Department of Commerce (CA)

CORE PAPER-XII-DIRECT TAX

SEMESTER:V **SUB CODE:18BCA53C**
B.COM(CA)

UNIT4: computation of capital gain-income from other sources-set off and carry farward of losses-assessment of individuals.

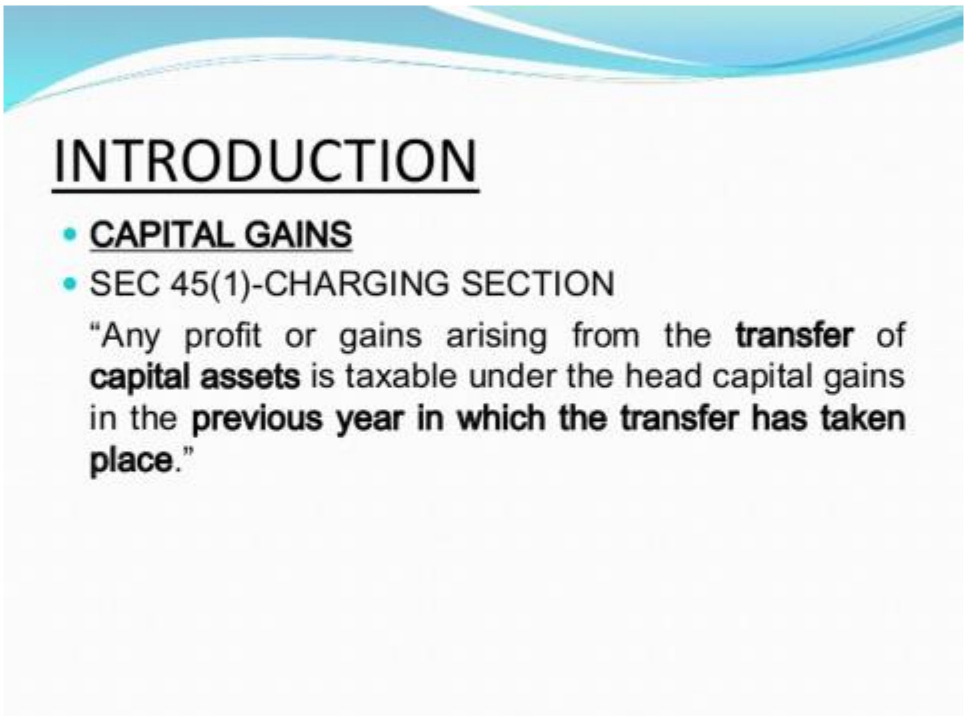
REFERENCE BOOK:

- INCOME TAX LAW AND PRACTICE- GAUR AND NARANG
- DIRECT TAXES-B.B.LAL
- INCOME TAX LAW AND PRACTICE-DINKAR PAGARE
- INCOME TAX LAW AND PRACTICE –MALHOTRA

PREPARED BY: DR. E.N. KANJANA,

ASST PROFESSOR.

INCOME FROM CAPITAL GAIN.



- Conditions for Gains to be charged under Capital Gains

There should be a capital asset.

- The capital asset should be transferred by the assessee.
- Such transfer should take place during the previous year.
- The profits or gains should arise as a result of this transfer.
- Such profit or gain should not be exempted from tax under sections 54, 54B, 54D, 54EC, 54F and 54G & 54GA.

SHORT TERM AND LONG TERM CAPITAL ASSETS

"Short term capital assets" means a capital asset held by the assessee for not more than 36 months, immediately prior to its date of transfer. However, the following assets are treated as short term assets if they are held for not more than 12 months, they are:

- Equity or preference shares in a company
- Securities like debentures, government securities listed in a recognized stock exchange in India.
- Units of UTI and
- Units of mutual funds.
- An asset other than a short-term capital asset is regarded as a "long term capital asset".

SHORT TERM CAPITAL GAIN

1)Find full value of consideration

2)Deduct the followings.

a) Expenditure incurred wholly and exclusively in connection with such transfer.

b) Cost of acquisition.

c) Cost of improvement

3) From resulting sum deduct exemption provided by u/s54 B, 54 D, 54 G, 54GA

4) The balancing amount is Short Term Capital Gain.

LONG TERM CAPITAL GAIN

1) Find full value of consideration

2) Deduct the followings

a) Expenditure incurred wholly and exclusively in connection with such transfer.

b) Indexed Cost of acquisition.

c) Indexed Cost of improvement.

3) From resulting sum deduct the exemption provided by section 54, 54 B, 54 D,

54 EC, 54 F, 54 G, 54 GA

The balancing amount is Long Term Capital Gain/Loss.

COMPUTATION OF CAPITAL GAINS IN THE CASE OF SELF GENERATED ASSETS.

Self Generated Assets	Sale Consideration	Cost of Acquisition (SEC-55)	Cost of Improvement (SEC 55)	Expenses on transfer
1. Goodwill of a Business	Actual	Nil	Nil	Actual
2. Tenancy Rights, Route Permits & loom Hours	Actual	Nil	Actual	Actual
3.Rights to manufacture, Produce or Process any article	Actual	Nil	Nil	Actual
4. Trade mark or brand name associated with a business	Actual	Nil	Actual	Actual

Any profit or gains arising from the transfer of a capital asset will be chargeable to income tax under the head capital gain. The terms '**Capital Asset**' and '**Transfer**' is discussed below;

'Capital assets' may be:-

1) Any stock in trade, raw material or consumable stores held for the purpose of business or profession.
2) Personal effects, ie. Movable properties held by the assesse, excluding the followinga) jewellery,
b) archaeological collections,
c) drawings,
d) paintings
e) sculptures, or
f) any art work
3) Rural agricultural land in India.
4) National defense gold bonds, 7% gold bonds issued by central government.
5) Special bearer bond 1991, issued by central government.
6) Gold deposit bonds issued under gold deposit scheme.

'Transfer' means;

The term transfer includes the following types of transactions:-
i) The sale, exchange of asset,
ii) The extinguishment of any right therein,
iii) The compulsory acquisition under any law ,
iv) Conversion of capital asset to stock in trade,
v) The maturity or redemption of zero coupon bond,
vi) Part performance of the contract,

vii) Transactions having the effect of transferring of an immovable property, eg. power of attorney transactions

Transactions which do not constitute transfer [Sections 46 and 47]

1. any distribution of capital assets on the total or partial partition of a Hindu Undivided Family;
2. any transfer of a capital asset under a gift or will or an irrevocable trust
3. any transfer of a capital asset by a company to its subsidiary company, if–

a) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and

b) the subsidiary company is an Indian company.

4. any transfer of a capital asset by a subsidiary company to the holding company, if –

a) the whole of the share capital of the subsidiary company is held by the holding company, and

b) the holding company is an Indian company;

Short Term Capital Gain (STCG) and Long Term Capital Gain (LTCG)

Any capital gain arising as a result of transfer of a short-term capital asset is known as short-term capital gain. According to Section 2(42A) of the Income-tax Act:**“Short term” capital asset** means a capital asset held by an assessee for not more than thirty-six monthsimmediately preceding the date of its transfer. In the case of capital assets (being equity or preference share ina company) held by an assessee for not more than 12 months immediately prior to its transfer.However, an unlisted security and a unit of a mutual fund (other than an equity oriented mutual fund) shall be a short-term capital asset if it is held for not more than thirty six months.

It is calculated as follows Full value of consideration ---------------

Less: expenses on transfer ---------------

Net consideration ---------------

Less: i) cost of acquisition -----------

ii) Cost of improvements ----------- ---------------

Short term capital gain

Long Term Capital Gain is the gain arising from long term capital assets. And assets other than short-term capital assets are known as **‘long-term capital assets’.** In the case of other long- term capital assets, the period of holding is determinable subject to any

rules made by CBDT.

It is calculated as follows Full value of consideration -------------

Less: expenses on transfer -------------

Net consideration -------------

Less: i) Indexed cost of acquisition --------
ii) Indexed Cost of improvements ---------
Long term capital gain ------------

Process of Indexing:
C.I.I of the year of Sale
Indexed cost of acquisition = Actual cost X
C.I.I of the year of purchase
C.I.I of the year of Sale
Indexed cost of improvement = Actual cost X
C.I.I of the year of improvement

Problem: 1
Sri.Bhagwan Das had an income of 2, 25,000 from the head 'Income from Business or Profession' for the previous year ending on 31st March, 2016. During the previous year he sold the following assets:
(i) Residential house which was sold on August 15, 2015 for 12,00,000 was purchased by him on Jan. 1, 1984 for 58,000.
(ii) Silver purchased in June, 1987 for 60,000 was sold on 1st June, 2015 for 3,50,000.
(iii) Shares in a private company purchased in June, 2014 for 50,000 were sold on 25 April, 2015 for 75,000.
(iv) Land purchased in Jan. 2013 for 1,00,000 was sold on 15th April, 2015 for 2,50,000. He purchased a residential house in May, 2014 for 6,50,000.
Compute the taxable income of Sri. BhagwanDas for the assessment year 2016 – 17. Cost inflation indexes for 1983 – 84 is 116; for 1987 – 88 is 150 and for 2015 – 16 is 1,081.
Solution: 1
Computation of Total Income
(for the assessment year)
Business income (a) 2, 25,000
Capital Gains:
Selling price of residential house 12,00,000
Less: Indexed cost (58,000 × 1,081 ÷ 116) 5,40,500
LTCG 6,59,500
Less: Cost of new house purchased within one year before transfer 6,50,000
LTCG (b) 9,500
Selling price of silver 3,50,000
Less: Indexed cost (60,000 × 1,081 ÷ 150) 4,32,400

LTCL (c) (-)82,400
LTCL c/f (c-b) = **72,900**
Selling price of shares 75,000
Less: Cost 50,000
STCG (d) 25,000
Selling price of land 2,50,000
Less: Cost 1,00,000
STCG (e) 1,50,000
STCG (d + e) (f) 1,75,000
Total Income (a + f) 4,00,000
Note: LTCL can be set-off only against LTCG.

Income from other sources

Income from Other Sources

1.) **Income:**
- Dividend
- Interest- From Savings, Term deposit, income tax refund, other
- Income of winnings from lotteries, crossword puzzles etc., excluding income from owning race horses
- Income from the activity of owning and maintaining race horses

Income from Other Sources -DEDUCTIONS

Deduction on Interest Income Under Section 80TTA

For a residential individual (age of 60 years or less) or HUF, interest earned upto Rs 10,000 in a financial year is exempt from tax. The deduction is allowed on interest income earned from:

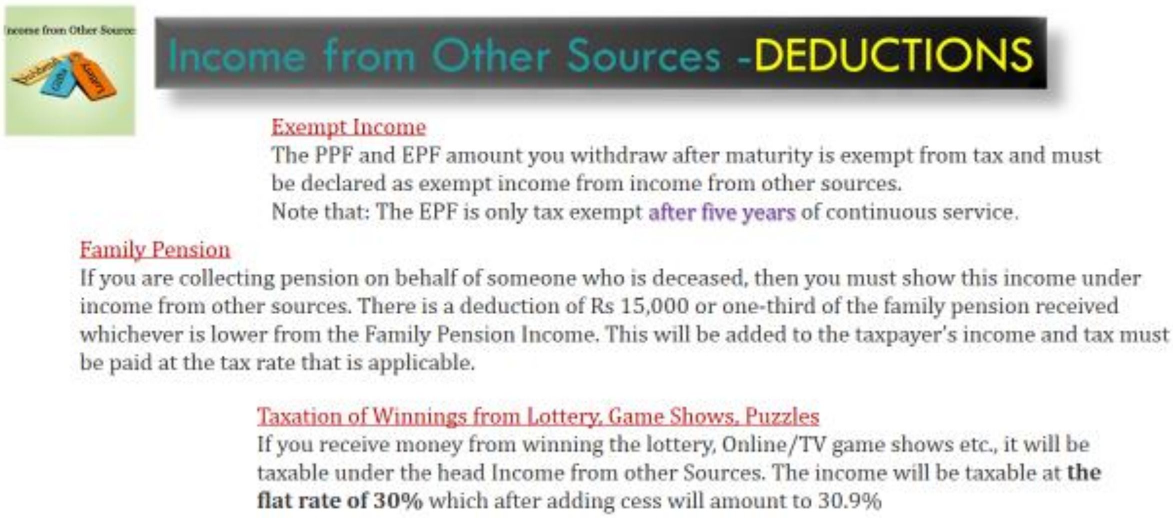
- savings account with a bank;
- savings account with a co-operative society carrying on the business of banking; or
- savings account with a post office

Senior citizens are not entitled to benefits under section 80TTA.

- **Interest income in case of Fixed Deposit (PAN)**

Tax on Fixed Deposits

Senior citizens, with effect from 1 April 2018, will enjoy an income tax exemption up to Rs. 50,000/- on the interest income they receive from fixed deposits with banks, post offices etc. under Section 80TTB.



Income from Other Sources -DEDUCTIONS

Exempt Income

The PPF and EPF amount you withdraw after maturity is exempt from tax and must be declared as exempt income from income from other sources.

Note that: The EPF is only tax exempt after five years of continuous service.

Family Pension

If you are collecting pension on behalf of someone who is deceased, then you must show this income under income from other sources. There is a deduction of Rs 15,000 or one-third of the family pension received whichever is lower from the Family Pension Income. This will be added to the taxpayer's income and tax must be paid at the tax rate that is applicable.

Taxation of Winnings from Lottery, Game Shows, Puzzles

If you receive money from winning the lottery, Online/TV game shows etc., it will be taxable under the head Income from other Sources. The income will be taxable at **the flat rate of 30%** which after adding cess will amount to 30.9%

The following shall be chargeable to Income Tax under the head Income from other sources:

1. Dividends [Section 56(2)(i)]

Dividend income other than divided referred under section 10(34) shall be included under income from other sources.

2. Keyman Insurance policy

Amount received under a Keyman insurance Policy, including bonus on each Policy, if it is not taxable under any other head of income shall be chargeable under Income from other sources.

3. Winnings from lotteries [Section 56(2)(ib)]

Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature shall be chargeable to tax under Income from other sources.

The entire income of winnings, without any expenditure or allowance or deductions under Sections 80C to 80U, will be taxable. However, expenses relating to the activity of owning and maintaining race horses are allowable. Further, such income is taxable at a special rate of income-tax i.e., **30% + surcharge + cess @ 3%** [Section115BB]

4. Contribution to Provident fund

Income of the nature referred to in Section 2(24)(x) (relating to certain contributions to any provident fund or superannuation fund or any fund set up under the provisions) will be chargeable to income-tax under the head “income from other sources” if such income is not chargeable to income-tax under the head “profits and gains of business or profession”. But if the employer deposits such amount on or before due date of deposit applicable for such contribution, he will be allowed a deduction on account of the same.

5. Income by way of interest on securities

If the income by way of interest on securities is not chargeable to income-tax under the head 'Profits and gains of business or profession' than such income shall be taxable under Income from other sources.

6. **Income from hiring of machinery etc.**

Income from machinery, plant or furniture belonging to the assessee and let on hire if the income is not chargeable to income-tax under the head "profits and gains of business or profession" shall be taxable under Income from other sources.

7. **Hiring out of building with machinery (composite letting) etc.**

Where an assessee lets on hire machinery, plant or furniture belonging to him and also building and the letting of the building is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession" shall be taxable under Income from other sources.

8. Money Gifts:

Where any sum of money, the aggregate value of which exceeds 50,000, is received without consideration the whole of the aggregate value of such sum shall be taxable under the head Income from other sources.

Provided that this clause shall not apply to any sum of money received

a) from any relative; or
b) on the occasion of the marriage of the individual; or
c) under a will or by way of inheritance; or
d) in contemplation of death of the payer; or
e) from any local authority
f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust.
g) from any trust or institution registered under section 12AA.

Explanation: For the purposes of this clause, **relative** means

i. spouse of the individual;
ii. brother or sister of the individual;
iii. brother or sister of the spouse of the individual;
iv. brother or sister of either of the parents of the individual;
v. any lineal ascendant or descendant of the individual;
vi. any lineal ascendant or descendant of the spouse of the individual;
vii. Spouse of the person referred to in clauses (ii) to (vi).]

9. Gifts aggregating to more than 50,000 in a year on or after 1st Day of April, 2006.
10. **Shares as gift to its members**.
11. **Share premiums in excess of the fair market value to be treated as income**
12. **Income by way of interest received on compensation or on enhanced compensation.**
13. **Advance money received-** any sum of money, received as an advance or otherwise

in the course of negotiations for transfer of a capital asset.

Besides the above, there are some other incomes which are also chargeable under the head ‘Income from Other Sources’. For example:

a. Any fees or commission received by an employee from a person other than his employer.

b. Any annuity received under a Will. It does not include an annuity received by an employee from his employer.

c. All interest other than interest on securities, e.g. interest on bank deposits, interest on loan, etc.

d. Income of a tenant from sub-letting the whole or a part of the house property.

e. Remuneration received by a teacher or a lawyer for doing examination work.

f. Income of Royalty.

g. Director’s fees.

h. Rent of land not appurtenant to any building.

i. Agricultural Income from land situated outside India.

j. Income from markets, ferries and fisheries, etc.

k. Income from leasehold property.

l. Remuneration received for writing articles in Journals.

m. Income from undisclosed sources.

n. Interest received by an employee on his own contributions to an unrecognised provident fund.

o. Casual income in excess of ₹5,000, or

p. Salary of a Member of Parliament, Member of Legislative Assembly or Council.

q. Interest received on securities of co-operative society.

r. Family pension received by the widow of an employee of the U.N.O. is exempt. Similarly the family pension of gallantry awardee is exempt.

s. Amount withdrawn from deposit in National Savings Scheme, 1987 on which deduction under Section 80CCA has been allowed including interest thereon.

t. Gratuity received by a director who is not an employee of the company.

u. Director’s commission for giving guarantee to bank.

v. Director’s commission for underwriting shares of a new company.

Further, under the provisions of Section 60 to 65 an assessee may be chargeable to tax in respect of income arising to other persons, e.g. spouse or minor children. In such cases, the income in question will be first computed under the appropriate head after allowing various deductions and includible in the total income of the assessee under the head “income from other sources”. In other words, wherever the assessee is taxable in respect of income of somebody else, the income must be charged to tax in the hands of the assessee only under this head even if the income is of a character which would otherwise fall for assessment under any other head of income.

Casual income and its taxability.

Casual income includes income by way of winnings from lotteries; crossword puzzles; races including horse races; gambling and betting of any nature or form; card games, game show or entertainment program on television or electronic mode and any other game of any sort. All these incomes are chargeable to tax under the head income from other sources

Deduction from Casual Income: No deduction or exemption is provided in respect of the casual income. No deduction can be claimed from such income even if such expenditure is incurred exclusively and wholly for earning such income.Further, deduction
under section 80C to 80U is also not available from such income.

Taxation of Casual Income: Casual income is liable to TDS. The casual income is taxed at a flat rate of 30% plus surcharge (if any, plus education cess plus secondary and higher education cess). When the TDS has already been deducted from the income, then in
order to calculate the tax liability on such income, the income is to be grossed up.
However, the following incomes are not liable to TDS:

i. Winning from lottery upto amount .10,000
ii. Winning from racing other than horse race
iii. Winning from horse race upto . 5,000

Dividend and its taxability.

Dividend means the sum paid to or received by a shareholder proportionate to his shareholding in a company out of the total sum distributed. The definition of "Dividends" under Section 2(22) is an inclusive definition and it means dividend as normally understood and include in its connotation several other receipts set out in the definition(e.g.loan by a closely held company to its shareholder).

Taxation of dividend:

i. Dividend declared/distributed/paid by domestic company including deemed dividendis exempt in the hands of shareholder.
ii. Dividend from units of mutual fund is exempted.
iii. Dividend from foreign company is taxable under the head other sources.

Interest on securities

Interest on securities is chargeable as Income from Other Sources if it is not chargeable as
Profits and Gains of Business or Profession, i.e. when the securities are held as investment.

Taxability of interest:

i. Interest is taxable under the head other sources and liable to TDS at 10%.
ii. **Interest on Securities Exempt –** The interest on securities of the following cases is exempt from tax –
a. Interest on notified securities, bonds or certificates issued by the Central Govt. Interest on Post Office Savings Bank Account will be exempted only to the extent of 3,500 in case of an individual and 7,000 in case of joint account w.e.f. AY 2012-13

b. Interest to an individual or a HUF on 7% Capital Investment Bond or on notified Relief Bonds.
c. Interest to non-resident Indians on notified bonds.

Problem:1

Following are the particulars of income of Mrs.Seetha for the previous year 2015 – 16:
i. Dividend received from an Indian company 8,950 (Net).
ii. Winnings from lottery – amount received 70,000 and tax deducted at source 30,000.
iii. Winning from card games 20,000.
iv. Interest received on Govt. securities 10,000.
v. Family pension received 48,000.
She incurred the following expenses:
a) Interest paid on amount borrowed for purchasing shares 3,000

Computation of Income from Other Sources
1. Dividend – Exempt u/s 10(34)
Interest on loan to purchase shares – Not deductible -
2. Winnings from lottery 1,00,000
Cost of lottery tickets – Not deductible
3. Winnings from card game 20,000
4. Family pension 48,000
Less: 1/3 or 15,000 whichever is less 15,000 33,000
5. Interest on Govt. securities 10,000
Less: Collection charges 200 9,800
(No TDS from interest on Govt. securities)
Income from Other Sources 1,62,800

Problem:2

Mr. Rama Reddy furnishes the following particulars of his income during P. Y. 2015 – 16.
a) Dividend (gross) from Tata Tea Company 3,000
b) Dividend from a foreign company in Germany 4,000
c) Interest on term deposits with bank (net) 21,600
d) Director's fees 20,000
e) Income from letting out machinery, plant etc. after cessation of business60,000
f) Royalties from mining 20,000
g) Monthly rent received by subletting a house
(The house was hired at a rent of 500 p.m.) 1,000
h) Winning from lotteries (net) 1,40,000
i) Winning from card games (net) 14,000
j) On 1-12-2015 he purchased worth 55,000, 7% Capital Investment Bonds notified before 1-06-2002
He claims the following deductions:
a) Collection charges of dividend from foreign company 500.

b) Interest on money borrowed to purchase 7% capital investment bonds 3,000.
c) Purchase of lottery tickets 5,000.
d) Loss on card games 10,000.
Compute Mr. Rama Reddy's income under the head 'Income from Other Sources' for assessment year

Computation of Income from Other Sources
a) Dividend from Tata Tea Company Exempt
b) Dividend from a foreign company 4,000
c) Interest on term deposit (21,600 × 100 ÷ 90) 24,000
d) Director's fees 20,000
e) Letting machineries etc. 60,000
f) Royalty 20,000
g) Rent from subletting (12,000 – 6000) 6,000
h) Winning from lotteries (1,40,000 × 100 ÷ 70) 2,00,000
i) Winning from card games (14,000 × 100 ÷ 70) 20,000
j) 7% Capital Investment Bonds Exempt
3,54,000
Expenses:
a) Dividend collection charges from foreign company 500
b) Interest on borrowing to purchase Capital Investment Bonds
(Interest exempt, hence interest not deductible -
c) Cost of lottery tickets (Not deductible) -
d) Loss on card games (Not deductible) -
(a) 500
Income from Other Sources (a - b) 3, 53,500
Problem: 3
Dr. Varma is a teacher. Following information relate for assessment year 2016 – 17:
i) Basic Salary @ 12,000 p.m.
ii) D. A. 45% of Salary.
iii) Wardenship Allowance @ 400 p. m.
iv) Examinership remuneration 3,000.
v) Royalty from books for schools (computed) 22,500.
vi) Gross interest on Govt. Securities 5,000.
vii) Interest on Tax- free Debentures (gross) 3,000. Debentures are issued by a public sector company and are notified.
viii) Dividend on shares of a Foreign Company 2,500.
ix) Income from house property 10,000 (computed).
x) Contribution to Statutory P. F. 5,000.
xi) Contribution to P. P. F. 12,000.
xii) Premium paid by cheque on medical insurance policy on health of a dependent father 3,000.

xiii) Donation to an approved charitable institution 10,000.
Compute his total income.

Computation of Total Income of Dr.Verma
Salaries:
Salary 1,44,000
D. A. 64,800
Wardenship Allowance 4,800
2,13,600
Less: Deduction Nil 2,13,600
House Property:
Income from House Property 10,000
Income from Other Sources:
Examinership remuneration 3,000
Royalty on books 22,500
Interest on Govt. Securities 5,000
Interest on Debentures – Notified 3,000
Dividend on shares of a Foreign Company 2,500 36,000
Gross Total Income 2,59,600
Less: Deductions:
u/s 80D – Premium 3,000
u/s 80G – Donation 5,000
u/s 80C – P.F. & P.P.F 17,000 25,000
Total Income 2,34,600
Notes: 1. Deduction u/s 80G has been computed as under:
2,59,600 - 3,000 – 17,000 = 2,39,600
Qualifying Amount 10% of 2,39,600 or 10,000 whichever is less.
Deduction @ 50% of 10,000 5,000
2. Entitled to deduction u/s 80C
i) Contribution to Statutory P.F. 5,000
ii) Contribution to P.P.F. 12,000

AGGREGATION OF INCOME – CLUBBING.
Every person pays income tax on his own income, but in some cases income of spouse, minor child, son’s wife or a third person is incl1uded in the income of individual, these cases are-
1) Where a person transfers to any other person income (whether revocable or not) from an asset without transferring that asset, the income shall be included in the total income of the transferor.
2) Revocable transfer of assets (section 61)-Where a person transfers any asset to any other person with a right to revoke the transfer, all income accruing to the transferee from the asset shall be included in the total income of the transferor.
3) Income of spouse-The following incomes of husband and wife are clubbed:

(a) Income to spouse from a concern in which such individual has substantial interest. All such income as arises directly or indirectly, to the spouse of an individual by way of salary, commission, fees or any other remuneration, whether in cash or kind from a concern in which such individual has a substantial interest, shall be included in the income of the individual. However, where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his/her technical or professional knowledge and experience, the income shall not be included in the income of (other spouse) the assessee.

(b) Income to spouse from the assets transferred- Where any individual transfers directly or indirectly any asset (other than a house property) to the spouse, the income from such asset shall be included in the income of the transferor. In order to attract the provisions of this section, it is not necessary that the asset must have been transferred by the assessee to his spouse in the same form in which it stands at the time the income arises.

Conversion of assets from one form to another would be totally immaterial and it is also not essential that the transfer must have taken place directly between the spouses

4) Income to son's wife-Where any individual transfers, directly or indirectly, any asset to his/her son's wife without adequate consideration the income from such asset shall be included in the income of the transferor.

5) Transfer of assets to other person or association of person for the benefit of spouse.

6) Income from assets transferred to a person or association of person for the benefit of his son's wife.

7) Income of a minor child.- the income of a minor child shall be include in the income of his or her parent. The provisions regarding this clubbing arei) The income should be added to that parent whose total income is greater.

ii) If his/her parents are divorced, income should be added to the income of parent who maintains the minor child.

iii) Income from manual work done by minor should not be clubbed.

Problem:1

The income of a family is as under:

1. Mr. Ram from business 5,50,000
2. Mrs. Ram from employment 2,80,000
3. Minor son of Mr. Ram (Interest from a company)

The amount for investment received from his grand – father 10,000

4. Minor son of Mr. Ram, Mr. Krishna (From acting in film) 1,60,000
5. Minor daughter of Mr. Ram, Miss Anjali 6,000

Discuss in whose hands the incomes are assessable and to what extent?

Solution:

Computation of Income of Mr. Ram

1. Income from business 5,50,000

2. Interest of minor son: Interest 10,000
Less: Amount exempt u/s 10(32) 1,500 8,500
3. Income of minor daughter 6,000
Less: Amount exempt u/s 10(32) 1,500 4,500
5,63,000
Income of Mrs. Ram:
Salary 2,80,000
Income of minor son – Krishna:
Income from acting – Not includible in the income of parent 1,60,000
Note: Income of Mr. Ram is more than the income of Mrs. Ram. Hence the income of minor son and daughter has been included in his income

Set off of losses within the same head [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 his income from any other source under the same head of income for the Assessment Year.

1. Long Term Capital Loss (LTCL) can only be set off against Long Term Capital Gain (LTCG) and cannot be set off against Short term Capital Gain (STCG) however STCL can be set off against LTCG)
2. Loss from speculation business cannot be set of against profit from a nonspeculation business however loss from non-speculative business can be set-off against speculation income)
3. Loss from business specified under section 35AD cannot be set off against any other income except income from specified business (section 35AD is applicable in respect of certain specified businesses like setting up a cold chain facility, setting up and operating warehousing facility for storage of agricultural produce, developing and building a housing projects, etc.).
4. Loss from the business of owning and maintaining race horses cannot be set off against any income other than income from the business of owning and maintaining race horses.
5. No loss can be set-off against casual income i.e. Income from l**otteries, crossword puzzles, race including horse race, card game**, and any other game of any sort or from gambling or betting of anyform or nature.
6. Loss from an exempted source cannot be set off against taxable Income- If income from a particular source is exempt from tax, then loss from such source cannot be set off against any other income which is chargeable to tax. E.g., Agricultural income is exempt from tax, hence, if the taxpayer incurs loss from agricultural activity, then such loss cannot be adjusted against any other taxable income.

Set off of losses among different head of income [Section 71]

Where the net result of the computation under any head of income in respect of any Assessment Yearis a loss, the assessee shall be entitled to have such amount of loss set

off
against his income assessable for that Assessment Year under any other head of income.
Exceptions to provisions of Sections 70 and 71 are as follows:

a) **Loss from Speculation Business**: “Speculation transaction” means a transaction in which a contract for the purchase or sale of any commodity including stocks and shares is periodically or ultimately settled otherwise than by actual delivery or transfer of the commodity or scripts. Loss from speculative transaction, if it is in the nature of business, can be set off only against income of another speculative business.

b) **Loss under the head Long Term Capital Gains:** Long Term Capital Loss arising from transfer of long term capital assets will be allowed to be set off only against Long Term Capital Gains.

c) **Loss from owning and maintaining race horses:** Loss from owing and maintaining race horses can be set off only against income of that activity

d) **Loss from lottery, card games, races, etc:** No expenditure or allowance is allowed from winning from lotteries, crossword puzzles, card games etc. similarly, no loss from any lottery, card games, races, etc. is allowed to be set off from the income of such sources.

e) **Loss from exempt Income:** Loss incurred by an assessee from a source, income from which is exempt cannot be set off against income from a taxable source.

f) **Loss from business specified in Section 35AD**: Any loss arising from specified business u/s 35AD, cannot be set off against any other income.

g) **Loss from business**: Loss from business and profession including unabsorbed depreciation cannot be set off against Income from Salary.

CARRY FORWARD OF LOSSES.

Many times it may happen that after making intra-head and inter-head adjustments, still the loss remains unadjusted and if it is not possible to set-off the losses during the same assessment year in which these occurred, so much of the loss as has not been so setoff, can be carried forward to the following assessment year and so on.

The following losses could be carried forward:

1. Loss in non-speculation business or profession.
2. Loss in speculation business.
3. Loss in transfer of capital assets [whether short-term or long-term].
4. Loss from activity of owning and maintaining of race horses.
5. Loss under the head ‘Income from House Property’ so far as it relates to interest on borrowed capital.

(A) Loss in non-speculation business.

It shall be set-off against the profits and gains, if any, of any business or profession carried on by him andassessable for that assessment year.From this it follows that the loss from non-speculation business or profession can be set-off against the income of the business including speculation business income or from any other head. The loss can be carried forward to a maximum of eight consecutive assessment years immediately

succeeding the assessment year for which the loss was first computed.
In case where profits are insufficient to absorb brought forward losses, current depreciation and current business losses, the same should be deducted in the following order:
(a) Current scientific research expenditure [under Section 35(1)].
(b) Current Depreciation [under Section 32(1)].
(c) Brought forward business losses [under Section 72(1)].
(d) Unabsorbed family planning promotion capital
(e) Unabsorbed Depreciation [under Section 32(2)].
(f) Unabsorbed scientific research expenditure [under Section 35(4)].

(B) Loss in speculation business.

Where, for any assessment year, any loss computed in respect of a speculation business has not been wholly set-off against the profits of another speculation business, it shall be carried forward to the following assessment year and shall be set-off against the profits of any speculation business carried on by him and assessable for the assessment year

Set-off of losses (Sec. 70, 71)

Loss	**Set-Off**
1. Loss from house property	(a) Income from any other house property (b) Any other head of income
2. Loss from business or profession	(a) Income from any other business or Profession. (b) Any other head of income except under the head "Salaries"
3. Loss from speculation	(a) Income from speculation
4. Short-term capital loss	(a) Short-term capital gain (b) Long-term capital gain
5. Long-term capital loss	(a) Long-term capital gain
6. Loss from activity of owning andmaintaining race horses.	(a) Income from activity of owing and maintaining race horses.

Carry forward and set-off of losses (Sec. 72)

Loss	**Set-Off**
1. Loss from house property	In following eight years, income from house property.
2. Loss from business or profession	In following eight years, income from business or Profession.
3. Loss from speculation	In following four years income from speculation.
4. Short-term capital loss	In following eight years : (a) Short-term capital gain (b) Long-term capital gain
5. Long-term capital loss	In following eight years, Long-term capital gain

6. Loss from activity of owning and maintaining race horses	In following four years, Income from activity of owing and maintaining race horses

Problem: 2

Mr.Kewel Krishna Kridutta's particulars of income were as under during the previous year

a) Taxable income from salary 1,38,000
b) Taxable income from House Property:
i. Income from House 'A' 38,000
ii. Loss from House 'B' 16,000
iii. Loss from House 'C' 14,500
c) Business Income:
i. Profit from Business 1,97,000
ii. Current year Depreciation 16,500
iii. Previous trade losses 4,500
iv. Speculation profit 4,000
d) Capital Gains:
i. Short - term capital profit 16,000
ii. Long - term capital profit 5,200
iii. Long - term capital loss 12,500

Compute Gross Total Income after set – off of losses. Loss from House property brought forward for the assessment year 2015 – 16 9,000.

Solution:

Computation of Gross Total Income

1. Income from salary (Taxable) 1,38,000
2. Income from House Property:
Income from House 'A' 38,000
Loss from House 'B' 16,000
Loss from House 'C' 14,500 -30,500
7,500
Less: B/f loss 9,000
Loss C/f 1,500
3. Income from Business:
Profit from Business 1,97,000
b) Less: Current Depreciation 16,500
1,80,500
Speculation profit 4,000
1,84,500
Less: Non – Speculation Loss b/fd 4,500 1,80,000
4. Income from Capital Gains:
S.T.C.G. 16,000

L.T.C.G. 5,200
Less: L.T.C.L. 12,500
L.T.C.L. to be Carried forward 7,300
G.T.I. 3,34,000
Note: House Property Loss of A.Y. 2015 – 16 can be brought forward and set – off against
income from House Property.
L.T.C.L. can be set – off against L.T.C.G. only.

Problem:3

From the following particulars of income and losses calculate the gross income of an individual after set – off losses for the current A. Y.
Income from House Property A 50,000
Loss from House Property B 80,000
Income from interest on securities 2,00,000
Loss from a cycle business 2,00,000
Profit from speculation business 2,00,000
Gain from short – term capital asset 2,50,000
Long - term capital loss 60,000
Long - term capital gains 2,10,000

Solution:

Computation of Gross total Income

Income from House Property A 50,000
Less: Loss from House Property B 80,000 (-) 30,000
Profit of Speculation Business 2,00,000
Less: Loss from a cycle business 2,00,000 -
Capital Gains:
LTCG 2,10,000
Less: LTCL 60,000 1,50,000
STCG 2,50,000
Income from other Sources:
Interest on Securities 2,00,000
Gross Income 5,70,000

ASSESSMENT OF INDIVIDUALS

An individual may have incomes under any/all of the five heads of income,
i) Income from salary, ii) income from house property, iii) income under the head business or profession, iv) income under the head capital gain , v) income under the head other sources.
In addition to these some incomes received by him in some other capacity and some incomes although received by other persons are to be included in his total income. Such

incomes are discussed below**Treatment of incomes received from various institutions.**
1. **Share of Profit from Hindu Undivided Family-** It is exempt under section 10(2) Sum received as a member of H.U.F should not be included in the total income of individual since it is exempted in the hand of individual; the family may or may not have paid the tax on that income.
2. **Share of Profit from a firm assessed as firm (u/s 184)-** Share received from a firm assessed u/s 184, shall not be included in the total of the individual irrespective of the fact, whether the firm paid tax or not, it is exempted from tax.
Salary and interest received from such a firm will be taxable under the head **profit and gains of business or profession**.
3. **Share of Profit from a firm assessed firm (u/s 185)-** Share received from a firm assessed u/s 185, shall not be included in the total of the individual irrespective of the fact, whether the firm paid tax or not.
Salary and interest received from such a firm will also be **exempt**ed sincethese items were not allowed to charge as expenseu/s 185.
4. Share of profit from an Association of Persons/Body of individuali) If the association/body is taxable at the maximum marginal rate @ 30% (when any member of AOP/BOI has individual income chargeable to tax), then share of profit is not taxable in hands of recipient.
ii) If the association/body is taxable at normal slab basis rates (when any member of AOP/BOI has individual income chargeable to tax),the share of profit should be included in the total income of individual and taxed.
But out of the tax paid a **rebate** should be given in relation to the tax that has already paid by him.
5. **As a shareholder of a company**i) Dividend received from an Indian company is exempted.
ii) Dividend received from Foreign Company is fully taxable as income from other sources.
Incomes of other persons to be included in the total income of an individual.
i) Transfer of income without transfer of asset.
ii) Revocable transfer of asset.
iii) Income of a minor child.
iv) Income of assets transferred to the spouse, daughter in law by an individual.
v) Income of assets transferred by an individual to a third party for the benefit of spouse, daughter in law or minor child.

Taxable income shall be computed as follows:
Step 1 -Income under the different heads of income **-**First find out income under the five headsof income
Step 2 -Adjustment of losses of the current year and earlier years**-** Losses should be set off
accordingto the provisions of sections 70 to 78. The income after adjustment of losses is the grosstotal income.

Step 3 - Deduction from gross total income**-** Deductions specified under Chapter VI A should beconsidered while calculating the gross total income.
Step 4 -Rounding off- The balance should be rounded off to the nearest ₹ 10. It is called as netincome or taxable income or total income.

Normal Rates of Income Tax

1- In the case of every Individual (including Non Resident) or Hindu Undivided Family or
AOP/BOI (other than a co-operative society) whether incorporated or not, or every Artificial Judicial Person.

ALTERNATE MINIMUM TAX (AMT)

Where the regular Income Tax payable for a Previous Year by a person (other than a company) is lessthan the Alternate Minimum Tax payable for such Previous Year, the Adjusted Total Income shall be deemed to be the total income of such person and he shall be liable to pay Income-tax on such Total Income at the rate of 18.5% [Section115JC (1)]

To whom Alternate Minimum Tax shall be applicable [Section 115JEE (1)]

The provisions of Alternate Minimum Tax shall apply to a non-corporate assessee who has claimed anydeduction under:
(a) Sections 80-IA to 80RRB other than section 80P; or
(b) Section 10AA; Or
(c) Section 35AD

To whom Alternate Minimum Tax shall not be applicable [Section 115JEE (2)]

The provisions of Alternate Minimum Tax under Chapter XII-BA shall not apply to-
(a) an Individual; or
(b) a Hindu Undivided Family; or
(c) an Association of Persons or a Body of Individuals (whether incorporated or not) or
(d) an Artificial Juridical Person referred to in section 2(31) (vii),
If the Adjusted Total Income of such person does not **exceed . 20,00,000**

Steps involving calculation of Tax where Alternate Minimum Tax provisions applies:

Step 1: Calculate the regular Income-tax liability of the non-corporate assessee ignoring the provisions of Sections 115JC to 115JF.
Step 2: Calculate Adjusted Total Income of the non-corporate assessee.
Step 3: Calculate Alternate Minimum Tax by applying 19.055 % (18.5 % + 2% EC + 1% SHEC) or20.9605 % (18.5% + 10% Surcharge + 2% EC + 1% SHEC) in case Adjusted Total Income exceeds 1 crore, on Adjusted Total Income computed under Step 2.
Step 4: Compare tax liability computed under Step 1 and Alternate Minimum Tax computed under Step 3. If amount computed under Step 1 is equal to or more than amount computed under Step 3, then the provisions of Alternate Minimum Tax

will not apply.
Step 5: If amount computed under Step 1 is less than amount computed under Step 3, then
amount computed under Step 3 will be deemed as tax liability of the non-corporate assessee for such Previous Years. In this case, the excess amount computed under Step 3 over the amount computed under Step 1 will be available as credit and can be carried forward and set off against regular tax liability of the non-corporate assessee of the next year or subsequent years.

Tax credit for AMT: Section 115JD provides the credit for tax (tax credit) paid by a
non-corporate on account of AMT under Chapter XII-BA shall be allowed to the extent
of the excess of the AMT paid over the regular Income-tax. This tax credit shall be allowed to be carried forward up to the tenth Assessment Year immediately