variation, as it may deem fit, in the draft assessment order and send its suggestions to the National Faceless Assessment Centre;
- xviii. The National Faceless Assessment Centre shall, upon receiving concurrence of the review unit, follow the procedure laid down in (a) or (b) of clause (xvi);
- xix. The National Faceless Assessment Centre shall, upon receiving suggestions for variation from the review unit, assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system;; the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment.

#### **9.12 POWER OF JOINT COMMISSIONER TO ISSUE DIRECTIONS IN CERTAIN CASES [SEC. 144A]**

Joint Commissioner may (on his own motion or on a reference being made to him by the Assessing Officer or on the application of an assessee) –

- (a) Call for and examine the record of any proceeding in which an assessment is pending; and
- (b) Having regard to the nature of the case or the amount involved or for any other reason, - issue such directions as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment and such directions shall be binding on the Assessing Officer.

**Note:** Directions, which are prejudicial to the assessee, shall not be issued without giving the assessee an opportunity of being heard. However, direction of investigation shall not be deemed to be a direction prejudicial to the assessee.

### 9.13 RECTIFICATION OF MISTAKE [SEC.154]

An income-tax authority, is empowered (suo moto or on application by assessee) to –

- (a) rectify any mistake apparent in an order passed by him; or
- (b) amend any intimation issued u/s 143(1) or deemed intimation
- (c) amend any intimation issued u/s 200A(1).

**Tax point:** Such order of rectification must be passed in writing.

#### **Time limit for Rectification [Sec. 154(7)]**

Within 4 years from the end of the financial year in which the order sought to be amended was passed. However, in respect of an application made by the assessee or deductor or collector, the authority shall, within a period of 6 months from the end of the month in which the application is received by it, pass an order –

- a. making the amendment; or
- b. refusing to allow the claim.

**Opportunity of being heard [Sec. 154(3)]:** If such rectification order is prejudicial to the assessee or deductor or collector, an opportunity of being heard must be given to the assessee, before passing such order.

#### **Note:**

- Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor or collector, the Assessing Officer shall make any refund which may be due to such assessee or the deductor or collector.
- Where any such amendment has the effect of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee or the deductor or collector, the Assessing Officer shall serve on the assessee or the deductor or collector, as the case may be a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued u/s 156.

### 9.14 DEMAND NOTICE [SEC.156]

On completion of assessment, a demand notice is served for additional demand raised in the assessment.

**Time limit for payment of tax:** The assessee should make the payment of amount demanded within 30 days of service of notice [Sec. 220(1)]

Where the Assessing Officer has any reason to believe that it will be detrimental to revenue if the full period of 30 days is allowed, then he may with the previous approval of the Joint Commissioner direct that the sum specified in the notice of demand shall be paid within such time as may be specified by him in the notice.

**Interest on delay in payment:** If the payment is not made within 30 days (or time allowed in the notice), interest shall be payable @ 1% for every month (or part thereof) of the delay [Sec. 220 (2)] An assessee in default shall be liable to a penalty of an amount not exceeding the amount of tax in arrears. [Sec. 221(1)]

**Note:** Where any sum is determined to be payable by the assessee or by the deductor or collector u/s 143 (1) or 200A (1) or 206CB (1), the intimation under those sections shall be deemed to be a notice of demand for the purposes of this section.

**Faceless rectification, amendments and issuance of notice or intimation [Sec. 157A]**

The Central Government may make a scheme, for the purposes of rectification of any mistake apparent from record u/s 154 or other amendments u/s 155 or issue of notice of demand u/s 156, or intimation of loss u/s 157, so as to impart greater efficiency, transparency and accountability by—

- (a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;
- (b) optimizing utilization of the resources through economies of scale and functional specialisation;
- (c) introducing a team-based rectification of mistakes, amendment of orders, and issuance of notice of demand or intimation of loss, with dynamic jurisdiction.

**Tax point:** The Central Government may, for the purpose of giving effect to the scheme, direct (upto 31-03- 2023) that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified.

**9.15 SUMMARY**

Looking upon the details of the assessment procedure, it is appropriate to mention that if one is able to assess his taxable income as per the provisions contained in the income tax act, 1961 and discharge the tax liability within the respective due date then it will be highly beneficial in mitigating the process of litigation.

By properly assessing and paying taxes on time, individuals can demonstrate compliance with tax laws and minimize the risk of being subjected to tax audits, investigations, or disputes. It helps in avoiding penalties, interest charges, and legal proceedings that may arise due to non-compliance or discrepancies in tax filings.

**9.16 TECHNICAL TERMS**

**AO:** Assessing Officer

**EVC:** Electronic Verification Code

**PAN:** Permanent Account Number

**TAN:** Tax deduction Account Number

**TCS:** Tax Collection at Source

**TDS:** Tax Deduction at Source

**TPR:** Tax Return Preparers

**Reliance:** No clerk of the business should be relied upon too much.

**9.17 SELF ASSESSMENT QUESTIONS**

1. What do you understand by assessment?
2. What do you mean by assessment? Explain the important types of assessment.
3. Describes the best judgement assessment.
4. Explain the power of joint commissioner to issue directions in certain cases.
5. Discuss in detailed about demand notice.
6. State the inquiry procedure of assessment of income tax.
7. Describes the rectification of mistake in assessment of income tax.

**9.18 REFERENCE BOOKS**

1. V.P.Gaur and D.R.Narang, 'Income Tax Law and Practice', Kalyan Publication House, New Delhi.
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3. Dr Vinod K .Singhania and Dr Kapil Singhania, ' Direct Taxes Law and Practice', Taxmann, 2023.
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5. E.A Srinivas, Corporate tax planning, Tata McGraw Hill.

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# LESSON 10

## TDS/TCS – PROVISIONS

### Learning Objectives

After completion of the lesson on TDS/TCS you are able to

1. Understand the TDS/TCS meaning and definition
2. Acquaint with the provisions, sections in relating to the TDS/TCS
3. Can calculate the TDS and TCS by following the procedures.

### Lesson Structure

- 10.1 Tax Deducted at Source
  - 10.1.1 Introduction
  - 10.1.2
  - 10.1.3 Main Features of TDS
  - 10.1.4 Key Responsibilities of Deductor
  - 10.1.5 TDS Types
  - 10.1.6 Advantages of TDS
- 10.2.0 Tax Collected at Source (TCS)
  - 10.2.1 Buyer for TCS
  - 10.2.2 What Goods & Transactions Covered under TCS Provisions?
  - 10.2.3 What are the TCS Rates Applicable in India?
- 10.3 Difference between TDS and TCS
- 10.4 Provision for TDS/TCS
- 10.5 Consequences of default
- 10.6 Summary
- 10.7 Technical Terms:
- 10.8 Examples
- 10.9 Review Questions
- 10.10 Suggested Readings

### 10.1 Tax Deducted at Source

**10.1.1 Introduction:** TDS is basically a part of direct tax. It has to be deducted by a person for certain payments made by them. TDS is one of the modes of collection of taxes, by which a certain percentage of amounts are deducted by a person at the time of making/crediting certain specific nature of payment to the other person and deducted amount is remitted to the Government account. It is similar to “pay as you earn” scheme also known as Withholding Tax in many other countries, example is USA. The concept of TDS envisages the principle of “pay as you earn”. It facilitates sharing of responsibility of tax collection between the deductor and the tax administration. It ensures regular inflow of cash resources to the Government. It acts as a powerful instrument to prevent tax evasion as well as expands the tax net. Tax must be deducted at the time of payment in cash or cheque or credit to the payee’s account whichever is earlier. Credit to payable account or suspense account is also considered to be credit to payee’s account and TDS must be made at the time of such credit

**10.1.2 Definition** TDS stands for tax deducted at source. As per the Income Tax Act, any company or person making a payment is required to deduct tax at source if the payment

exceeds certain threshold limits. TDS has to be deducted at the rates prescribed by the tax department.

The company or person that makes the payment after deducting TDS is called a deductor and the company or person receiving the payment is called the deductee. It is the deductor's responsibility to deduct TDS before making the payment and deposit the same with the government. TDS is deducted irrespective of the mode of payment—cash, cheque or credit—and is linked to the PAN of the deducted.

Tax deduction at source (TDS) is an instrument designed for quick and smooth collection of tax due to the tax department from the taxpayer. The objective of TDS could be said, in general, to be maximization of revenue collection while minimizing the cost of collection. It should be easier to deduct tax from all employees by one employer than for the tax administration to collect from each individual separately. This is so especially for wage and salary income; and this is why such income is subject to TDS in a wide cross section of countries. The problem of tax evasion is a fundamental reason for expanding the scope of TDS. It depends on the economic and tax structures, types of income, and social attitudes. The economic theory of tax evasion has limitations since it rests solely on attitudes towards risk, with full information regarding the tax administration's behavior. In reality, the latter itself can vary, based on a well-planned strategy or suffering from negligence or selective indulgence.

### 10.1.3 Main Features of TDS

1. Responsibility for deduction or collection of tax at source is fixed on specified persons.
2. Every specified person responsible for deduction of tax at source is required to obtain a tax deduction Account Number.
3. Time for payment of tax deducted or collected at source to the Government account is prescribed.
4. Certificates of TDS have to be issued to the tax payers on prescribed forms and within specified time.
5. Every person responsible for deduction of tax at source shall file quarterly statements
6. Tax has to be deducted/collected at the specified rates.
7. Conditions for less or no deduction of tax are specified.
8. Statements of TDS have to be submitted on prescribed forms and within specified time.
9. Penal and other consequences for non-compliance are provided

### 10.1.4 Key Responsibilities of Deductor

Obtain TAN Every deductor is required to obtain a unique identification number called TAN (Tax Deduction Account Number) which is a ten digit alpha numeric number e.g.ABCD12345E. This number has to be quoted by the deductor in every correspondence related to Income Tax matters concerning TDS.

2. He/She should obtain PAN of the deductee.
3. He/She should deduct the tax at correct rate.
4. The tax deducted has to be deposited in the designated banks within specified time. (Govt. deductors shall transfer the tax deducted through book entry in Government account). This is detailed below:
  - By or on behalf of the Government: on the same day,
  - By or on behalf of any other person: On or before the 7th of the following month.However, for the month of March the tax should be remitted by 30th April.
5. Use challan no. 281 for depositing TDS amount

### 10.1.5 TDS Types

TDS is deducted on the following types of payments. The list is just an illustration.

- Salaries
- Interest payments by banks
- Commission payments
- Rent payments
- Consultation fees
- Professional fees
- Rent
- Other Incomes as per TDS provisions (Sec 192-195)

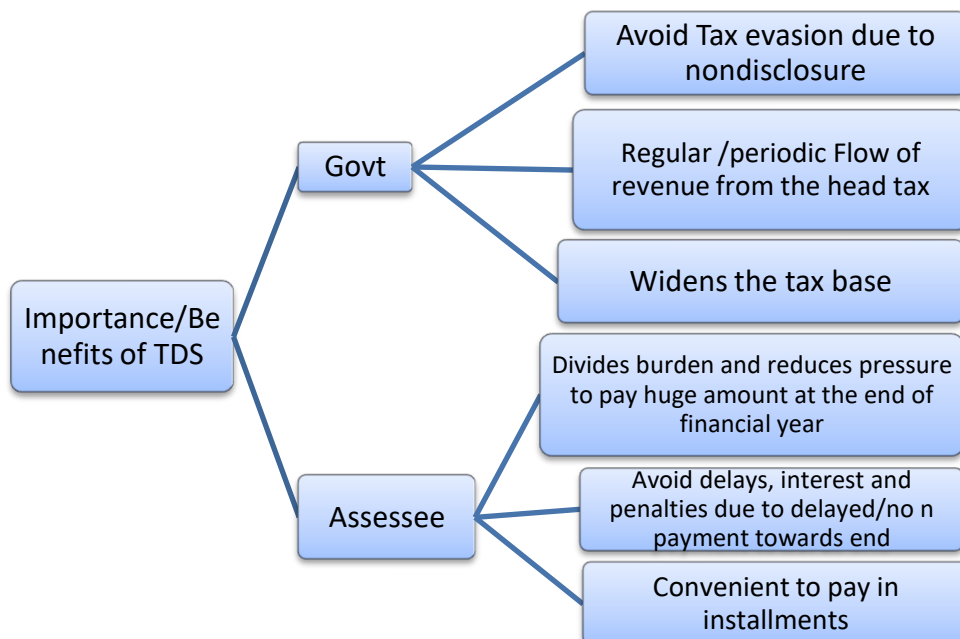
### 10.1.6 Advantages of TDS

#### From the Deductee's point of view

- a) TDS ensures that income tax is deducted from income of an individual in advance at periodic intervals. Hence, it allows the deductee to plan the finances in advance.
- b) TDS enables an individual to pay his/her income tax as and when he/she earns it. TDS will not put pressure on income towards the end of the year.
- c) Payment of high/ lump-sum amount of tax at one go is not feasible for every individual. As TDS gets deducted from one's income periodically, paying tax becomes convenient for the individuals.
- d) Since payment of tax goes at regular intervals and almost uniformly with no obligation to use last few months' income to pay tax, it helps in avoiding delays in payment, interest on tax and penalties.

#### From the government's point of view

- a) As TDS is collected at the source, it minimizes the chances of tax evasion by individuals.
- b) TDS acts as one of the steadiest sources of revenue for the government.
- c) It enables to widen the base of tax collection.





### 10.2.0 Tax Collected at Source (TCS)

The Indian Government of India has decided to collect TCS from the customers for the purchase of a product or service basing on certain conditions. In simple words, TCS will be calculated on the proceeds of sale mentioned on the invoice and on the full invoice amount. This suggests that, TCS is calculated basing on the following aspects; Tax collected at source (TCS) is the tax payable by a seller which he collects from the buyer at the time of sale. Section 206C of the Income tax act governs the goods on which the seller has to collect tax from the purchasers. Tax Collected at Source (TCS) is a tax payable by a seller which he collects from the buyer at the time of sale of goods. Section 206 of the Income Tax Act mentions the list of goods on which the seller should collect tax from buyers.

Section 206: Persons deducting tax to furnish prescribed returns.

Related Rule(s) under Income-tax Rules

Rule – 36 & Rule – 36A

Section 206A: Furnishing of quarterly\* return in respect of payment of interest to residents without deduction of tax.

It is a concept borrowed from the Income tax. Basically the payer (collector) is required to collect some amount of TCS while making the payment to the supplier such amount shall be collected separately over and above invoice value. Only companies who are in the business of providing such platform of ecommerce shall be regarded as ECO other than agent shall collect TCS at the rate not exceeding 1% on the net value of transaction in which he collect consideration of the supply.

Rate of TCS:

0.5% for CGST0.

5% for SGST

TCS is not required to collect on exempted supplies .TCS is not required to be collected on supplies on which the recipient is required to pay tax on RCM. The amount collected shall be paid to CG within 10 days after the end of the month in which such collection is made Every ECO has to obtain compulsory registration irrespective of the value of turnover.ECO shall furnish details of outward supplies including payment in FORM NO: GSTR 8within 10 days after end of the month in which supplies are made. Eco is required to file annual return (2020-21) by 31st December of the following FY(31st December 21) in form no: GSTR 9B

At the invoice time	Debit	Credit	When payment is received	Debit	Credit
Customer A/c	118,089		Bank A/c	118,089	
Sales A/c		100,000	Customer A/c		118,089
GST Output A/c		18,000	TCS (Sale of Goods) A/c	89	
TCS (Sale of Goods) A/c		89	TCS (Sale of Goods) Payable A/c		89

### 10.2.1 Buyer for TCS

A buyer is categorised as any individual, who receives the actual goods or the rights of receiving goods at a tender, auction, sale, or other modes. All individuals (except for the below – mentioned list of individuals and organizations) are classified as buyers for TCS –

1. Public Sector Entities
2. Central Government
- 3.State Government
- 4.Consulates and any other Trade Representations of a Foreign Nation
- 5.High Commission Embassies
6. Clubs such as social clubs or sports clubs

### 10.2.2 What Goods & Transactions Covered under TCS Provisions?

The following goods and/or transactions are considered for Tax Collected at Source –

1. Liquors of alcoholic nature including IMFL (Indian Made Foreign Liquor) that are deemed for human consumption
2. Timber wood obtained from a leased forest area Tendu Leaves
3. Timber wood obtained from any mode other than leased
4. Forest produces (other than timber and Tendu leaves)
5. Scrap
6. Parking lot tickets, Toll Plaza, Mining and Quarrying
7. Minerals that include iron ore, lignite or coal
8. Bullion having valuation over Rs. 2 lakh
9. Jewellery whose value exceeds Rs. Five lakhs
10. Motor vehicle purchases over Rs. 10 Lakhs

### 10.2.3 What are the TCS Rates Applicable in India?

The rates of TCS for various goods and transactions are listed in the table below (source – Income Tax Department of India.)

Kindly note that the interest charges for any late payment of the TCS are 1% for every month delayed.

Type of Goods	Existing TCS Rate (in %)	Reduced TCS Rates (14/05/2020 to 31/03/2021)
Liquors of alcoholic nature including IMFL (Indian Made Foreign Liquor) that are deemed for human consumption	1.00	NA
Timber wood obtained from a leased forest area	2.50	1.875%
Tendu Leaves	5.00	3.75%
Timber wood obtained from any mode other than leased	2.50	1.875%
Forest produces (other than timber and Tendu leaves)	2.50	1.875%
Scrap	1.00	0.75%
Parking lot tickets, Toll Plaza, Mining and Quarrying	2.00	1.5%
Minerals that include iron ore, lignite or coal	1.00	0.75%
Bullion having valuation over Rs. 2 lakh or Jewelry whose value exceeds Rs. Five lakhs	1.00	-
Purchase of Motor vehicle exceeding Rs. 10 Lakhs	1.00	0.75%

### 10.3 Difference between TDS and TCS

Both TDS and TCS are levied at the point of origin of the payment. However, there are a few significant features that distinguish the two types of taxes:

#### 1. Meaning

TDS is the tax deducted at the source itself by any individual or company making a payment if the amount exceeds a prescribed threshold. On the other hand, TCS is the tax collected by the seller from the buyer, at the time of the sale.

#### 2. Transactions Covered

TDS covers expenses such as interest, salaries, brokerage, commission, rent etc. whereas TDS is applicable on the sale of items such as timber, minerals, liquor, toll plazas.

#### 3. Limits

As per Section 194Q, TDS is applicable on the purchase of goods, given that the amount exceeds Rs. 50 lacs. As per Section 206C (1H), TCS is applicable on the sale of goods, given that the amount exceeds Rs. 50 lacs.

#### 4. Rates

The tax deduction rate for TDS, i.e. for the purchase of goods and services, is 0.1% of the sum exceeding Rs. 50 lacs. The tax collection rate for TCS, i.e. for the sale of goods, is 0.1% of the sale sum exceeding Rs. 50 lacs.

#### 5. Time of Deduction/Collection

While TDS is deducted when a payment is made, TCS is collected by the seller at the time of sale.

#### 6. Person Responsible

TDS is deducted by the individual or the company making a payment, while TCS is collected by the individual or the company selling the goods.

#### 7. Due Dates

The due date to deposit TDS is the 7th of every month. On the other hand, TCS is deposited within ten days from the end of the month to the credit of the government.

### 10.4 Provision for TDS/TCS

The following are the provisions of TDS

Sl No.	Section	Heads of Income/Payment from which TDS to be made.
1	192	Salary
2	192A	Payment of accumulated balance in EPF due to an Employee
3	193	Interest on Securities
4	194	Dividend
5	194A	Payment of Interest other than Interest on securities
6	194B	Winning from Lottery or crossword puzzle
7	194BB	Winning from horse races
8	194C	Payments or credit to a resident contractor/Sub contractor Contractors
9	194D	Insurance commission
10	194DA	Payment in respect of life insurance policy
11	194E	Payment to nonresident sports men and sports associations
12	194EE	Payment in respect of deposit under National Saving Scheme 1987
13	194F	Payment on account of repurchase of units of MF or UTI
14	194G	Commission on sale of lottery tickets
15	194H	Commission or brokerage,
16	194I	Rent payments on P&M, land/building/furniture/fitting
17	194IA	Transfer of immovable property
18	194IB	Payment/credit of Rent by individual/HUF not coveredu/s 44AB in immediate preceding financial year.
19	194IC	Payment under joint development agreement
	194J	Fees for professional and technical services
	194LA	Payment of compensation on acquisition of certain immovable property
	195	Other Sums

Profits and gains from the business of trading, grants of lease or license, sale of motor vehicle under section 206C as Income tax collected at source i.e. TCS

- ✓ Every person, being a seller shall at the time of debiting of the amount payable by the buyer to the account of buyer or at the time of receipt of such amount from the said buyer, whichever is earlier, collect from the buyer of such amount as income tax.
- ✓ TCS shall not be collected if buyer declares that purchase of goods shall be utilized for the purpose of manufacture, processing or producing articles or things.

### 10.5 Consequences of default

Where a person who is required to deduct tax at source, does not deduct, or does not pay, or after deducting fails to pay, the whole or any part of tax, as required by the Act, then such person shall be deemed to be an assessee-in-default in respect of such tax under section 201(1). He will be liable for payment of tax<sup>‡</sup>, interest, penalty and prosecution. Besides, disallowance under section 40(a) will be attracted.

- ❖ Time-limit (applicable from October 1, 2014) – No order shall be made under section 200(1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of 7 years<sup>†</sup> from the end of the financial year in which payment is made or credit is given<sup>#</sup>.
- ❖ Relaxation given when tax is paid by the recipient (applicable from July 1, 2012) – Section 201 was amended by the Finance Act, 2012 with effect from July 1, 2012. Under the amended version, the payer shall not be deemed to be an assessee-in-default if the resident recipient has included such income in the return submitted under section 139 and the recipient has paid tax on such income. The payer will have to submit electronically a certificate to this effect from a chartered accountant in Form No. 26A.
- ❖ When tax is paid by recipient and it pertains to the period preceding July 1, 2012 – The aforesaid relaxation given by the Finance Act, 2012 is applicable only when the recipient is resident and the default pertains to the period commencing on or after July 1, 2012. If the recipient is a non-resident (or if the recipient is resident but default pertains to the period prior to July 1, 2012), the amendment made by the Finance Act, 2012 is not applicable. In such a case, one can take shelter of the Supreme Court ruling in the case of Hindustan Coca Cola Beverage (P.) Ltd. v. CIT [2007] 163 Taxman 355. In this case, the Supreme Court held that where the payer has failed to deduct tax but the deductee (i.e., recipient of income) has paid tax on the amount received from the deductor, the department once again cannot recover tax from the deductor on same income by treating the deductor to be an assessee-in-default for non-deduction/short-deduction of tax. Moreover, the Gujarat High Court in the case of CIT v. Rishikesh Apartments Co-op. Housing Society Ltd. [2001] 119 Taxman 239 held that in such a situation interest cannot be recovered from the deductor for short-deduction/non-deduction of tax..

### 10.6 Summary

One of the most crucial facets of managing a successful business is staying on top of your tax obligations. To keep your business operating smoothly, it is essential to understand the TDS and TCS difference and make sure you pay any TDS or TCS you have collected to the government's credit. In addition, if taxes are deducted from your pay, make sure to file your taxes on time.

#### 10.6 Technical Terms:

**Deductor:** The one who deducts tax at the prescribed rate from the payment made or credited to the supplier of taxable goods or services or both.

**Threshold Limit:** Where the value of taxable supply of goods or services or both exceeds under a contract Rs. 2.5 lakhs

**TAN:** Tax deduction Account Number

**CIN:** CHALLAN IDENTIFICATION NO

**RPU:** Return Prepare Utility

**FVU:** File Validation Utility

**JR:** Justification Report

**Cons. File:** Conso file

**10.7 Examples**

1. X is employed simultaneously by A Ltd. (Salary: Rs. 50,000 per month, URF contribution 10 per cent of salary) and B Ltd. (Salary: Rs. 62,000 per month, URF contribution 10 per cent of salary ) on part-time basis during the previous year 2022-23. X may select any of the two companies for deducting tax at source on aggregate salary. Suppose, X selects B Ltd., then tax will be deducted as follows :

	<b>Tax deduction by A Ltd. on salary paid by it Rs.</b>
Taxable salary by A Ltd. [(Rs. 50,000 × 12) – standard deduction: Rs. 50,000]	5,50,000
Tax on taxable salary to be deducted at source by A Ltd.	23,400

The above information pertaining to A Ltd. will be submitted by X to B Ltd. in Form No. 12B. B Ltd. will deduct tax on the aggregate salary as follows—

	<b>Tax deduction by B Ltd. Rs.</b>
Taxable salary [(Rs. 50,000 × 12 + Rs. 62,000 × 12) – standard deduction : Rs. 50,000]	12,94,000
Tax on taxable salary	1,54,440
Less: Tax deducted by A Ltd.	23,400
Tax to be deducted by B Ltd.	1,31,040

**10.8 Self-Assessment Questions**

1. Define what TDS Means.
2. Differentiate the TDS and TCS
3. Explain the Provisions of TDS and TCS
4. What are the goods covered under TCS
5. To whom the TDS can be applicable and to whom it is exempted?

**10.9 Suggested Readings**

1. Tax Deduction & Collection at Source | Law and Procedure, Bombay Chartered Accountants' Society
2. TDS, TCS & Advance Tax with Detailed Commentary On Section 194R, 2023 CA. NishaBhandari
3. Handbook on TDS Provision under GST The Institute of Chartered Accountants of India, New Delhi

**DAVID RAJU**

# **LESSON – 11**

## **SCHEDULE FOR DEPOSIT & SUBMISSION OF RETURNS OF TDS, FORM 16 GENERATION**

### **Lesson Objectives**

To know the Procedure relating to e-filing of TDS/TCS

To know the Schedules and deposits of TDS amounts

To understand the importance of Form-16, 16A and their e-filing

### **Structure of the Lesson**

11.0 Introduction

11.1 Effective Date of TDS implementation

11.2 Valuation of Supply

11.3 When Tax shall be deducted

11.4 When NO Tax shall be deducted

11.5 Schedule Deposit & Submission of TDS Returns

11.6 TDS certificate

11.7 TDS credits in Form 26AS

11.8 Procedure of Filing TDS Return (GSTR – 7) By Deductor (e-Filing)

11.9 Form 16?

11.10 Form 16A?

11.11 Steps to download Form 16

11.12 Summary

11.12 Technical Terms:

11.13 Self-Assessment Questions

11.14 Suggested Readings

### **11.0 Introduction**

Tax Deduction at Source (“TDS”) generally means a certain registered person making payment or crediting to the supplier’s account for supply of taxable goods or services or both is required to deduct GST at source if the contract value without taxes exceeds the threshold limit. It is a statutory compliance which needs to be fulfilled by that person, as prescribed in the Act from time to time. It is a time bound process under which a person, called deductor, making payment or giving credit deducts GST at a fixed rate and deposits it with GST department, through filing of GST return. The deductee can take credit of deduction at source in his Electronic Cash Ledger and the same can be used for payment of tax at the time of filing GST return as per the prescribed procedure.

TDS under GST Law shall be deducted as per the provision of Section 51 of the CGST Act, 2017, Section 21 of the UTGST Act, 2017 and Section 20 of the IGST Act, 2017.

### **11.1 Effective Date of TDS implementation**

TDS provisions came into force from October 01, 2018 vide Notification No.50/ 2018 – Central Tax dated 13.09.2018. This notification also specifies persons or category of persons liable to deduct tax.

### **11.2 Valuation of Supply**

For the purpose of deduction of tax, the value of supply shall exclude the taxes leviable under the GST namely CGST, SGST, UTGST, IGST and Cess.

Meaning thereby tax will be deductible on only taxable value of the supply. No tax shall be deducted on taxes shown in the tax invoice.

In addition, no tax shall be deducted on value of exempted goods or services or both even if the exempt and taxable supplies are shown together in a tax invoice.

e.g. M/s Ram Brothers have supplied Printed material valued at ₹ 2,10,000 along with Books valued at ₹ 1,00,000 to Department of Govt. and a tax invoice has been raised for ₹ 3,10,000 plus applicable GST. In this case, tax shall not be deductible as taxable value of goods is less than the threshold limit of ₹ 2,50,000. Books are exempted vide Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017

### 11.3 When Tax shall be deducted

1. When total taxable value of supply exceeds 2,50,000 under a contract.
2. Where the location of the supplier and the place of supply is in Chandigarh and the recipient is also registered in Chandigarh. It is an intra-state supply. Tax will be deducted @ 1% each under CGST and UTGST.
3. Where the location of the supplier is in Chandigarh and the place of supply is in Delhi and recipient is registered in Delhi. It is an inter-state supply. Tax will be deducted @ 2% under IGST.

### 11.4 When NO Tax shall be deducted

1. When total taxable value of supply is not exceeding 2,50,000 under a contract.
2. When there are more than one contract and each contract is for supply of taxable goods / services value not exceeding 2,50,000. e.g. M/s Ram Brothers entered into 2 contracts for supply of goods to Department of Govt. valued 2,20,000 and 2,10,000. No tax will be deducted as each taxable supply under a contract is not exceeding 2,50,000. Nevertheless, their joint value is more than 2,50,000.
3. When there is a common contract for taxable supply as well as exempted supply. But value of taxable supplies is not exceeding 2,50,000 under that contract.
4. Goods or Services Exempted under GST Act:
  - (a) Services exempted under notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 as amended from time to time.
  - (b) Goods exempted under notification No. 2/2017 – Central Tax (Rate) dated 28.06.2017 as amended from time to time.
  - (c) Goods on which GST is not leviable. For example, petrol, diesel, petroleum crude, natural gas, aviation turbine fuel (ATF) and alcohol for human consumption.
5. Where the location of the supplier and place of supply is in a State(s)/UT(s) which is different from the State / UT where the deductor is registered. e.g. Where the location of the supplier is in Chandigarh and the place of supply is in Chandigarh and recipient is registered in Delhi. No tax shall be deducted.
6. All activities or transactions specified in Schedule III of the CGST/SGST Acts 2017, irrespective of the value.
7. Where the payment relates to a tax invoice that has been issued before 01.10.2018.
8. Where any amount was paid in advance prior to 01.10.2018 and the tax invoice has been issued on or after 01.10.18, to the extent of advance payment made before 01.10.2018.
9. Where the tax is to be paid on reverse charge by the recipient i.e. the deductee
10. Where the payment is made to an unregistered supplier.

### 11.5 Schedule Deposit & Submission of TDS Returns

**When:** The Tax Deducted at Source must be deposited to the government by the 7th of the subsequent month.

For instance: TDS deducted in the month of June must be paid to the government by the 7th of July. However, the TDS deducted in the month of March can be deposited till 30th April. For TDS deducted on purchase of property, the TDS payment due date is 30 days from the end of the month in which TDS is deducted.

**How:** Tax Deducted at Source has to be deposited via Income Tax Portal based on the TAN login. Direct tax payments facility has been migrated from OLTAS 'e-payment: Pay Taxes Online' to e-Pay Tax facility of e-Filing portal. You have to click on 'e-Pay Tax' option of Income Tax Department on <https://www.incometax.gov.in/> to make direct tax payments including TDS

**How & When to File TDS Returns:** Filing Tax Deducted at Source returns is mandatory for all the persons who have deducted TDS. TDS return is to be submitted quarterly and various details need to be furnished like TAN, amount of TDS deducted, type of payment, PAN of deductee, etc. Also, different forms are prescribed for filing returns depending upon the purpose of the deduction of TDS. Various types of return forms are as follows:

Form No	Transactions reported in the return	Due date
Form 26Q	TDS on all payments except salaries	Q1 – 31 <sup>st</sup> July Q2 – 31st October Q3 – 31st January Q4 – 31st May
Form 24Q	TDS on Salary	Q1 – 31st July Q2 – 31st October Q3 – 31st January Q4 – 31st May
Form 27Q	TDS on all payments made to non-residents except salaries	Q1 – 31st July Q2 – 31st October Q3 – 31st January Q4 – 31st May
Form 26QB	TDS on sale of property	30 days from the end of the month in which TDS is deducted
Form 26QC	TDS on rent	30 days from the end of the month in which TDS is deducted

### 11.6 TDS certificate

Form 16, Form 16A, Form 16B and Form 16C are all TDS certificates. TDS certificates have to be issued by a person deducting TDS to the assessee from whose income TDS was deducted while making payment. For instance, banks issue Form 16A to the depositor when TDS is deducted on interest from fixed deposits. Form 16 is issued by the employer to the employee.

Form	Certificate of	Frequency	Due date
------	----------------	-----------	----------



Form 16	TDS on salary payment	Yearly	31st May
Form 16A	TDS on non-salary payments	Quarterly	15 days from due date of filing return
Form 16B	TDS on sale of property	Every transaction	15 days from due date of filing return
Form 16C	TDS on rent	Every transaction	15 days from due date of filing return

### 11.7 TDS credits in Form 26AS

It is important to understand how TDS is linked to your PAN. TDS deductions are linked to PAN numbers for both the deductor and deductee. If TDS has been deducted from any of your income you must go through the Tax Credit Form 26AS. This form is a consolidated tax statement that is available to all PAN holders.

Since all TDS is linked to your PAN, this form lists out the details of TDS deducted on your income by each deductor for all kinds of payments made to you – whether those are salaries or interest income – all TDS linked to your PAN is reported here. This form also has income tax directly paid by you – as advance tax or self-assessment tax (From FY 2022-23 it is made available in AIS). Therefore, it becomes important for you to mention your PAN correctly, wherever TDS may be applicable to your income.

An inaccurate claim of TDS credit can result in defective notice from the income tax department. Hence it is very important to reconcile the TDS credits in form 26AS with TDS receivables accounted in books, applicable mainly when TDS is made by multiple customers/vendors involved in business.

You can easily file your TDS returns through ClearTax software i.e. ClearTDS. It is an online TDS software that requires no download or desktop installation or software update. It helps you to prepare regular & correct e-TDS statements online easily with just a few clicks on your computer. It is also compatible with TDS returns of previous financial years for easy import. Also, you can generate your TDS certificates using ClearTDS.

### 11.8 Procedure of Filing TDS Return (GSTR – 7) By Deductor (e-Filing)

TDS Return shall be filed in Form GSTR – 7 electronically on GST portal before 10th of the month succeeding the month in which deductions have been made to avoid payment of any late fee, interest. [Section 39(3) of the CGST Act, 2017 read with Rule 66 of the CGST Rules, 2017 refers].

Entities (both corporate and non-corporate deductors) making payments (specified under Income Tax Act) to third parties (deductees) are required to deduct tax at source (Tax Deducted at Source -TDS) from these payments and deposit the same at any of the designated branches of banks authorised to collect taxes on behalf of Government of India. They should also furnish TDS returns containing details of deductee(s) and challan details relating to deposit of tax to ITD.

As a part of automation of collection, compilation and processing of TDS returns ITD has notified an "Electronic Filing of Returns of Tax Deducted at Source Scheme, 2003". It is applicable to all deductors furnishing their TDS return in electronic form. As per this scheme:

It is mandatory (w.e.f. June 1, 2003) for corporate deductors to furnish their TDS returns in electronic form (e-TDS return).

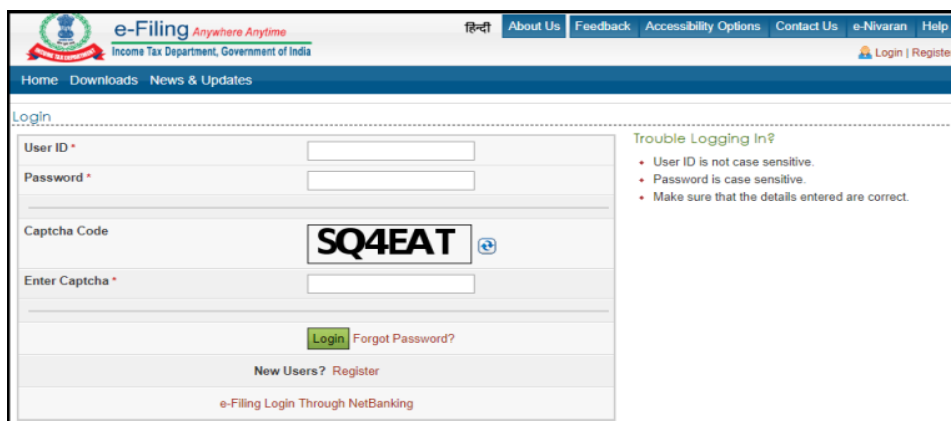
From F.Y. 2004-2005 onwards furnishing TDS returns in electronic form is also mandatory for government deductors in addition to corporate deductors.

Deductors (other than government and corporates) may file TDS return in electronic or physical form.

Protean e-Governance Infrastructure Limited (Protean) as the e- TDS Intermediary (appointed by ITD) receives, on behalf of ITD, the e-TDS returns from the deductors.  
e-TCS

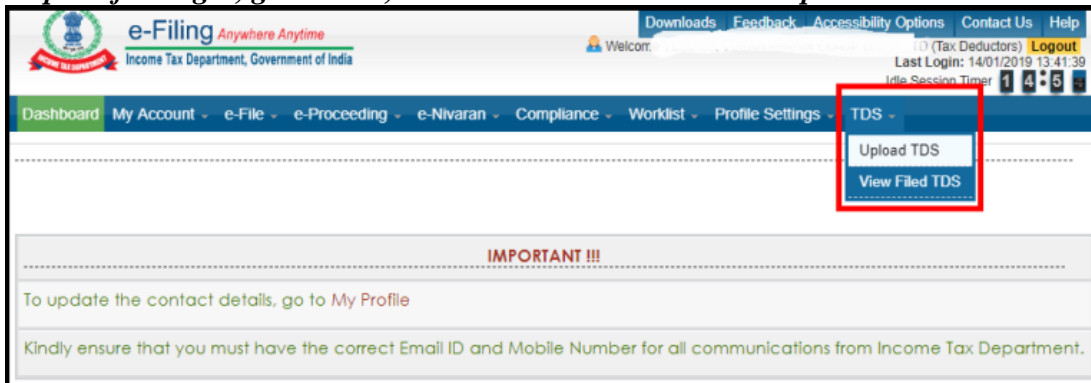


**Step1. Login  
at GST Portal:**

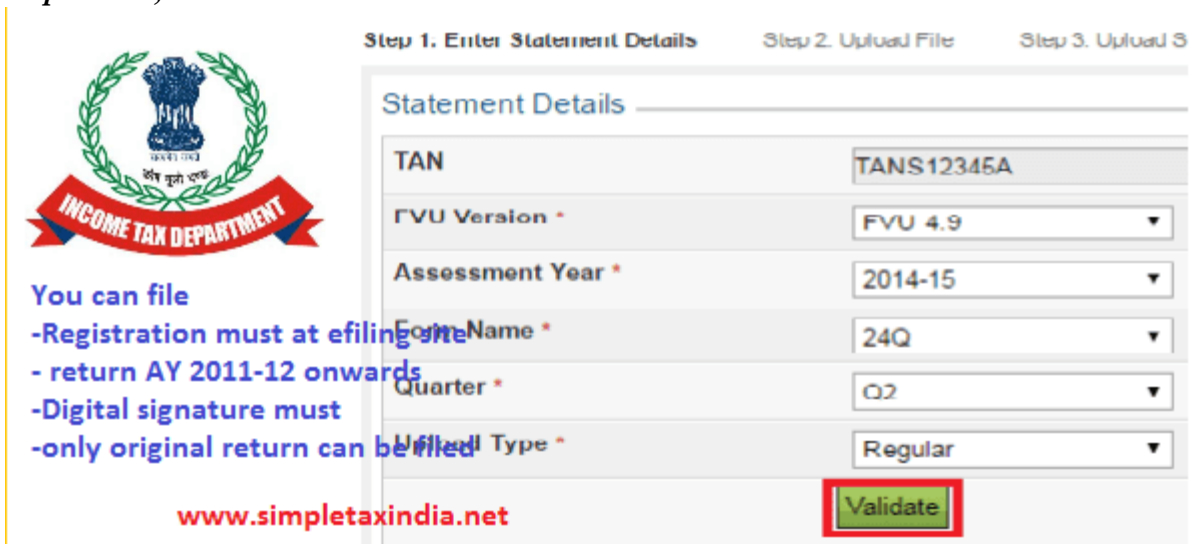


Visit the Income-Tax Department Website and click on login credentials

**Step2. After login, go to TDS, then click on UPLOAD TDS option**



**Step3. Next, enter the statement details and click on validate**



**Step4. Upload the TDS zip file prepared using the utility downloaded from tin-NSDL Website. Then attach the signature using DSC Management Utility for the uploaded TDS zip file.**

The screenshot shows the 'Upload TDS' form. It has three steps: 'Step 1: Enter Statement Details', 'Step 2: Upload File', and 'Step 3: Upload Successful'. The form fields are: TAN, FVU Version (FVU 6.0), Financial Year (201819), Form Name (26Q), Quarter (Q3), Upload Type (R), and Upload TDS(.zip) File \*. The 'Upload TDS(.zip) File \*' field has a 'Choose File' button highlighted with a red box. Below this is a link: 'Click here to download the DSC Utility'. There is a section for 'Steps to Digitally Sign the Form:' with instructions: 'Download the "ITD e-Filing DSC Management Utility". Generate the signature file. Follow the instructions in the Utility. Attach the generated signature file. Note: The generated signature file is valid only for one transaction.' Below this is the 'Attach the Signature file \*' field with a 'Choose File' button highlighted with a red box and an 'Upload' button. On the right, there are 'Instructions': 'Fields marked with asterisk(\*) are mandatory' and 'Upload only zip file. The zip file should contain only the .fvu file.'

**Step5. Once TDS is uploaded, a success message**

**the will**

be displayed on the screen. A confirmation mail is sent to your registered mail id.

**Upload TDS Successful**

Step 1: Enter Statement Details    Step 2: Upload File    **Step 3: Upload Successful**

Your TDS return have been uploaded successfully and the Transaction ID is: **10000090063**. In case of any queries, please contact 1800 4250 0025.

An e-mail confirming the successful upload of your e-filing has been sent to @gmail.com

Kindly login after 24 hours to check the status of your Filing using the token number **3111111415**

Step6. The below screen appears if DSC is not generated. Then the users have to click on "Click here to e-verify" to e-verify TDS

**Upload TDS**

Step 1: Enter Statement Details    **Step 2: Upload File**    Step 3: Upload Successful

**Upload TDS Return**

TAN	<input type="text"/>
FVU Version	FVU 5.1
Financial Year	201617
Form Name	24Q
Quarter	Q1
Upload Type	R
Upload TDS(.zip) File *	<input type="button" value="Browse..."/> No file selected.
<input type="button" value="Click here to E-verify"/>	
<input type="button" value="Upload"/>	

Veri  
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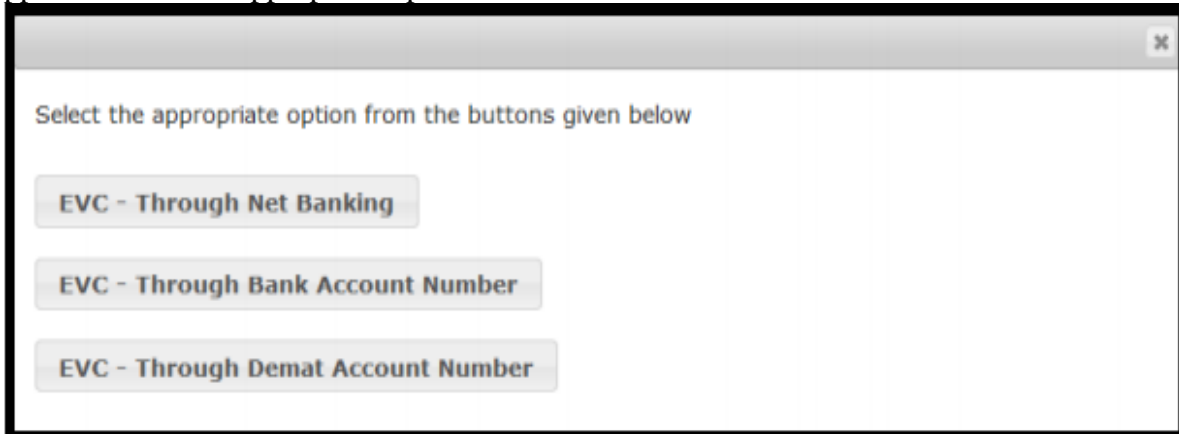
Step7. The users have these three options to verify as shown below

**Everify TDS return**

Select one of the options given below by clicking on that option

**Note :** You will not be able to submit your form without a valid EVC or Digital Signature.

If the users select “**Option-1 I already have EVC to e-verify the form**” the below screen appears. Select the appropriate option from the screen.



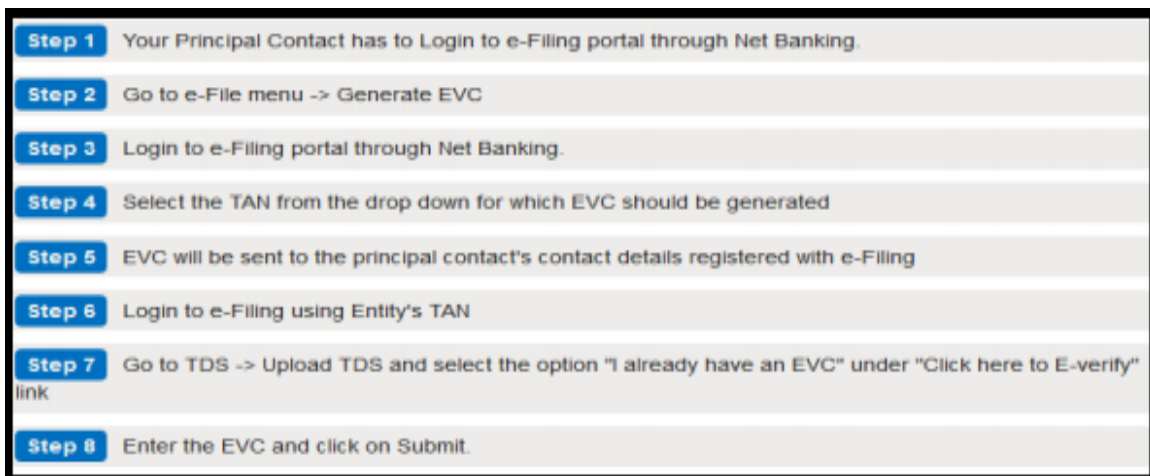
Select the appropriate option from the buttons given below

EVC - Through Net Banking

EVC - Through Bank Account Number

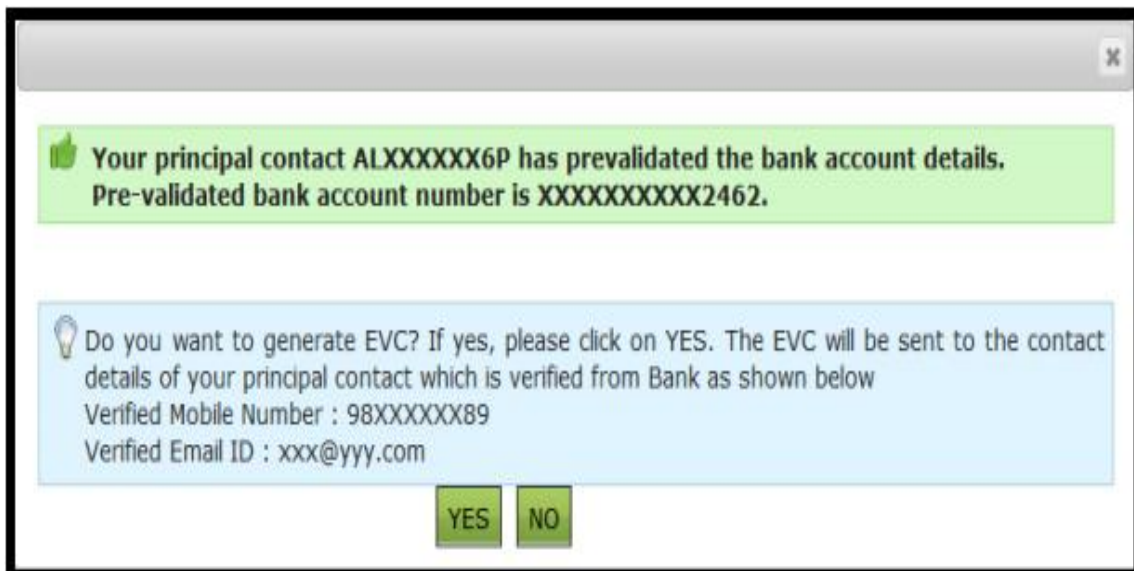
EVC - Through Demat Account Number

**So follow the below steps through EVC – Net Banking**



- Step 1** Your Principal Contact has to Login to e-Filing portal through Net Banking.
- Step 2** Go to e-File menu -> Generate EVC
- Step 3** Login to e-Filing portal through Net Banking.
- Step 4** Select the TAN from the drop down for which EVC should be generated
- Step 5** EVC will be sent to the principal contact's contact details registered with e-Filing
- Step 6** Login to e-Filing using Entity's TAN
- Step 7** Go to TDS -> Upload TDS and select the option "I already have an EVC" under "Click here to E-verify" link
- Step 8** Enter the EVC and click on Submit.

**EVC – Through Bank A/c Number – to generate EVC through Bank A/c number you need to pre-validate the bank details**

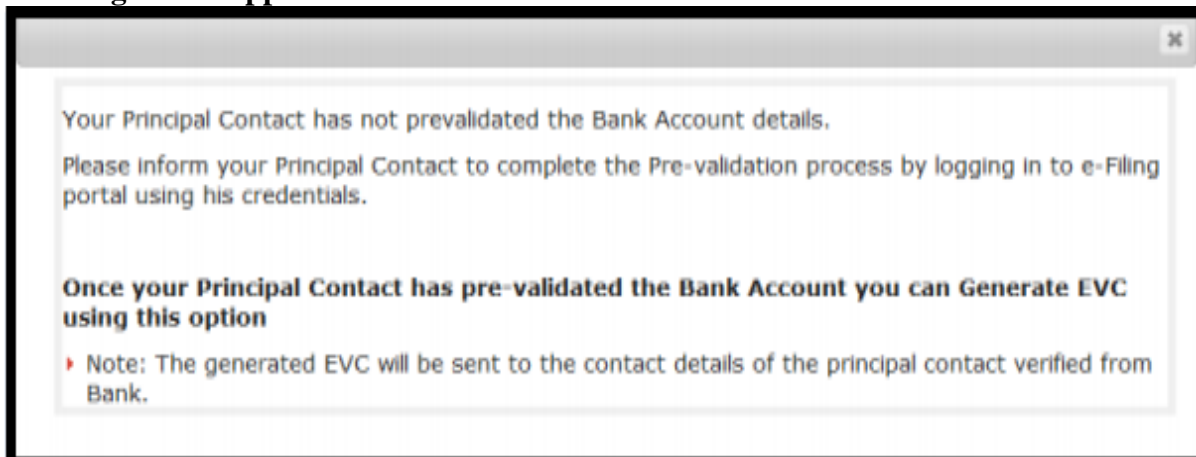


✔ Your principal contact ALXXXXXX6P has prevalidated the bank account details.  
Pre-validated bank account number is XXXXXXXXXXXX2462.

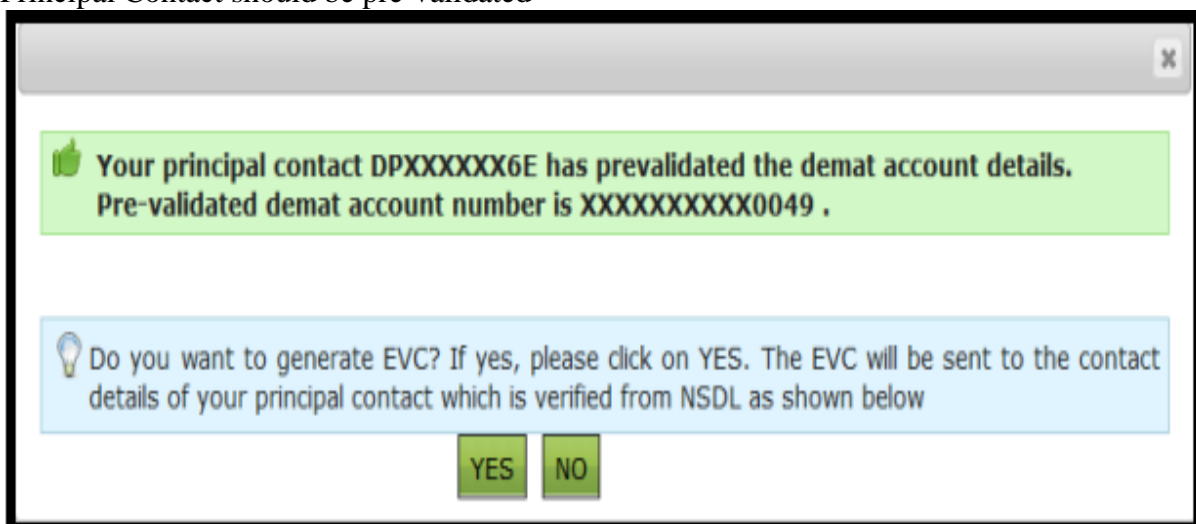
💡 Do you want to generate EVC? If yes, please click on YES. The EVC will be sent to the contact details of your principal contact which is verified from Bank as shown below  
Verified Mobile Number : 98XXXXXX89  
Verified Email ID : xxx@yyy.com

YES NO

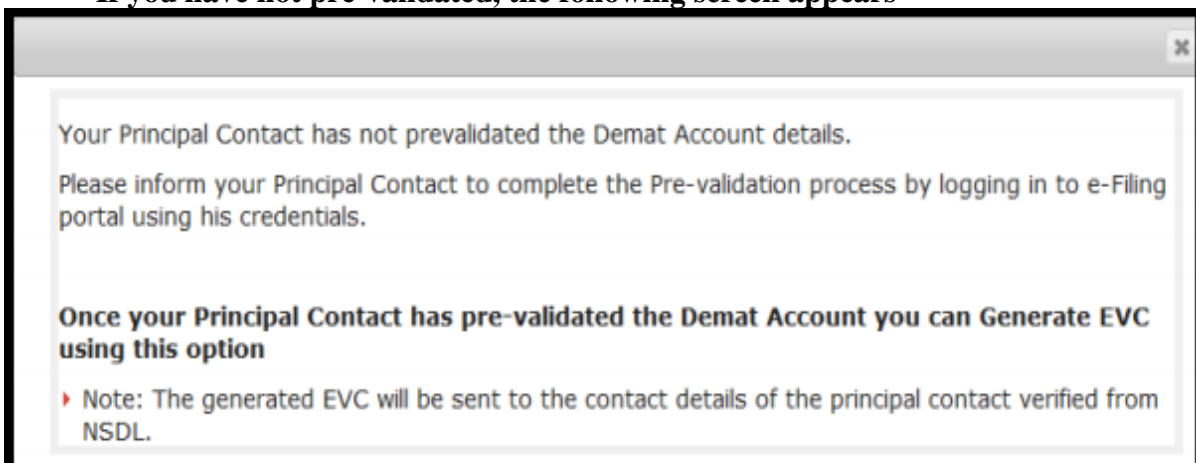
If the Principal contact number is not pre-validated the bank account number, the following screen appears



**EVC – Through Demat Account Number** – the Demat Account details of the Principal Contact should be pre-validated



If you have not pre-validated, the following screen appears



If the user selects the **Option-3 – I would like generate aadhar OTP to verify the form** the Principal Contact has to complete the Aadhar-PAN linking process. The Aadhar OTP sent to the Principal Contact's mobile number. Enter the Aadhar OTP and click on submit

Aadhaar OTP has been generated successfully and sent to your Principal Contact's mobile number which is registered with Aadhaar.

Kindly use this OTP to e-Verify your form.

Aadhaar OTP

You will get the “Message” if principal contact is not linked with PAN

Message

Your Principal Contact's PAN and Aadhaar are not linked.

Please inform your Principal Contact to complete the Aadhaar-PAN Linking process by logging in to e-Filing portal using his credentials.

**Once Aadhaar - PAN Linking is complete, you can e-Verify the Uploaded Form.**

**Step8. To view the filed TDS statement login to e-filing, go to TDS and click on View Filed TDS option**

 **e-Filing** *Anywhere Anytime*  
Income Tax Department, Government of India

Downloads Feedback Accessibility Options Contact Us Help

Dashboard My Account e-File e-Proceeding e-Nivaran Compliance Worklist Profile Settings TDS

Upload TDS  
View Filed TDS

**IMPORTANT !!!**

To update the contact details, go to [My Profile](#)

Kindly ensure that you must have the correct Email ID and Mobile Number for all communications from Income Tax Department.

**Step 9: Select the details from the drop-down for which TDS was uploaded. Then click on View Details**





**Step 12: In case of “Rejected”, click on the token number and view the details of the error as shown below**

View Filed TDS Returns

TAN	TANS12345A	Assessment Year	201516	Form Name	24Q	Quarter	Q1
S.No	Transaction No	Filed On	Upload Type	Token Number	Status		
1	10000060001	11/03/2016	R	3111111273	Uploaded		
2	10000060000	11/03/2016	R	3111111272	Rejected		

[Refresh Details](#)

### 11.9 Form 16?

Form 16 is a vital document that helps taxpayers to compute and pay applicable taxes with greater convenience. To make the most of this particular document, taxpayers should be aware of its components, generation and verification process, among others. This will come in handy in more than one way.

- ✚ Every financial year, employers need to deduct tax at source from the salary of any employee whose annual income exceeds the basic exemption limit — which is 2.5 lakhs. The employer then deposits this TDS against the concerned employee’s PAN to the government.
- ✚ The Form 16 contains the details of the tax deducted at source for such employees. The employer issues this certificate to salaried individuals under section 203 of the Income Tax Act, 1961.
- ✚ The information contained in Form 16 is divided into two parts — Part A and Part B.

#### Requirement of Form 16

If you fall within this category of taxpayers, ensure that you keep your Form 16 safe because it can be beneficial in many ways. Check out the various uses of Form 16 below:

**1. It makes filing of tax returns easier:** Your Form 16 contains every detail you need for your tax filing, making the entire tax filing process efficient and faster.

**2. It can be used as a proof of income:** Your Form 16 is a valid proof of income accepted by various third parties like banks and financial institutions. You can use this certificate as proof of income when applying for a loan, a credit card or even your VISA. Information about your salary, your tax deductions and your tax-saving investments.

**3. It has the consolidated details of your tax-saving investments:** As you saw earlier, part B of Form 16 has all the details of your tax-saving investments. This data can be crucial in your tax planning exercise. You can use this consolidated information to plan your tax-saving investments better for the next year.

**4. It helps your new employer deduct taxes appropriately:** If you switch jobs during a given financial year, your new employer can find the tax deductions from your previous employment details on your Form 16. This can help your new employer deduct taxes appropriately.

**5. It is useful if you have to claim a tax refund:** You will be eligible for a tax refund if you have paid more taxes than what’s due during the financial year. Since your Form 16 will contain the details of the taxes due and the taxes deducted, you can quickly check whether you are eligible for a refund.

**When is Form 16 Issued?**

- ✚ Form 16 contains details of tax deducted from salary and is issued by employers annually.
- ✚ Employers must issue Form 16 by 15 June of the next financial year.
- ✚ If your employer delays issuing Form 16, they may be penalized Rs. 100 per day of delay, up to the amount of tax deducted.

### ***Which Types of Payments Under Form 16A Attract TDS?***

Section 206C of ITA mentions non-salary earnings which attract TDS. It must be noted that each such income is subject to a different rate.

Typically, the following are included under the purview of TDS -

- ✚ Dividends
- ✚ Rent
- ✚ Interest accrued on bank accounts
- ✚ Winnings from a lottery or crossword puzzles
- ✚ Winnings from a horse race
- ✚ Payouts towards a contractor
- ✚ Insurance commission
- ✚ Payouts for National Savings Scheme
- ✚ Payouts to non-residing sportsmen or sports association
- ✚ Payments for repurchasing mutual fund units
- ✚ Compensation, commission or brokerage
- ✚ Income from the Indian company's shares
- ✚ Income from foreign currency bonds
- ✚ Technical and professional service fee
- ✚ Earnings of foreign companies mentioned under Section 196a(2)
- ✚ Revenues generated from units mentioned under Section 196b

Form 16A is a TDS Certificate and is issued by employers on deducting Tax at Source. According to the Income Tax Act, 1961, payments over Rs.30000 that are not entitled to exemptions are liable for TDS. Form 16A serves as proof that TDS was deducted from income sources other than salary and provides essential details about the same.

For instance, income generated in the form of interest of fixed deposits, insurance commissions, rent receipts, securities, etc., are some of the details that are included.

This certificate is issued every quarter. It must be noted that the due date is usually the 15th of a month and is followed by the due date for quarterly TDS returns. The rate of TDS depends entirely on the nature of non-salary income. Notably, the details contained in this certificate are also available in Form 26AS

### ***Components of Form 16A***

The primary components of Form 16A are as follows –

Particulars	Details
Employer's details	Name, PAN and TAN
Employee's details	Name, PAN and TAN
Nature of payment	Online or offline mode
The receipt number of TDS payment	Helps to trace back details

Date and deposited tax amount with the I.T. department

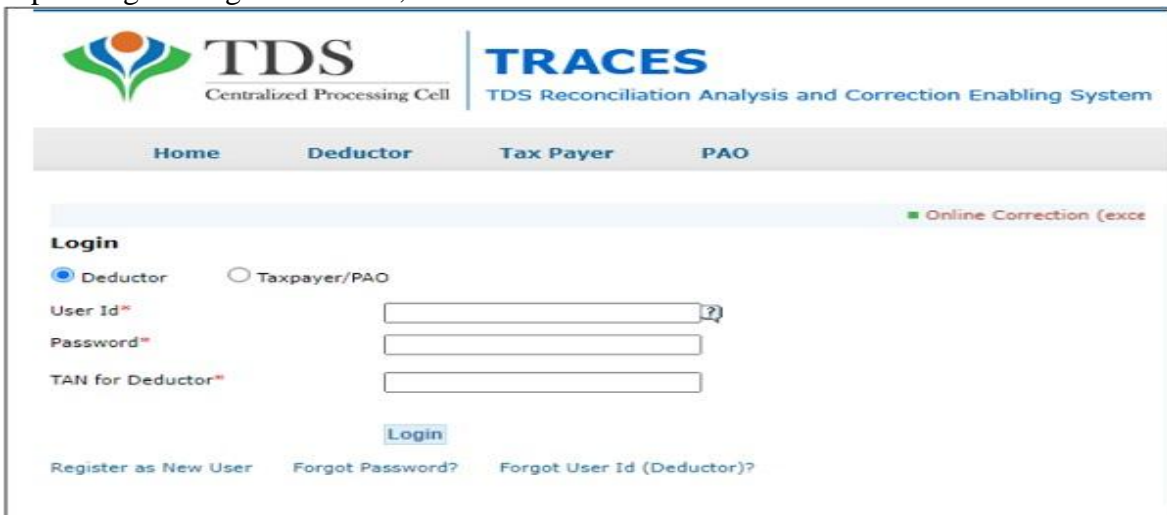
Helps to track information

## 11.11 Steps to download Form 16

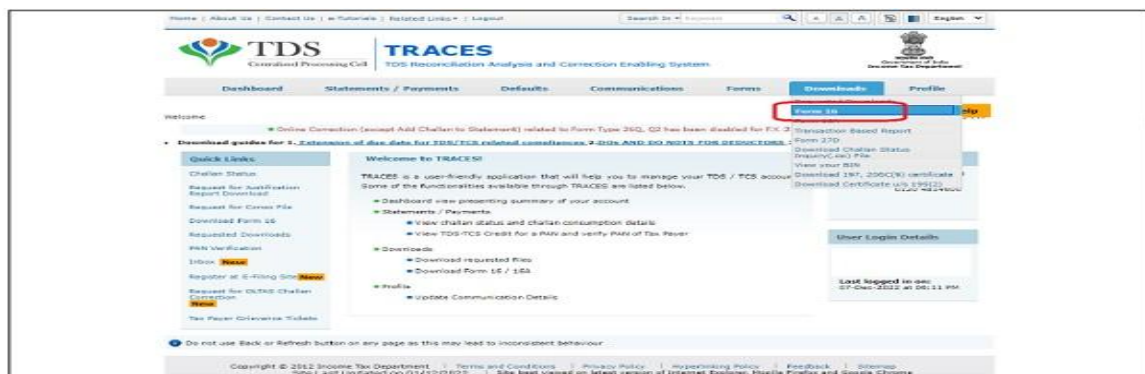
Step 1 Visit TRACES (www.tdscpc.gov.in)



Step 2: Login using the User ID, Password and TAN.



Step 3: Go to Downloads>Form 16.



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**Choose KYC Flow**

Since you have Digital Signature registered on TRACES, you do not require KYC to access all downloads, update profile, submit online correction without separate KYC for all functionalities as you can opt for a normal KYC validation separately for each functionality without digital Signature

Digital Signature supported KYC validation  Normal KYC Validation (Without Digital Signature)

Digital Signature will be validated for "Digital Signature supported KYC validation" option

**Validate DSC**

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Step 4: Select the Financial Year, enter PAN and click 'Add'. After the PANs are reflected in the window, click 'Go'. A maximum of 10 PANs can be added to this screen. To generate TDS Certificate in bulk, in the lower section of 'Bulk PAN Download', select Financial Year, and click 'Go'.

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**Download Form 16**

Select Financial Year and enter PAN and click on 'Add'. Download request can be submitted for maximum of 10 PANs. Click here to download e-Tutorial for submitting download request for Form 16

Form 16 will not be available for the PAN(s), which are not mentioned in the Annexure-II of Form 24Q for Quarter (Q4)

The value 'K' in the field "Status of matching with OLTAS" of FORM 16 indicates that the details of the challans reported by the deductor are yet to be verified

**Search PAN**

Financial Year: 2021-22 PAN: Add

Remove Go

**Bulk PAN Download**

Financial Year: 2021-22 Add

Forms will be generated only for valid PANs. To check if a PAN is valid or not, go to PAN Verification under "Statements/Payments"

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Step 5: On the next screen, the details to be printed on Form 16 will be displayed. Verify the details and click 'Submit'

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Welcome

Details To Be Printed On Form 16

Details are populated as per your profile information. Admin User can update details in Profile section.

Name of Authorized Person

Father's Name of Authorized Person

Designation of Authorized Person: Director

Place: KURALI

Date: 07-Dec-2022

Submit Cancel

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Step 6: Select the option for DSC-based validation or Normal Validation

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Welcome

Download Request Confirmation

Request for Form 16 Part A and Part B has been submitted. Request Number is \_\_\_\_\_ and \_\_\_\_\_ . The file will be available in Downloads section.

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Step 7: After submission of the request, a successful message with a reference number will appear on the screen.

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Downloaded Downloads

Form 16  
Form 16A  
Transaction Based Report  
Form 270  
Download Challan Status  
TRACES Call File  
View your PIN  
Download 197, 204(O) certificate  
Download Certificate U/s 195(2)

Alerts

Regular Correction statement for Q2 of FY 2022-2023 for Form 24Q has been processed without default - (02-Dec-2022) - (02-Dec-2022)

Statement Status

Parameter	34Q	35Q	37Q	37EQ
Status of Regular Statement	■	■	■	■
Count of Correction Statements	0	0	0	0
Count of Processed Statements	1	1	0	0
Default Payable Amount (Rs.)				
Short Payment (SP)	0.00	0.00	0.00	0.00
Short Deduction (SD)	NA	0.00	0.00	0.00
Interest on Payments	0.00	0.00	0.00	0.00
Default u/s 201	0.00	0.00	0.00	0.00
Interest on deduction	0.00	0.00	0.00	0.00
Late Filing Fee u/s 234E	0.00	0.00	0.00	0.00
Interest u/s 234C	NA	NA	NA	NA

TDS Performance Graph

FY 2021-22

Form NA

Your TRACES ACTIVITIES

Requested for download of Form 15-2021-22 on 07-Dec-2022  
Requested for download of Form 15A-Q2, 2022-23 on 03-Dec-2022  
Requested for download of Form 15A-Q1, 2022-23 on 12-Aug-2022

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Step 8: Go to Downloads>Requested Downloads.

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Please download and use latest utility version(2.7) for justification report requests.

Please select one of the below Search Options  
To work on/open offline correction input file, you will need winzip XP or below installed in your system.

Please check if Pop up blocker is disabled in your browser settings or not. If not please disable the same for using this functionality.

Request Number  Date  View All

Click on a row to proceed and select 'HTTP Download' or 'Download Manager' for the requests with status as 'Available'

Request Date	Request Number	Financial Year	Quarter	Form Type	File Processed	Status	Remarks
07-Dec-2022	2021-22	2021-22	Q4	24Q	Sub Form 16 Part B File	Available	
07-Dec-2022		2021-22	Q4	24Q	Sub Form 16 Part A File	Available	
02-Dec-2022		2022-23	Q3	24Q	Sub Form 16A File	Available	

Page 1 of 1

View 1 - 3 of 3

**HTTP Download**

Click here for password related help. Click on help icon on the top right corner of the page to view details on 'Status' and 'Remarks'.

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Step 9: Enter the request number generated on submission of the request (Step 7) and click 'Go'. The filing status of Form 16 will be displayed. Select the row and click on 'HTTP download'.

Step 10: Download the TRACES PDF Generation Utility. To view the PDF version of the downloaded Form 16, TRACES PDF Generation Utility can be used to extract the same. Different utilities must be downloaded for Form 16-PART A and Form 16-PART B.

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Please download and use latest utility version(2.7) for justification report requests.

**Attention Seekers:**  
To generate Form 16/16A, TRACES Based Report, 27D in PDF format, Justification Report in excel format and Offline Correction Utility in excel format, you will need TRACES PDF Generation Utility.  
To use Digital Signing Functionality through eSigner in Chrome, IE 10+ and Firefox browser, you will need TRACES WebBased eSigner Utility V2.0.  
Downloaded file will be available for thirty days, once the file is downloaded.

**Click here** download the utility. To work on/open offline correction input file, you will need winzip XP or below installed in your system.

Please select one of the below Search Options  
To work on/open offline correction input file, you will need winzip XP or below installed in your system.

Please check if Pop up blocker is disabled in your browser settings or not. If not please disable the same for using this functionality.

Request Number  Date  View All

Request Number [ ] Go

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Step 11: Enter the captcha and click on 'Submit' to download the utility

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**Download TRACES UTILITY**

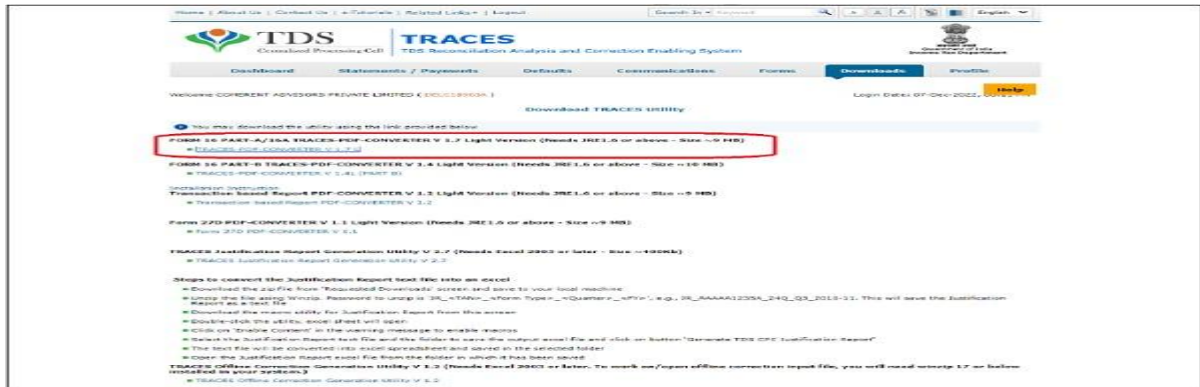
Kindly submit the verification code to view the link for downloading the utility.

Verification Code [ ] Click to refresh image

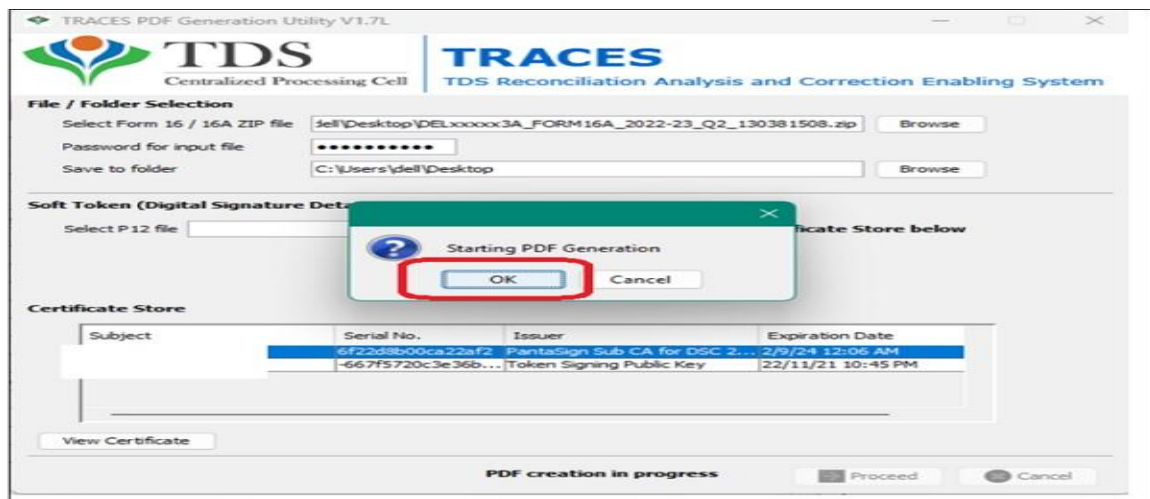
Entered as in above image\* [ ]

**Submit**

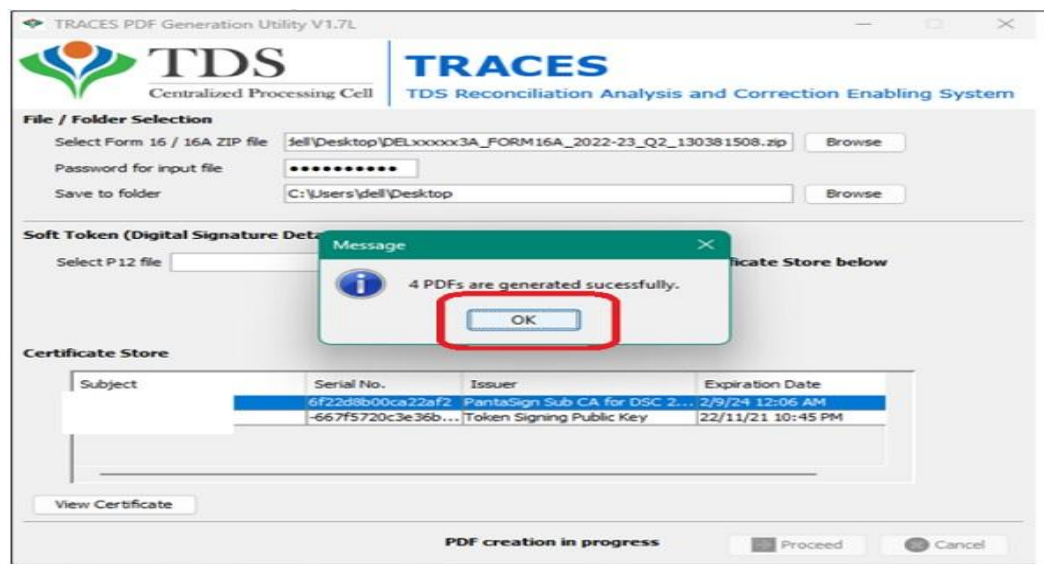
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Step 12: Click on the link to start the download



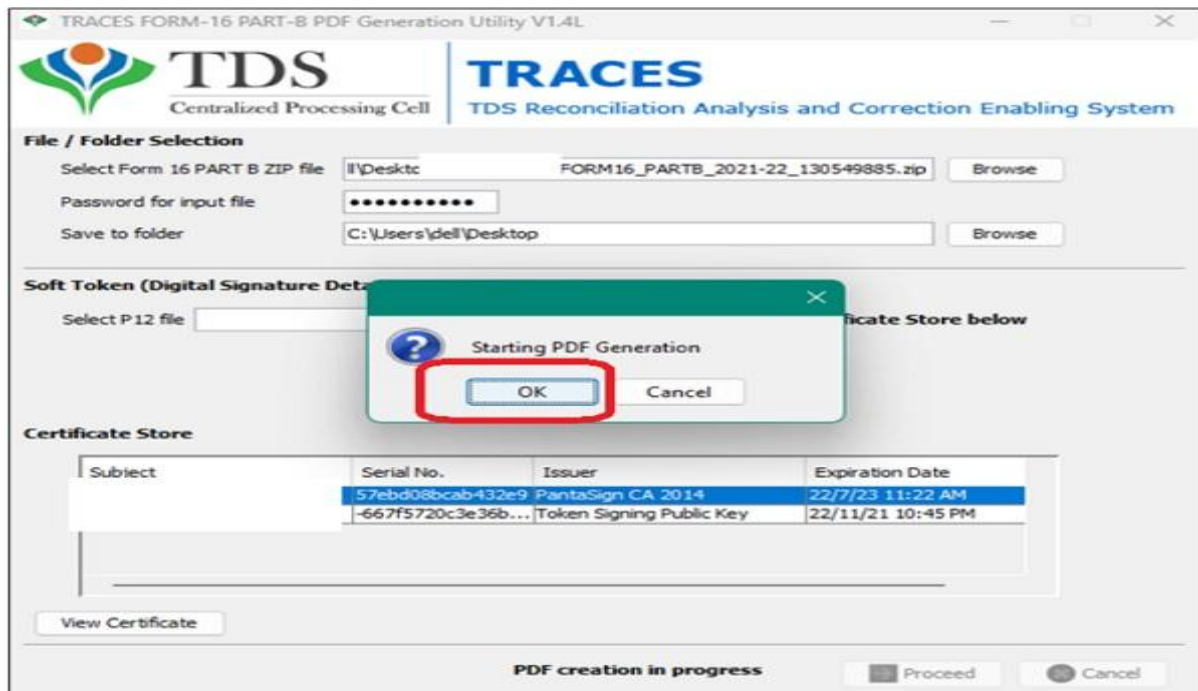
Step 13: Extract the utility, browse the form 16A Zip file and affix the DSC to sign the certificates digitally.



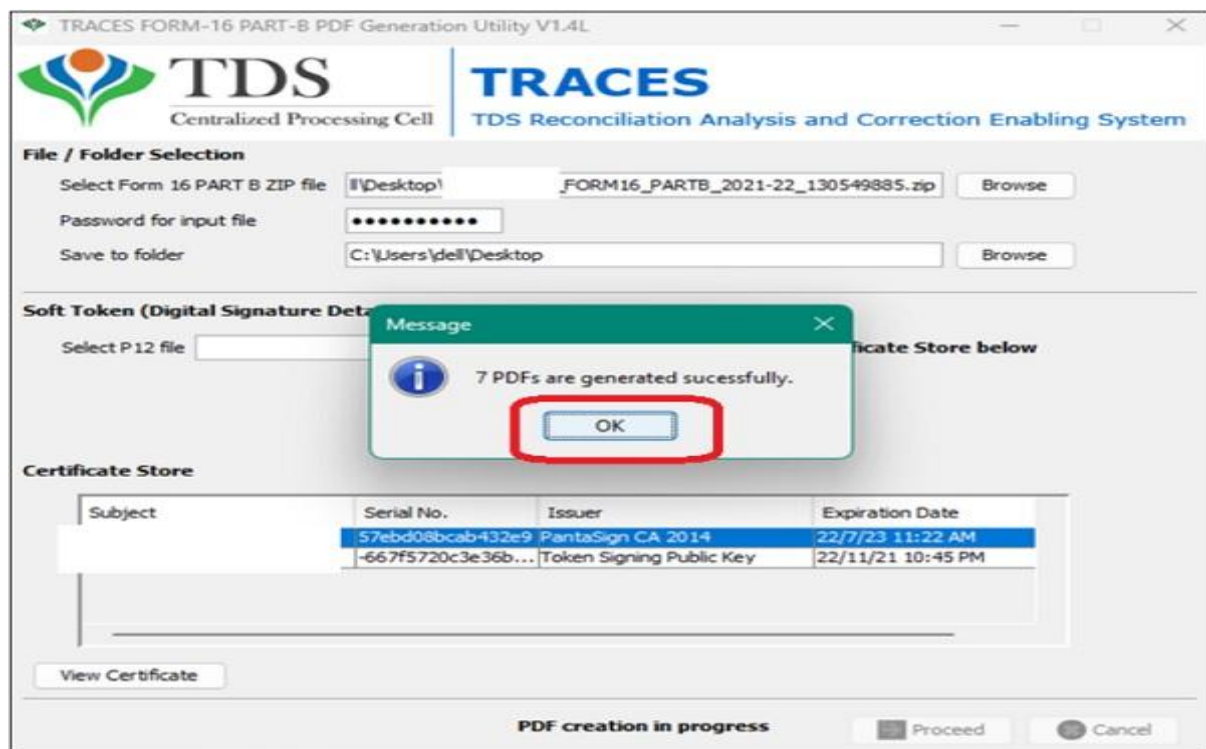
Step  
14:  
Form

16-PART A shall be generated.

Step 15: Extract the PART-B utility, browse the Form 16-PARTB Zip file and affix the DSC to sign the certificates digitally.



Step 16: Form 16-PART B shall be generated.





### 11.12 Summary

TDS or Tax Deducted at Source is income tax reduced from the money paid at the time of making specified payments such as rent, commission, professional fees, salary, interest etc. by the persons making such payments. Usually, the person receiving income is liable to pay income tax. But the government with the help of Tax Deducted at Source provisions makes sure that income tax is deducted in advance from the payments being made by you. The recipient of income receives the net amount (after reducing TDS). The recipient will add the gross amount to his income and the amount of TDS is adjusted against his final tax liability. The recipient takes credit for the amount already deducted and paid on his behalf. This will help the government to collect the taxes in advance and to track the transactions in an effective manner. The

TDS return process can be done online through the NSDL portal using their TDS/TCS Return Preparation Utility (RPU) application, or it can be done in person by visiting your nearest NSDL facilitation centre.

#### 11.12 Technical Terms:

**e-filing:** uploading the details of the assessee through online income tax portal, Traces

**Disallowances Of Expenses:** Expenses that are excluded from the calculation of TDS

**TRACES:** A online website portal developed by Income Tax for filing of TDS/TCS returns

#### 11.13 Self-Assessment Questions

Q1. Explain Process of filing TDS/TCS returns online.

Q2. What are the various Forms are used to file the TDS Returns?

Q3. Explain the Schedules and Deposits of TDS Returns

#### 11.14 Suggested Readings

1. Tax Deduction & Collection at Source | Law and Procedure, Bombay Chartered Accountants' Society
2. TDS, TCS & Advance Tax with Detailed Commentary On Section 194R, 2023 CA. Nisha Bhandari
3. Handbook on TDS Provision under GST The Institute of Chartered Accountants of India, New Delhi

**DAVID RAJU**