



**MEASI INSTITUTE OF MANAGEMENT  
CHENNAI-14**

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**TAX MANAGEMENT COURSE MATERIAL**

**FINANCE -ELECTIVE**

**SUBJECT CODE PMD06**

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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## VISION & MISSION STATEMENTS:

### VISION:

- To emerge as the most preferred Business School with Global recognition by producing most competent ethical managers, entrepreneurs and researchers through quality education.

### MISSION:

- Knowledge through quality teaching learning process; To enable the students to meet the challenges of the fast challenging global business environment through quality teaching learning process.
- Managerial Competencies with Industry institute interface; To impart conceptual and practical skills for meeting managerial competencies required in competitive environment with the help of effective industry institute interface.
- Continuous Improvement with the state of art infrastructure facilities; To aid the students in achieving their full potential by enhancing their learning experience with the state of art infrastructure and facilities.
- Values and Ethics; To inculcate value based education through professional ethics, human values and societal responsibilities.

## PROGRAMME EDUCATIONAL OBJECTIVES (PEOs)

PEO 1: Placement: To equip the students with requisite knowledge skills and right attitude necessary to get placed as efficient managers in corporate companies.

PEO 2: Entrepreneur: To create effective entrepreneurs by enhancing their critical thinking, problem solving and decision-making skill.

PEO 3: Research and Development: To make sustained efforts for holistic development of the students by encouraging them towards research and development.

PEO4: Contribution to Society: To produce proficient professionals with strong integrity to contribute to society.

## Program Outcome;

PO1: Problem Solving Skill: Apply knowledge of management theories and practices to solve business problems.

PO2: Decision Making Skill: Foster analytical and critical thinking abilities for data-based decision making.

PO3: Ethical Value: Ability to develop value based leadership ability.

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PO4: Communication Skill: Ability to understand, analyze and communicate global, economic, legal and ethical aspects of business.

PO5: Individual and Leadership Skill: Ability to lead themselves and others in the achievement of organizational goals, contributing effectively to a team environment.

PO6: Employability Skill: Foster and enhance employability skills through subject knowledge.

PO7: Entrepreneurial Skill: Equipped with skills and competencies to become an entrepreneur.

PO8: Contribution to community: Succeed in career endeavors and contribute significantly to the community.

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## ELECTIVE COURSE - VI

Subject Code	Subject Name	L	T	P	S	C
PMFO6	TAX MANAGEMENT	2	1	0	1	3
<b>Course Objectives</b>						
C1	To make an understanding on the tax system					
C2	To enrich on taxation procedure under different heads of income.					
C3	To create awareness on deductions, set off and carry forwards in tax management.					
C4	To enable computation of taxable income.					
C5	To provide insight knowledge on direct tax system.					
<b>SYLLABUS</b>						
Unit No.	Details	Hours				
Unit I	<b>Introduction:</b> Income Tax Law – important concepts -Scheme of Taxation – types of Taxes, concept, objectives and factors to be considered for Tax Planning-Residential status – Tax free incomes. Filing of Income Tax Returns – Provisions, Forms and Due Dates, Notices and Assessments.	8				
Unit II	<b>Heads of Income</b> – Salaries, definition of salary, Fringe benefits and perquisites, Profit in lieu of salary and tax planning avenues for salary income, Income from house property, profits and gains of Business of profession, capital gains- Provisions relating to Capital Gains Tax and exemptions from Capital Gains Tax-Income from other sources - basis of charge; chargeable incomes; specific deductions; amount not deductible; computation of taxable income from other sources.	23				
Unit III	<b>Deductions to be made in computing total income</b> –Resales and Reliefs of Income tax – Taxation of Non-Residents. Income –tax Payment and Assessment -Tax deduction at source; advance tax; self-assessment tax; assessment procedure regular and best judgment assess revision, rectification and appeal, provision relating to interest and refund of tax.	6				
Unit IV	<b>Corporate Taxation-</b> Computation of taxable income, Carry-forward and set-off of losses for companies, Minimum Alternative Tax (MAT), Set-off and Carry-forward of Amalgamation Losses. Tax planning in capital budgeting decision, leasing, hire purchase or buy decision raising of capital; equity, debt or preference share, transfer pricing and its impact, tax Provisions for Venture Capital Funds.	4				
Unit V	<b>Wealth Tax and Other Direct Taxes -</b> Wealth Tax Act and Rules, definition of Wealth and Its Components Wealth escaping Assessment, Assets Exempt from Wealth Tax, Gift Tax Act and Rules and Estate Duty Act. Assessment of Trusts and Assessment of companies – Deemed income under MAT Scheme – Tax on income by UTI or Mutual fund – Venture Capital Company / Venture Capital Funds.	4				
<b>TOTAL HOURS</b>						<b>45</b>

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Reference Books			
1.	Students Guide to Income Tax by Dr. Vinod K. Singhanian and Monica Singhanian.		
2.	Indirect Tax by Vinod K. Singhanian		
3.	Iyengar, A C., Sampat Law of Income Tax. Allahabad, Bharat Law House.		
4.	Kanga, J. B. and Palkhivala, N.A., Income Tax. Bombay, Vol.1-3, N.M. Tripathi.		
5.	Lal, B.B., Direct Taxes Practice and Planning Konark Publishers Private Ltd, Delhi, Latest Edition.		
6.	Prasad, B., Income Tax Law and Practice ViswaPrakashan, New Delhi, Latest Edition.		
E-Sources			
1.	<a href="https://www.taxmanagementindia.com/">https://www.taxmanagementindia.com/</a>		
2.	<a href="https://taxguru.in/income-tax/tax-management-income-tax-act-1961.html">https://taxguru.in/income-tax/tax-management-income-tax-act-1961.html</a>		
3.	<a href="http://incometaxmanagement.com/">http://incometaxmanagement.com/</a>		
4.	<a href="https://cleartax.in/s/direct-indirect-taxation-india-explained">https://cleartax.in/s/direct-indirect-taxation-india-explained</a>		
5.	<a href="https://www.scribd.com/doc/87432546/TAX-mgt-PPT-1-1">https://www.scribd.com/doc/87432546/TAX-mgt-PPT-1-1</a>		
Assessment Tools Used			
1.	Assignments	6.	Group Discussions
2.	Internal Assessment Tests	7.	Management games
3.	Model Exam	8.	Role play
4.	Seminars	9.	Quiz
5.	Case studies	10.	Observation
Content Beyond Syllabus			
1.	GST		
2.	Central and sales tax		
3.	Wealth tax		
Additional Reference Books			
1.	Goods and service tax – P.Jaganathan		
2.	GST Input Tax Credit – V.S.Datey		
3.	Central and Sales Tax Law and Practice – P.L.Subramaniam		
4.	An Annual Wealth Tax – D.J,Ironside		
Course Outcomes			
CO No.	On completion of this course successfully the students will;	Program Outcomes (PO)	
C306.1	Be able to understand basic concepts of tax management system in India.	PO2, PO6, PO7	
C306.2	Possess knowledge on taxation procedure involved under different heads of income.	PO6	
C306.3	Have insight knowledge on the deduction procedures, set off and carry forward procedures.	PO6, PO7	
C306.4	Learn the ways to compute total taxable income.	PO6, PO7	
C306.5	Have knowledge on direct tax system.	PO6, PO7	

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## UNIT-I

### BASIC CONCEPTS OF TAX MANAGEMENT

#### Definition of “Income” [Sec. 2(24)]

Under section 2(24), the term “income” specifically includes the following

- Profits and gains;
- Dividend;
- Voluntary contributions received by a trust in the following cases - Such contribution is received by a trust created wholly or partly for charitable or religious purposes; or - Such contribution is received by a scientific research association; or - Such contribution is received by any fund or institution established for charitable purpose and notified under section 10(23C)(iv)/ (v); or - Such contribution is received by any university or other educational institution or hospital referred to in section 10(23C)(iiiad)/ (vi)/ (iiiia)/ (iva); or - Such contribution is received by an electoral trust.
- The value of any perquisite or profit in lieu of salary under section 17(2) and 17(3) in the hands of employee;
- Any special allowance or benefit, other than the perquisite included under the point given above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of and office or employment;
- City compensatory allowance/ dearness allowance;
- The value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid;
- The value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee (like a trustee appointed under a trust);
- Capital gains;

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- The profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society;
- The profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;
- Any winnings from lotteries, crossword puzzles or races including horse race (not being income from the activity of owning and maintaining race horses) or card game and other game of any sort or from gambling or betting of any form or nature;
- Employees contribution towards provident fund Any sum received by an employer from his employees as employees' contribution to the following is treated as "income" of the employer - Employees' contribution to any provident fund (recognized or unrecognized) - Employees contribution to superannuation fund - Employees contribution to any fund set up under the provisions of the Employees' State Insurance Act, 1948  
Employees contribution to any other fund for the welfare of employees
- Any sum received under a keyman insurance policy;
- Amount exceeding 50,000 by way of gift or property subject to the conditions of section 56(2)(vi) and (vii).

## Concept of "Income" :

The definition of the term "income" in section 2(24) is inclusive and not exhaustive. Therefore, the term "income" not only includes those things which are included in section 2(24) but also includes other things. Further, it is not the gross receipts but only the net receipts arrived at after deducting the related expenses incurred in connection with earning such receipts that have made the base of taxation.

Following are some of the important principles/ characteristics which explain the importance of income for income-tax purposes

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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- a. Regularity of income- Income connotes periodical monetary return coming in with some sort of regularity or expected regularity from definite sources. However, this does not mean that income which does not arise regularly will not be treated as income for tax purposes, e.g., winnings from lotteries.
- b. Form of income- Income may be received by the assessee in cash or kind. When income is received in non-cash form i.e., in kind, its valuation will be made according to the rules prescribed in the Income-tax rules. If, however, there is no prescribed value given in the rules, valuation thereof is made on the basis of market value.
- c. Illegal income- The income-tax law does not make any distinction between income accrued or arisen from a legal source and income tainted with illegality. Even illegal income is taxed just like any legal income.
- d. Disputed income- Income-tax assessment cannot be held up or postponed (for the assessment of the income in the hands of the recipient) merely because of existence of a dispute regarding the title of income.
- e. Diversion of income Vs. Application of income- Any expenditure/ investment, after income is received, is an application of income. "Income" under the Income-tax Act, which is chargeable to tax, is income before application of income; so such income is chargeable to tax in the hands of the assessee. Any expenditure/ investment out of such income is deductible only if it is permitted by a provision under the Income-tax Act or Income-tax Rules. "Diversion of income" is where by an obligation, income is diverted to some other person. When an assessee on behalf of some other person receives income and later on it is diverted to such person, it is known as diversion of income and consequently, it is not chargeable to tax.
- f. Contingent income- A contingent income is not an income. Until the contingency has happened, it cannot be assumed that income has accrued or arisen in the hands of the assessee.
- g. Basis of income- Income can be taxed on receipt basis or on accrual basis. In case of income from business or income from other sources, the taxability would depend upon the

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**MEASI INSTITUTE OF MANAGEMENT**  
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method of accounting adopted by the assessee whereas in other cases, it would generally be taxed receipt or accrual basis, whichever happens earlier.

h. Income must come from outside- A person cannot make taxable profits out of a transaction with himself. Income must, therefore, come from outside.

i. Income includes loss- While income, profits and gains represent “plus income”, losses represent “minus income”.

j. Pin money- Pin money received by wife for her dress/ personal expenses and small savings made by a woman out of money received from her husband for meeting household expenses is not treated as income.

k. Award received by a sportsman- In the case of a sportsman, who is a professional, the award received by him is in the nature of a benefit in exercise of his profession and, therefore, it is chargeable to tax. In the case of non-professional sportsman, however, the award received by him is in the nature of gift and/ or personal testimonial which is taxable subject to the conditions of section 56(2)(vi) and (vii).

l. Revenue receipt Vs. Capital receipt- A revenue receipt is taxable as income unless it is expressly exempt under the Act. On the other hand, a capital receipt is generally exempt from tax unless it is expressly taxable.

### **Assessment year [Sec. 2(9)]**

“Assessment year” means the period starting from April 1 and ending on March 31 of the next year. For instance, the assessment year 2017-18 which commenced on April 1, 2017, will end on March 31, 2018. Income of previous year of an assessee is taxed during the next following assessment year at the rates prescribed by the relevant Finance Act.

### **Previous year [Sec. 3]**

Income earned in a year is taxable in the next year. The year in which income is earned is known as previous year and the next year in which income is taxable is known as

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ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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assessment year. For instance, for the assessment year 2018-19, the relevant previous year is 2017-18.

Previous year in the case of newly set-up business/ profession In the case of a newly set-up business/ profession or in the case of a new source of income, the first previous year commences on the date of setting up of the business/ profession or on the date when the new source of income comes into existence and ends on immediately following March 31. However, second and subsequent previous years are always financial years i.e., from April to March.

## Person [Sec. 2(31)]

The term “person” includes • an individual; • a Hindu undivided family (HUF), e.g., a joint family of A, Mrs. A and their sons B and C; • a company; • a firm, e.g., AB & Co., firm of A and B; • an association of persons (AOP) or a body of individuals (BOI), whether incorporated or not, e.g., XYZ Group Housing Co-operative Society; • a local authority, e.g., MCD; and • every artificial juridical person not falling within any of the preceding categories, e.g., Delhi University

## Assessee [Sec. 2(7)]

“Assessee” means a person by whom income-tax or any other sum of money is payable under the Act. It includes • every person in respect of whom any proceedings under the Act has been taken for the assessment of his income or loss or the amount of refund due to him; • a person who is assessable in respect of income or loss of another person; • a person who is deemed to be an assessee, or an assessee in default under any provision of the Act. A person is said to be an assessee in default if he/ she fails to comply with the duties imposed upon him/ her under the Income-tax Act.

## Capital receipts vs. revenue receipts :

MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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- A receipt in lieu of source of income is a capital receipt. A receipt in lieu of income is a revenue receipt
- Lump sum payment, large payment or periodic payment is not relevant in determining whether a receipt is capital or revenue in nature.
  - Treatment of a receipt under company law is not relevant while deciding whether a receipt is capital or revenue in nature under tax laws.
- The fact that the amount paid is not allowed as permissible deduction in the assessment of a person making payment, cannot determine the character of receipt in the hands of the recipient.

### RESIDENTIAL STATUS

Tax incidence of an assessee depends upon his residential status rather than on his citizenship.

#### Scope of total income/ Incidence of tax (Sec. 5)

Total income of an assessee cannot be computed unless we know his residential status in India during the previous year. According to the residential status, the assessee can either be a. Resident in India; or b. Non-resident in India.

However, two types of categories of assessee (i.e., individual and HUF), if resident in India, will be either i. Resident and ordinarily resident in India; or ii. Resident but not ordinarily resident in India.

The following points should be noted in this regard

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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1. All taxable entities are divided in the following categories for the purpose of determining residential status

- An individual;
- A Hindu undivided family;
- A firm or an association of persons;
- A joint stock company; and
- Every other person.

2. Residential status of an assessee is to be determined in respect of each previous year as it may vary from previous year to previous year.

3. In view of section 6(5), if a person is resident in India for one of the sources of income, he will be deemed to be resident in India for all other sources of income in the same assessment year.

4. An assessee may enjoy different residential status for different assessment years.

5. It is not necessary that a person who is “resident” in India cannot become “resident” in any other country for the same assessment year. A person may be resident in two (or more) countries at the same time. It is, therefore, not necessary that a person who is resident in India will be non-resident in all other countries for the same assessment year.

6. Whether an assessee is a resident or a non-resident is a question of fact and it is the duty of the assessee to place all relevant facts before the income-tax authorities.

How to determine residential Status of an individual (Sec. 6) An individual may be resident or non-resident. Further, if an individual is resident, he may be resident and ordinarily resident or resident but not ordinarily resident.

Following are the rules to determine the residential status of an individual

a. Resident and ordinarily resident (ROR)- Must satisfy at least one of the basic conditions and both of the additional conditions

b. Resident but not ordinarily resident (RNOR)- Must satisfy at least one of the basic conditions and one or none of the additional conditions

c. Non-resident (NR)- Must not satisfy any of the basic conditions

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## **Basic conditions [Sec. 6(1)]**

- a. He is in India in the previous year for a period of 182 days or more; or
- b. He is in India for a period of 60 days or more during the previous year and 365 days or more during 4 years immediately preceding the previous year.

**Exception** In the following two situations, basic condition (b) is not applicable

1. An Indian citizen who leaves India during the previous year • for the purpose of employment outside India or • as a member of crew of an Indian ship.
2. An Indian citizen or a person of Indian origin who comes on a visit to India during the previous year.

**Additional conditions [Sec. 6(6)]** a. He has been resident in India in at least 2 out of 10 previous years immediately preceding the relevant previous year. b. He has been in India for a period of 730 days or more during 7 years immediately preceding the relevant previous year.

Following are the rules to determine the residential status of a Hindu undivided family- a. A Hindu undivided family is said to be resident in India if control and management of its affairs are situated – • Wholly in India or • Partly in India and partly outside India

A resident Hindu Undivided family is an ordinarily resident in India if karta or manager of the family (including successive kartas) satisfies the two additional conditions given above.

b. A Hindu undivided family is said to be non-resident in India if control and management of its affairs are situated wholly out of India.

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Control and management for this purpose refers to the decisions taken regarding affairs of the HUF. The control and management is situated at a place where the head, the seat and the directing powers are situated.

### **How to determine the residential status of firm and association of persons [Sec. 6(2)]**

a. A partnership firm and an association of persons are said to be resident in India if control and management of their affairs, during the relevant previous year, are situated –

- Wholly in India or
- Partly in India and partly outside India

b. A partnership firm and an association of persons are said to be non-resident in India if control and management of their affairs, during the relevant previous year, are situated wholly out of India.

Control and management for this purpose is usually situated at a place where the head, the seat and the directing powers are situated. While in the case of a firm, control and management is vested in partners, in the case of an association of persons it is vested in principal officer.

### **How to determine the residential status of a company [Sec. 6(3)]**

- a. An Indian company is always resident in India.
- b. A foreign company is resident in India only if, control and management of its affairs, during the relevant previous year, is situated wholly in India.
- c. A foreign company is non-resident in India, if control and management of its affairs, during the relevant previous year, is situated –
- wholly out of India or
  - partly in India or partly outside India.

Control and management for this purpose refers to “head and brain” which directs the affairs of policy, finance, disposal of profits and vital things concerning the management of a company. Usually control and management of a company’s affairs is situated at a place

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where meeting of its board of directors are held. Therefore, in the case of a foreign company, if all the meetings of the Board of Directors are generally held in India and crucial decisions regarding the management of the company are taken in India, then the foreign company shall be a resident in India.

## **How to determine the residential status of every other person [Sec. 6(4)]**

a. Every other person is resident in India if control and management of its affairs, during the previous year, is situated –

- Wholly in India or
- Partly in India and partly outside India

b. Every other person is non-resident in India if control and management of its affairs, during the previous year, is situated wholly out of India.

## **UNIT-II**

### **INCOME FROM SALARY**

This chapter deals with the taxability of remuneration received by the employee from his/ her employer.

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ASSISTANT PROFESSOR  
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## **Basis of charge of salary income [Section 15]-**

As per section 15, salary consists of

1. Any salary due from an employer (or a former employer) to an assessee in the previous year, whether actually paid or not;
2. Any salary paid or allowed to him in the previous year by or on behalf of an employer (or a former employer), though not due or before it became due; and
3. Any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer (or a former employer), if not charged to income-tax for any earlier previous year.

## **Basic rules and points**

1. Employer-employee relationship- Payer and recipient must have an employer-employee relationship. In other words, the amount received by an individual shall be treated as salary only if the relationship between payer and payee is of an employer and employee or master and servant. For instance, a Member of Parliament or of State Legislature is not treated as an employee of the Government. Salary and allowances received by him are, therefore, not chargeable to tax under the head "Salaries" but are chargeable to tax under section 56 under the head "Income from other sources".
2. Remuneration received (or due) during the previous year is chargeable to tax under the head "Salaries" irrespective of the fact whether it is received from a former, present or prospective employer.
3. Salary is taxable on receipt or due basis, whichever is earlier.
4. Foregoing of salary- Foregoing of salary is taxable. Such voluntary waiver or foregoing by an employee of salary due to him is merely an application of income and is nonetheless chargeable to tax.
5. Surrender of salary- If an employee (public sector or private sector) opts to surrender his salary to the Central Government under section 2 of the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961, the salary so surrendered would be excluded while computing his taxable income.

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6. Salary paid tax-free- If salary is paid tax-free by the employer, the employee has to include in his taxable income not only salary received but also the amount of tax paid by the employer. It does not make any difference whether tax is paid under terms of contract by the employer or voluntary.

7. Salary under section 17(1)- Under section 17(1), salary is defined to include the following

a. Wages; b. Any annuity or pension;

Any gratuity; d. Any fees, commission, perquisites or profits in lieu of or in addition to any salary or wages; e. Any advance of salary; f. Any payment received by an employee in respect of any period of leave not availed by him; g. The portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a recognized provident fund to the extent it is taxable; h. Transferred balance in a recognized provident fund to the extent it is taxable; and i. The contribution made by the Central Government or any other employer to the account of an employee under a notified pension scheme referred to in section 80CCD.

8. Place of accrual of salary income- Income under the head “Salaries” is deemed to accrue or arise at the place where the service (in respect of which it accrues) is rendered. The following points should be noted in this regard

- Salary in respect of service rendered in India is deemed to accrue or arise in India even if it is paid outside India or it is paid or payable after the contract of employment in India comes to an end.
- Pension paid abroad is deemed to accrue in India, if it is paid in respect of services rendered in India.
- Leave salary paid abroad in respect of leave earned in India is deemed to accrue or arise in India.
- There is, however, an exception to the aforesaid rule. Salary paid by the Indian Government to an Indian national is deemed to accrue or arise in India, even if service is rendered outside India. This provision is applicable only in respect of salary and not in respect of allowances and perquisites paid or allowed by the Government to Indian nationals working abroad, as such allowances and perquisites are exempt under section 10(7).

### **Different forms of salary**

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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1. Advance salary- Advance salary is taxable on receipt basis in the assessment year relevant to the previous year in which it is received, irrespective of incidence of tax in the hands of employee. The recipient can, however, claim relief in terms of section 89. A loan taken from employer is not taxable as advance salary.

2. Arrear salary- It is taxable on receipt basis, if the same has not been subjected to tax earlier on due basis. In this case also recipient can claim under section 89.

3. Leave Salary- As per service rules, an employee get different leaves. An employee has to earn leave in the first instance and only when he has leave to his credit, he can apply for leave. If a leave (standing to his credit) is not taken within a year, as pe the service rules, it may lapse or it may be encashed or it may be accumulated. Encashment of leave by surrendering leave standing to one's credit is known as "Leave salary".

Nature of leave encashment Status of employee Whether it is taxable Leave encashment during continuity of employment

Government/ nonGovernment employee It is chargeable to tax. However, relief can be taken under section 89. Leave encashment at the time of retirement/ leaving job 1. Government employee It is fully exempt from tax [Section 10(10AA)(i)] 2. Non-Government employee See the provisions given below\* [Section 10(10AA)(ii)]

\*Non-Government employees getting leave encashment at the time of retirement- In the case of a non-Government employee (including an employee of a local authority or public sector undertaking), leave salary is exempt from tax on the basis of least of the following a. Period of earned leave (in number of months) to the credit of employee at the time of retirement/ leaving the job (earned leave entitlements cannot exceed 30 days for every year of actual service)\* Average monthly salary b. 10\* Average monthly salary c. Amount specified by the government (i.e., 3,00,000 minus amount exempted earlier) d. Leave encashment actually received at the time of retirement

• Salary for this purpose means Basic salary (+) dearness allowance (if terms of employment so provide) (+) commission based upon fixed percentage (%) of turnover achieved by an employee.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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- Average salary for this purpose It is to be calculated on the basis of average salary drawn during the period of 10 months immediately preceding the retirement. For example, if a person retires on 30 Nov. 2010, average salary will be taken from Feb. 1, 2010 to 30 Nov. 2010.

- While computing completed/ actual years of service, any fraction of the year shall be ignored. It is to be noted that salary paid to the legal heirs of the deceased employee in respect of privilege leave standing to the credit of such employee at the time of his/ her death is not taxable as salary.

4. Salary in lieu of notice period- It is taxable under section 15 on receipt basis.

5. Salary to a partner- Salary paid to a partner by a firm is an appropriation of profits and therefore, taxable under the head “Profits and gains of business or profession”.

6. Fees and commission- Fees and commission are taxable as salary irrespective of the fact that they are paid in addition to or in lieu of salary. However, commission paid to a director (not being an employee) for his giving guarantee for repayment of loan, etc., is taxable under the head “Income from other sources”.

7. Bonus- It is taxable in the year of receipt if it has not been subject to tax earlier on due basis. If bonus is received in arrears, the assessee can claim relief in terms of section 89.

8. Gratuity [Sec. 10(10)]- Gratuity is a retirement benefit. It is generally payable to an employee at the time of cessation (i.e., retirement, death, termination, resignation or on his becoming incapacitated prior to the retirement) of employment and on the basis of duration of service.

**Status of employee Whether gratuity is taxable Government employee (including employees of local authority but not employees of a statutory corporation) It is fully exempt from tax [Section 10(10)(i)]**

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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**Non-Government employees covered by the Payment of Gratuity Act, 1972-** Least of the following amount is exempt from tax a. 15 days salary (7 days salary in the case of employees of a seasonal establishment) based on salary last drawn for every completed year of service or part thereof in excess of 6 months. For example – If service is rendered for 20 years and 6 months, then we have to take 20 years b. 3,50,000 (this limit has been increased to 10,00,000 with effect from May 24, 2010) c. Gratuity actually received

- Salary for this purpose means salary last drawn by an employee (+) dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance and perquisites.
- Calculation of 15 days' salary Salary of 15 days is calculated by dividing salary last drawn by 26 i.e. the maximum number of working days in a month. For example If monthly salary at the time of retirement is 3,000, 15 days salary would come to 1,730.77 ( 3,000/26\*15).

- **The Payment of Gratuity Act, 1972 is applicable in the case of every shop/ establishment (employing 10 or more persons) and every factory, mine, oilfield, plantation, port, etc.**

**Non-Government employees not covered by the Payment of Gratuity Act, 1972** Least of the following amount is exempt from tax a. Half months average salary for each completed year of service b. 3,50,000 (this limit has been increased to 10,00,000 with effect from May 24, 2010) minus amount exempted earlier c. Gratuity actually received

- Salary for this purpose means Basic salary (+) dearness allowance (if terms of employment so provide) (+) commission based on fixed percentage on turnover achieved by an employee.

- Average monthly salary It is calculated on the basis of average salary for 10 months immediately preceding the month in which the employee has retired. For example If a person retires on 18 March, 2011, average salary will be considered on the basis of salary drawn from May 1, 2010 to Feb. 28, 2011.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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- Gratuity paid while in service is not exempt from tax. However, the assessee can claim relief under section 89.
- If gratuity becomes due (and paid) during the lifetime of assessee, it will be taxable in the hands of the assessee. However, the assessee can claim exemption under section 10(10).
- When gratuity becomes due before the death of the assessee but paid after the death of the assessee, it will be taxable (as per the provisions) in the hands of the assessee even if it is received by his legal heirs after his death.
- When gratuity becomes due and paid after the death of a person, then the gratuity amount will neither be taxable in the hands of that person nor in the hands of legal heirs of that person.
- If nothing is mentioned about the employee in case of Gratuity, then assume that person as an employee not covered by the Payment of Gratuity Act, 1972.
- Relief can be claimed under section 89 in respect of taxable amount of gratuity.

**9. PENSION [Sec. 17 (i) (ii)]** Pension Status of employee Is it chargeable to tax  
Uncommuted pension (Periodical payment) Government/ Non-Government employee It is fully chargeable to tax. Commuted Pension (Lump sum payment in lieu of periodical payment) 1. Government employee (including the employees of local authority and statutory corporation) It is fully exempt from tax. 2. Non-Government employee See the provisions given below

In case where a non-government employee receives Gratuity, the commuted value of one-third of the pension which he is normally entitled to receive is exempt from tax.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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In case where a non-government employee does not receive Gratuity, the commuted value of one-half of such pension which he is normally entitled to receive is exempt from tax.

Points to be noted • If payment in commutation of pension received by an employee exceeds the aforesaid limits, such excess is liable to tax in the assessment year relevant to the previous year in which it is due or paid. The assessee can, however, claim relief in terms of section 89.

- Pension received from UNO by the employees or his family members is not chargeable to tax.

- Family pension received by the family members of armed forces is exempt from tax under section 10(19) in some cases.

- Family Pension received by family members (not being the members of armed forces) after the death of an employee is taxable in the hands of recipients under section 56 under the head “Income from other sources”. Standard deduction is available under section 57 which is one-third of such pension or 15,000, whichever is lower.

- Judges of the Supreme Court and High Courts are also entitled to the exemption of the commuted pension.

Pension scheme in case of an employee joining Central Government or any other employer on or after January 1, 2004 New pension scheme is applicable to new entrants to Government service or any other employer. As per the scheme, it is mandatory for persons entering the service on or after January 1, 2004, to contribute 10% of salary every month towards notified pension scheme. A matching contribution is required to be made by the employer to the said account. The tax treatment under the new scheme is as follows –

- Contribution by the employer to the notified pension scheme is first included under the head “Salaries” in hands of the employee.
- Such contribution is deductible (to the extent of 10% of the salary of the employee) under section 80CCD.
- Employee’s contribution to the notified pension scheme is also deductible (to the extent of 10% of the salary of the employee) under section 80CCD.

When pension is received out of the aforesaid amount, it will be chargeable to tax in the hands of the recipient.

- No deduction will be allowed under section 80C in respect of

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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amounts on which deduction has been claimed under section 80CCD. • “Salary” for the above purpose means basic salary and dearness allowance (if forming part) but excludes all other allowances and perquisites. • The aggregate amount of deduction under section 80C, 80CCC and 80CCD cannot exceed 1,00,000.

10. Annuity An annuity payable by a present employer is taxable as salary even if it is paid voluntarily without any contractual obligation of the employer. An annuity received from an ex-employer is taxed as profits in lieu of salary.

11. Annual accretion to the credit balance in provident fund

12. Amount transferred from unrecognized provident fund to recognized provident fund

13. Retrenchment compensation [Sec. 10(10B)] Compensation received by a workman at the time of retrenchment is exempt from tax to the extent of least of the following a. An amount calculated in accordance with the provisions of section 25F(b) of the Industrial Disputes Act, 1947; or b. 5,00,000; or c. The amount received.

Under the Industrial Disputes Act, a workman is entitled to retrenchment compensation equal to 15 days average pay, for every completed year of service or any part thereof in excess of 6 months. Compensation in excess of the aforesaid limits is taxable as salary. However, the aforesaid limit is not applicable in cases where compensation is paid under any scheme approved by the Government.

14. Profits in lieu of salary [Sec. 17(3)] It includes the following a. The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment.

b. The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the modification of the terms and conditions of employment.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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c. Any payment due to or received by an assessee from his employer or former employer except the following i. Payment of gratuity exempted U/S 10(10); ii. Payment of HRA exempted U/S 10(13A); iii. Payment of commuted pension exempted U/S 10(10A); iv. Payment of retrenchment compensation exempted U/S 10(10B); v. Payment from an approved superannuation fund U/S 10(13); vi. Payment from statutory provident fund (SPF) or public provident fund (PPF); vii. Payment from recognized provident fund (RPF) to the extent it is exempt U/S 10(12).

d. Any payment from unrecognized provident fund (UPF) or such other fund to the extent to which it does not consist of contributions by the assessee or interest on such contributions.

e. Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

f. Any amount received (in lump sum or otherwise) prior to employment or after cessation of employment.

15. Remuneration for extra duties- Where an employee agrees to do something outside the duties of his office, hereby enlarging scope of his office, for which he is given extra payment, that payment is taxable as salary.

16. Voluntary payments to employees- Voluntary payments made by an employer to his employee is taxable in the hands of recipient as salary if such payment is made with reference to services rendered by virtue of employment. However, a lump sum payment made gratuitously or by way of compensation or otherwise to the widow or other legal heirs of an employee, who dies while still in active service, is not taxable. Likewise, if ex gratia payment is received from the Central Government, State Government, local authority or a public sector undertaking, consequent upon injury to the person or on death while on duty, it is not liable to tax.

17. Salary received from an United Nations Organisation (UNO)- Salary received from a UNO is not taxable in India.

18. Compensation received at the time of voluntary retirement [Sec. 10(10C)]- Compensation received at the time of voluntary retirement is exempt from tax if the

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**





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following conditions are satisfied a. Compensation is received/ receivable at the time of voluntary retirement or separation.

b. Compensation is received by an employee of the following undertakings – i. An authority established under a Central, State or Provincial Act; ii. Local authority; iii. University; iv. An IIT; v. The state Government; vi. The Central Government; vii. A notified institute having importance throughout India or any state; viii. Notified institute of management; ix. Public sector company; x. Any company or a co-operative society.

c. Compensation is received in accordance with the scheme of voluntary retirement/ separation which is framed in accordance with prescribed guidelines.

d. Maximum amount of exemption is 5,00,000.

e. Where exemption has been allowed to an employee U/S 10(10C) for any assessment year, no exemption there under shall be allowed to him in relation to any other assessment year.

### **Allowances-**

Allowance is generally defined as a fixed quantity of money or other substance given regularly in addition to salary for the purpose of meeting some particular requirement connected with the services rendered by the employee or as compensation for unusual conditions of that service. It is fixed, pre-determined and given irrespective of actual expenditure.

**Different forms of allowances** 1. Fully taxable allowances a. City compensatory allowance b. Tiffin allowance c. Fixed medical allowance d. Servant allowance e. Dearness allowance f. Deputation allowance g. Lunch/ meal/ dinner/ refreshment allowance h. Overtime allowance i. Family allowance j. Non practicing allowance k. Warden allowance

l. Planning allowance

2. Special allowances prescribed as exempt under section 10(14) a. When exemption depends upon actual expenditure by the employee Lower of the following is allowed as deduction • the amount of the allowance; or • the amount utilized for the specific purpose for which allowance is given.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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The following are the allowances i. Travelling allowance/ Transfer allowance- An allowance granted to meet the cost of travel or on transfer (including any sum paid in connection with transfer, packing and transportation of personal effects on such transfer).

ii. Conveyance allowance- Conveyance allowance is exempt from tax to the extent it is utilized for performance of official duties. It is an allowance which is granted to meet the expenditure on conveyance in performance of duties of an office. It may be noted that any expenditure for covering the journey between office and residence is not treated as expenditure in performance of duties of the office and, consequently, such expenditure is not exempt from tax.

iii. Daily allowance- This allowance is given to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty.

iv. Helper allowance- This allowance is given to meet the expenditure on a helper where such helper is engaged for the performance of official duties.

v. Research allowance- This allowance is granted for encouraging the academic research and other professional ethics.

vi. Uniform allowance- This allowance is given to meet the expenditure on the purchase or maintenance of uniform for wear during the performance of duties of an office.

b. When exemption does not depend upon expenditure- In the following cases, the amount of actual expenditure is not taken into consideration. Amount of exemption is specified in rule 2BB.

i. Allowance for transport employees- It is an allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport from one place to another place provided that such employee is

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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not in receipt of daily allowance. Amount of exemption is 70% of such allowance or 10,000/month whichever is lower.

ii. Children education allowance- Amount exempt is limited to 100/month per child up to a maximum of 2 children.

iii. Hostel expenditure allowance- Amount exempt is limited to 300/month per child up to maximum of 2 children.

iv. Transport allowance- It is granted to an employee to meet his expenditure for the purpose of commuting between office and residence. Amount of exemption is limited to 800/ month 1,600/ month in case of an employee who is blind or orthopaedically handicapped).

v. Tribal/ scheduled areas allowance- 200/month if an employee is posted in U.P., M.P., Tamil Nadu, Karnataka, West Bengal, Bihar, Orissa, Assam or Tripura.

vi. Underground allowance- Underground allowance is granted to an employee who is working in uncongenial, unnatural climate in underground mines. Exempt up to 800/ month

vii. House rent allowance [Sec. 10(13A) and rule 2A] Least of the following amount is exempt from tax

a. An amount equal to 50% of salary, where residential house is situated at Bombay, Calcutta, Delhi or Madras and an amount equal to 40% of salary where residential house is situated at any other place.

b. HRA received by the employee in respect of the period during which rental accommodation is occupied by the employee during the previous year.

c. The excess of rent paid over 10% of salary.

- Salary for this purpose means- Basic salary (+) dearness allowance (if terms of employment so provide) (+) commission based on fixed percentage of turnover achieved by an employee.

- Salary for this purpose is determined on “due” basis in respect of the period during which rental accommodation is occupied by the employee in the previous year. It, therefore, follows that salary of a period, other than the previous year, is not considered even though such amount is received during the previous year and is taxable on “receipt” basis. Likewise, salary of the period during which rental accommodation is not occupied in the previous year, is left out of the aforesaid computations.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
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- Exemption is denied where an employee lives in his own house, or in a house for which he does not pay any rent or pays rent which does not exceed 10% of salary.
- Place of posting does not matter. Instead, the place at which rent is paid matters.
- Mode of computation of exemption The amount of exemption in respect of HRA received by an employee depends upon the following a. “salary” of the employee; b. HRA; c. Rent paid; and d. The place where house is taken on rent. Where these four are same throughout the previous year, the exemption should be calculated on “annual basis”. When, however, there is a change in respect of any of the aforesaid factors, then the exemption shall be worked out on “monthly basis”.

viii. Entertainment allowance [Sec. 16(ii)]- It is first included in salary income under the head “allowances” and thereafter a deduction is given on the following basis a. In case of a Government employee, the least of the following is deductible a. 5,000; b. 20% of basic salary; or c. Amount of entertainment allowance granted during the previous year.

- Basic salary for this purpose excludes any allowance, benefit or other perquisites. • Amount actually expended towards entertainment (out of entertainment allowance received) is not taken in to consideration.

b. In the case of a non-government employee (including employees of statutory corporation and local authority), entertainment allowance is not deductible.

ix. Allowance to Government employees outside India [Sec. 10(7)] Any allowance paid or allowed outside India by the Government to an Indian citizen for rendering service outside India is wholly exempt from tax.

x. Allowance received from a UNO Allowance paid by a UNO to its employees is not taxable by virtue of section 2 of the UN (Privileges and Immunities) Act, 1974. Perquisites- Perquisite may be defined as any casual emolument or benefit attached to an office or position in addition to salary or wages. Perquisites may be provided in cash or in kind. However, perquisites are taxable under the head “Salaries” only if they are a. allowed by an employer (may be former, present or prospective) to his employee; b. allowed during the

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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continuance of employment; c. directly dependent upon service; d. resulting in the nature of personal advantage to the employee; and e. derived by virtue of employer's authority.

Points to be noted 1. Perquisites received from a person other than the employer are taxable under the head "Profits and gains of business or profession" or "Income from other sources".

2. Perquisites provided by an employer (directly or indirectly) to employee or any member of his household (by reason of his employment) shall be chargeable to tax in the hands of the employee. "Members of household" shall include a. Spouse (whether dependent or not); b. Children and their spouses (whether dependent or not); c. Parents (whether dependent or not); d. Servants and dependents.

**"Perquisites"** as defined in the Act [Section 17(2)]- Under the Act, the term "perquisites" includes the following a. the value of rent-free accommodation provided to the assessee by his employer;

b. the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer;

c. the value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases

i. by a company to an employee who is a director thereof; ii. by a company to an employee, being a person who has substantial interest in the company; iii. by any employer (including a company) to an employee to whom provisions of (i) and (ii) above do not apply and whose income under the head "Salaries" exclusive of the value of all benefits or amenities not provided for by way of monetary benefits, exceeds 50,000;

d. Any sum paid by an employer in respect of any obligation which but for such payment would have been payable by the assessee;

e. Any sum payable by the employer, whether directly or through a fund other than a recognized provident fund or approved superannuation fund or a deposit-linked insurance fund, to effect an assurance on the life of the assessee or to effect a contract for an annuity;

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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- f. The value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee;
- g. The amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds 1,00,000;
- h. The value of any other fringe benefits or amenity as may be provided.

Perquisites taxable only in the hands of a specified employee- The following perquisites are taxable only in the hands of specified employees – • Service of a sweeper, gardener, watchman or personal attendant • Supply of gas, electricity or water for household purposes • Education facility to employee's family members • Leave travel concession • Medical facility • Car or any other automotive conveyance • Transport facility by a transport undertaking

Specified employee- The following employees are called as "specified employee". 1. A director-employee- An employer who a director in the employer-company at any time during the previous year, is a specified employee of the company in which he is a director.

2. An employee who has substantial interest in the employer-company- An employee who has a substantial interest in the employer-company at any time during the previous year is a specified employee of the company in which he has substantial interest. A person has substantial interest in the employer-company, if he is a beneficial owner of equity shares carrying 20% or more voting power in the employer-company.

3. An employee drawing in excess of 50,000- An employee (not covered by the above two cases), whose income chargeable to tax under the head "Salaries" (exclusive of the value of all benefits or amenities not provided by way of monetary payments) exceeds 50,000, is a specified employee. For computing the sum of 50,000, the following are excluded or deducted

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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a. All non-monetary benefits; b. Monetary benefits which are not taxable under section 10 (for example, house rent allowance to the extent exempt under section 10(13A) is excluded); and c. Deduction on account of entertainment allowance and professional tax.

Where salary is received from more than one employer, the aggregate salary from these employers will have to be taken into account for the purpose of determining the aforesaid monetary ceiling.

**Types of Different Perquisites** Rent-Free Unfurnished Accommodation [Rule 3(1)]-  
“Accommodation” includes a house, flat, farm house (or part thereof) or accommodation in a hotel, motel, service apartment, guesthouse, caravan, mobile home, ship or other floating structure.

1. Central and State Government employees including those Central and State Government employees who are on deputation to a public sector undertaking but the accommodation is provided by the Central Government or State Government.

The value of perquisite in respect of accommodation provided to such employee is equal to the Licence Fee which would have been determined by the Central or State Government in accordance with the rules framed by the Government for allotment of houses to its officers.

Exception Rent-free official residence provided to a Judge of a High Court or to a judge of the Supreme Court is exempt from tax. A similar exception is extended to an official of Parliament, a Union Minister and a Leader of Opposition in Parliament.

2. Private sector or other employees (including the employees of a local authority or a foreign Government) Population of city as per 2001 census where accommodation is provided Where the accommodation is owned by the employer Where the accommodation is taken on lease or rent by the employer Exceeding 25 lakh 15% of salary in respect of the period during which the accommodation is occupied by the employee Amount of lease rent paid or payable or 15% of salary, whichever is lower Exceeding 10 lakh but not exceeding

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
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25 lakh 10% of salary in respect of the period during which the accommodation is occupied by the employee Same as above Any other 7.5% of salary in respect of the period during which the accommodation is occupied by the employee Same as above

- Salary for this purpose includes Basic salary, dearness allowance/ pay (if terms of employment so provide), bonus, commission, fees, all other taxable allowances (excluding amount not taxable) and any monetary payment which is chargeable to tax (by whatever name called).

- Salary does not include a. Employer's Contribution to provident fund account of an employee or interest credited; b. All allowances which are exempt from tax; c. Value of perquisites [under section 17(2)] d. Lump-sum payment received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments.

- Salary shall be determined on "accrual" basis For example, advance salary of a period other than the previous year is not included even if the same is received in the previous year. Similarly, salary due in the previous year is included, even if it is received after the end of the previous year. In other words, we can say that salary accrued for the period during which rent-free accommodation is occupied by the employee will be considered whether it is received during the previous year or not. In all we can say that advance salary/ bonus for a period other than the previous year will not to be included in salary for the above purpose.

- Monetary payments which are not in the nature of perquisites under section 17(2) shall be included. For example, leave encashment of salary pertaining to the current year (not being a perquisite), or overtime payment (not being a perquisite) is taken in to consideration. However, payments of gas, electricity, water and income-tax bills [being perquisites under section 17(2) (iii)/(iv))] are not taken in to consideration.

- Where on account of the transfer of an employee from one place to another, he is provided with accommodation at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**





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accommodation which has the lower value for a period not exceeding 90 days and thereafter the value of perquisite shall be charged for both such accommodations.

- The above perquisite is not chargeable to tax in respect of any accommodation located in a 'remote area' (i.e., an area located at least 40 kilometres away from a town having a population not exceeding 20,000) provided to an employee working at a mining site or an onshore oil exploration site, or a project execution site or a dam site or power generation site or an offshore site.

**Rent-free Furnished accommodation** (NOT being a HOTEL)- First, find out the value of the perquisite assuming that the accommodation is unfurnished and to the figures so arrived, add a. 10% (p.a.) of the original cost of furniture, if furniture is owned by the employer; b. actual hire charges (whether paid or payable) if furniture is hired by the employer.

Furniture, here, includes radio sets, televisions sets, refrigerators, air-conditioners and other household appliances.

**Rent-free Furnished accommodation provided in a HOTEL-** Besides, accommodation in a hotel, it includes licensed accommodation in the nature of motel, service apartment or guest house. The value of perquisite shall be taken as 24% of salary paid or payable for the period during which such accommodation is provided in the previous year or actual charges paid/payable by the employer to such hotel, whichever is lower. Exception- If an accommodation is provided in a hotel and if the following two conditions are satisfied, nothing is chargeable to tax

1. The hotel accommodation is provided for a period not exceeding in aggregate 15 days in a previous year and
2. Such accommodation is provided on an employee's transfer from one place to another place.

It is to be noted that in the aforesaid case, the hotel accommodation is provided for more than 15 days, then the perquisite is not taxable for the first 15 days. After that it is chargeable to tax.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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**Accommodation provided at Concessional Rent** Accommodation may be furnished or unfurnished or it is provided in a hotel. The valuation should be made as follows Step 1 Find out the value of the perquisite on the assumption that no rent is charged by the employer (as per the rules applicable). Step 2 From the value so arrived at, deduct the rent charged by the employer from the employee.

**Perquisite in respect of Free Domestic Servants-** The value of perquisite shall be the actual cost to the employer. The actual cost in such a case shall be the total amount of salary paid or payable by the employer (or any other person on his behalf) for such services as reduced by any amount paid by the employee for such services. It is to be noted that domestic servant allowance given to an employee is always chargeable to tax. It is taxable even if the allowance is used for engaging a domestic servant.

**Perquisite in respect of Gas, Electric Energy Or Water Supply Provided Free Of Cost-** The value of perquisite shall be the cost to the employer. However, such actual cost shall be reduced by the amount recovered from the employee.

**Perquisite in respect of Free Education** a. Providing free education facilities to, and training of, the employee Not taxable b. Payment of school fees of employee's children directly to the school Taxable c. Reimbursement of school fees of employee's children Taxable d. Education facility in employer's institute Employers institute is an institute owned or maintained by the employer or education facility is provided in any institute by reason of employee's employment with the employer.

**Leave Travel Concession in India [Sec. 10(5)]** Different situations Amount of exemption (exemption is available only in respect of fare for going anywhere in India along with family twice in a block of four years) 1. Where journey is performed by air Amount of economy class fare of the national carrier by the shortest route or the amount spent,

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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whichever is less. 2. Where journey is performed by rail Amount of air-conditioned first class rail fare by the shortest route or the amount spent, whichever is less. 3. Where the places of origin of journey and destination are connected by rail and journey is performed by any other mode of transport. Same as (2) 4. Where the places of origin of journey and destination (or part thereof) are not connected by rail a. Where a recognized public transport exists b. Where no recognized public transport exists

**Perquisite in respect of Interest-Free Loan Or Loan At Concesional Rate Of Interest-** If a loan is given by an employer to the employee (or any member of his household), it is a perquisite chargeable to tax. Value of perquisite is computed at the rate of interest charged by SBI as on the first day of the relevant previous year in respect of loan for the same purpose advanced by it.

**Perquisite in respect of Use Of Movable Assets-** Value shall be determined @ 10% p.a. of the actual cost of such asset (if the asset is owned by the employer) and the amount of rent paid or payable (if the asset is taken on hire by the employer) less amount paid/ recovered from the employee. However, no perquisite is chargeable to tax in respect of use of computer/ laptops.

**Perquisite in respect of Movable Assets Sold by an employer to its employees (or any member of his household) at a nominal price-** It is calculated as an actual cost of such asset to the employer (-) normal wear and tear @ given below for each completed year during which such asset was put to use by the employer for his business purposes (-) amount paid/ recovered from the employee. • Electronic items/ computers 50% by reducing balance method (WDV) • Motor Car 20% by reducing balance method (WDV) • Any other 10% of the actual cost

[Electronic item means data storage and handling devices like digital diaries, printers and do not include household appliances like mixers, washing machines, ovens, etc.]

MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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**Medical Facility** The following expenses whether incurred or reimbursed by the employer are exempt from tax Medical facilities in India 1. Medical facility in employers hospital (including clinic, dispensary or nursing home).

2. Medical facility in a hospital maintained by Central/ State Government or by a local authority or by any other person approved by the Government for the treatment of its employees.

3. Treatment of prescribed disease given in rule 3A (2) in a hospital (approved by the Chief Commissioner).

4. Medical insurance premium on any health insurance policy (i.e., group medical insurance premium for employees or medical insurance premium for employees and family members).

5. Medical facility in a private clinic not exceeding, 15,000 in aggregate in a year

**Medical facility outside India** Perquisite not chargeable to tax Conditions to be satisfied Medical treatment of employee or any member of family of such employee outside India Expenditure shall be excluded from perquisite only to the extent permitted by RBI. Cost on travel of the employee/ any member of his family and one attendant who accompanies the patient in connection with treatment outside India Expenditure shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before included therein the said expenditure does not exceed 2,00,000. Cost of stay abroad of the employee or any member of the family for medical treatment and cost of stay of one attendant who accompanies the patient in connection with such treatment Expenditure shall be excluded from the perquisite only to the extent permitted by RBI.

**Family for this perquisite means** 1. the spouse and children of the individual; and 2. the parents, brothers and sisters of the individual or any one of them wholly or mainly dependent on the individual. Perquisite in respect of Motor Car Different situations Valuation Where car is owned by the employee 1. When car expenses are met by the employee 2. When maintenance and running expenses are met or reimbursed by the employer a. If the car is used wholly for official purposes

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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b. If the car is used wholly for private purposes

Not a perquisite; hence not taxable

No value provided a few conditions are satisfied (given below)

Actual expenditure incurred by the employer minus amount recovered from the employee - is (if positive amount) the taxable value of perquisite

c. If the car is partly used for official purposes and partly for private purposes

Actual expenditure incurred by the employer minus amount used for official purposes [i.e., 1,800 per month where the cubic capacity of the engine does not exceed 1.6 litres or 2,400 per month if such capacity exceeds 1.6 litres and 900 per month if chauffeur is provided or a higher sum for official purposes as per records of the employer as stated (given below) and as certified by the employer] minus amount recovered from the employee - is (if positive amount) the taxable value of perquisite

When car is owned by the employer 1. When maintenance and running expenses are met or reimbursed by the employer

a. If the car is used wholly for official purposes

b. If the car is used wholly for private purposes of the employee or any member of his household

c. If the car is partly used for official purposes and partly for private purposes of the employee or any member of his household

2. When maintenance and running expenses are met by the employee a. If the car is used wholly for official purposes b. If the car is used wholly for private purposes of the employee or any member of his household

No value provided a few conditions are satisfied (given below)

Actual expenditure incurred by the employer [i.e. expenditure on running and maintenance including remuneration of the chauffeur plus normal wear and tear of the car (@ 10% per

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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annum of actual cost to the employer) or hire charges if car is taken on hire] minus amount recovered from the employee - is (if positive amount) the taxable value of perquisite

1,800 per month where the cubic capacity of the engine does not exceed 1.6 litres or 2,400 per month if such capacity exceeds 1.6 litres and 900 per month if chauffeur is provided Nothing is deductible in respect of any amount recovered from the employee

Not a perquisite; hence not taxable

Actual expenditure incurred by the employer [i.e., remuneration of the chauffeur plus normal wear and tear of the car (@ 10% per annum of actual cost to the employer) or hire charges if car is taken on hire] minus amount recovered from the employee - is (if positive amount) the taxable value of perquisite

c. If the car is partly used for official purposes and partly for private purposes and maintenance in respect of private use is borne by the employee

600 per month where the cubic capacity of the engine does not exceed 1.6 litres or 900 per month if such capacity exceeds 1.6 litres and 900 per month if chauffeur is provided Nothing is deductible in respect of any amount recovered from the employee

When employee owns any automotive conveyance (other than car) and running and maintenance charges are met or reimbursed by the employer a. If it is used for official purposes

b. If it is used for official and partly for private purposes

No value provided a few conditions are satisfied (given below)

Actual expenditure incurred by the employer minus amount used for official purposes [i.e. 900 per month or a higher sum for official purposes as per records of the employer as stated (given below) and as certified by the employer] minus amount recovered from the employee - is (if positive amount) the taxable value of perquisite

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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Conditions to be satisfied if car is used for official purposes- Where the employer or the employee claim that the motor-car is used wholly and exclusively in the performance of official duty, the following two conditions should be satisfied – 1. The employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon.

2. The employer gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

The above conditions should also be satisfied if a car is owned by the employee, expenses are incurred or reimbursed by the employer and the employee claim that the expenses for official purposes is more than 1,800 per month (or 2,400 per month if cc rating of car exceeds 1,600 cc).

The following should also be noted for this perquisite 1. Month-‘Month’ means complete month and a part of the month is left out of consideration.

2. The use of motor car by an employee for the purposes of going from his residence to the place where the duties of employment are to be performed or from such place back to his residence, is not chargeable to tax.

3. Where two or more cars are owned or hired by the employer and the employee (or any member of his household) are allowed the use of such motor-cars (or all or any of such motor-cars) (otherwise than wholly and exclusively in the performance of hos duties), in such a situation any one car (as selected by the employee) will be treated as used partly for official and private purposes and others would be assumed as used wholly for private purposes for the purpose of valuation of perquisite of car.

4. Conveyance facility provided to High Court Judges under section 22B of the High Court Judges (Conditions of Service) Act, 1954 and to Supreme Court Judges under section 23A of the Supreme Court Judges (Conditions of Service) Act, 1958 is not chargeable to tax.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
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**Perquisite in respect of Free Transport** a. Employees of railways/ airlines- Not taxable b. Employees of any other transport undertaking Value at which such benefit is offered by the employer to the public minus amount recovered from the employee is the value of the perquisite.

**Perquisite in respect of Lunch/ Refreshment etc.** The value of free food, tea and snacks etc. shall be as under Circumstances Value of perquisite 1. Tea or similar non-alcoholic beverages and snacks (in the form of light refreshments) provided during working hours NIL 2. Free food and non-alcoholic beverages is provided in working hours in remote area or in an offshore installation NIL 3. Free food and non-alcoholic beverages is provided in working hours at any other place (other than remote area or in an offshore installation) either in office or business premises or through nontransferable paid vouchers usable only at eating joints provided by an employer NIL, if the value thereof in either case is up to 50 per meal. Expenditure in excess of 50 per meal should be treated as perquisite. 4. In any other case Actual amount of expenditure incurred by the employer minus amount paid or recovered from the employee

**Perquisite in respect of Travelling, Touring And Accommodation-** Following is the treatment in respect of traveling, touring, accommodation and any other expenses paid by employer for any holiday availed by employee (or any member of household) other than leave travel concession a. Where such facility is available uniformly to all employees Expenditure incurred by the employer minus amount recovered from the employee is the taxable value of the perquisite.

b. Where such facility is not available uniformly to all employees Value at which such facilities are offered by other agencies to the public minus amount recovered from the employee is the taxable value of the perquisite.

**Perquisite in respect of Gift, Voucher Or Token-** Value of any gift received by the employee (or by the member of his household) on ceremonial occasions or otherwise shall be

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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determined as the sum equal to the amount of such gift. Such gift is exempt from tax where, the value of such gift, voucher or token, as the case may be, is below 5,000 in the aggregate during the previous year. However, gifts made in cash or convertible into money (gift cheques) are not exempt from tax. Gift-in-kind upto 5,000 in aggregate per annum would be exempt from tax, beyond which it would be taxable.

**Perquisite in respect of Credit Card-** Expenditure incurred by the employer in respect of credit card used by the employee or any member of his household after deducting the expenditure on use of this credit card for official purposes is the taxable value of the perquisite.

**Perquisite in respect of Club Expenditure-** Expenditure incurred by the employer in respect of club facility used by the employee or any member of his household after deducting the expenditure on use of this club facility for official purposes is the taxable value of the perquisite. The following expenditure is exempt from tax

1. Health club, sports facilities etc. provided uniformly to all classes of employees by the employer at employer's premises.

2. Initial one time deposit or fees for corporate or institutional membership, where benefit does not remain with a particular employee after cessation of employment.

**Perquisite in respect of Sweat Equity Shares-** If the given below conditions are satisfied, perquisite will be taxable in the hands of employee in the assessment year relevant to the previous year in which shares or securities are allotted or transferred to the employee. The conditions are as follows –

1. The security or shares involved are “specified security” or “sweat equity shares”. For this purpose, specified security means shares, scrips, debentures, derivatives, units, Government Securities, etc. “Sweat equity shares” means “equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called”.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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2. Specified security or sweat equity shares are allotted or transferred on or after April 1, 2009.
3. Specified security or sweat equity shares are allotted by the employer or former employer to the employee.
4. Specified security or sweat equity shares may be transferred to the employee or former employee directly or indirectly.
5. These securities or shares are transferred to the employee either free of cost or at a concessional rate.

For the purpose of valuation, fair market value of shares or securities has to be calculated on the date on which the employee exercises the option. Amount actually paid or recovered from the employee in respect of such shares or securities shall be deducted.

**Perquisite in respect of Employer's Contribution Towards Approved Superannuation Fund-** Employer's contribution towards an approved superannuation fund is chargeable to tax in the hands of employees to the extent such contribution exceeds 1,00,000 per assessment year. It is taxable in the year in which such contribution is made.

**Any Other Benefit Or Amenity-** It covers any other benefit or amenity, service, right or privilege provided by the employer. However, it does not cover the following – a. Perquisites already discussed above b. Telephone/ mobile phones Value of such perquisites shall be determined on the basis of cost to the employer under an arm's length transaction as reduced by the employee's contribution, if any.

**Deductions from salary income [Sec. 16]** 1. Entertainment Allowance 2. Professional tax Professional tax or tax on employment, levied by a State under article 276 of the Constitution, is allowed as deduction. Deduction is available only in the year in which professional tax is paid. If the professional tax is paid by the employer on behalf of an

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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employee, it is first included in the salary of the employee as a “perquisite” and then the same is allowed as deduction on account of “professional tax” from gross salary.

It is to be noted that there is no monetary ceiling under the Income-tax Act. Under article 276 of the Constitution, a State Government cannot impose more than 2,500 per annum as professional tax. However, under the Income-tax Act, whatever professional tax is paid during the previous year is deductible.

**Provident Funds-** Provident fund scheme is a retirement benefit scheme. Under this scheme, a stipulated sum is deducted from the salary of the employee as his contribution towards the fund. The employer also, generally, contributes simultaneously the same amount out of his pocket to the fund. The employee’s and employer’s contributions are invested in gilt-edged securities. Interest earned thereon is also credited to the provident fund account of the employees. The accumulated sum is paid to the employee at the time of his retirement or resignation. In the case of death of an employee, accumulated balance is paid to his legal heirs. Since the scheme encourages personal saving at micro level and generates funds for investment at macro level, the Government provides deduction under section 80C.

**Different types of provident fund** are given below

1. Statutory provident fund- This fund is set up under the provisions of the Provident Funds Act, 1925. This fund is maintained by the Government and the Semi-Government organizations, local authorities, railways, universities and recognized educational institutions.
2. Recognized provident fund- A provident fund scheme to which the Employee’s Provident Fund and Miscellaneous Provisions Act, 1952 applies is RPF. As per this Act, any establishment employing 20 or more persons is covered by this Act (establishments employing less than 20 persons can also join the provident fund scheme if the employer and employees want to do so).
3. Unrecognized provident fund- If a provident fund is not recognized by the Commissioner of Income-tax, it is known as UPF.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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4. Public provident fund- The Central Government has established the PPF for the benefits of general public to mobilize personal savings. Any member of the public can participate in the fund by opening a provident fund account at the SBI or its subsidiaries or other nationalized banks. Any amount subject to a minimum of 500 and maximum of 70,000 per annum may be deposited under this account. The accumulated sum is payable after 15 years (it may be extended). Interest on this fund is credited every year but payable at the time of maturity.

Salary for this purpose means- Basic salary (+) dearness allowance (if forming part) (+) commission based on fixed percentage of turnover achieved by an employee.

Cases 1. If the employee has rendered continuous service with his employer for a period of 5 years or more. If accumulated balance includes any amount transferred from his individual account in any other recognized provident fund(s) maintained by his former employer(s), then, in computing the period of 5 years, the period(s) for which the employee rendered continuous service to his former employer(s) is also to be included.

2. If the employee is not able to fulfill the conditions of such continuous service due to his service having being terminated by reason of his ill-health or by reason of the contraction or discontinuance of the employer's business or due to some other reason beyond the control of the employee.

3. If, on the occasion of his retirement, the employee obtains employment with any other employer, to the extent the accumulated balance due and becoming payable to him is transferred to his individual account in any RPF maintained by such other employer.

Tax treatment of Approved Superannuation Fund It means a superannuation fund which has been and continues to be approved by the Commissioner in accordance with rules contained in Part B of the Fourth Schedule.

The tax treatment of contribution to any payment from the fund is as under 1. Employer's contribution towards an approved superannuation fund will be chargeable to tax to the extent it exceeds 1,00,000 per annum.

2. Interest on accumulated balance is exempt from tax.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
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3. Section 10(13) grants exemption in respect of payment from the fund – a. to the legal heirs on the death of beneficiary (e.g. payment to widow of the beneficiary); b. to an employee in lieu of or in commutation of an annuity on his retirement at or after the specified age or on his becoming incapacitated prior to such retirement; or c. by way of refund of contribution on the death of the beneficiary; or d. by way of refund of contribution to an employee on his leaving the service otherwise than in the circumstances mentioned in (b) to the extent to which such payment does not exceed the contribution made prior to April 1, 1962 (for instance, where the amount received by an employee does not include any contribution made prior to April 1, 1962, the whole amount is taxable).

## INCOME FROM HOUSE PROPERTY

**BASIS OF CHARGE [Section 22]** Income is taxable under the head “Income from house property” if the following three conditions are satisfied

1. The property should consist of any buildings or lands appurtenant thereto.

2. The assessee should be owner of the property.

3. The property should not be used by the owner for the purpose of business or profession carried on by him, the profits of which are chargeable to income-tax.

**COMPOSITE RENT-** If apart from recovering rent of the building, in some cases, the owner gets rent of other assets (like furniture) or he charges for different services provided in the building (for instance, security, charges for lift, air conditioning, electricity, water etc.), the amount so recovered is known as “composite rent”.

Following is the tax treatment of “composite rent”

1. Where composite rent includes rent of building and charges for different services In such situations, composite rent is to be split up and amount of services is chargeable under the head “Profits and gains of business or profession” or “Income from other sources” as the case may be and rent of property is chargeable under the head “Income from house property”.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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This rule is applicable even if it is difficult to split up the amount. 2. Where composite rent is rent of letting out of building and letting out of other assets (like furniture) and two lettings are not separable i.e., letting of one is not acceptable to the other party without letting of the other) In such situations, income is taxable either under the head “Profits and gains of business or profession” or “Income from other sources” as the case may be. This rule is applicable even if sum receivable for the two lettings is fixed separately.

3. Where composite rent is rent of letting out of building and letting out of other assets and the two lettings are separable i.e., letting of one is acceptable to the other party without letting of the other) In such situations, income from letting out of building is taxable under the head “Income from house property” and income from letting out of other assets is taxable under the head “Profits and gains of business or profession” or “Income from other sources” as the case may be. This rule is applicable even if the assessee receives composite rent from his tenant for two lettings.

**CO-OWNERS [Section 26]**- If a house property is owned by two or more persons, then such persons are known as co-owners. If respective shares of co-owners are definite and ascertainable, the share of each such person (in the computed income of property) shall be included in his total income. It may be noted that co-owners are not taxable as an association of persons.

**WHEN PROPERTY INCOME IS NOT CHARGEABLE TO TAX** In the following cases, rental income is not chargeable to tax 1. Income from farm house 2. Annual value of any one palace of an ex-ruler 3. Property income of a local authority 4. Property income of an approved scientific research association 5. Property income of an educational institution and hospital 6. Property income of a trade union 7. House property held for charitable purpose 8. Property income of a political party 9. Property used for own business or profession 10. One self-occupied property

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ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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**COMPUTATION of income under the head house property (LET OUT)**      Gross  
Annual Value (GAV) XX Less Municipal taxes XX Net Annual Value (NAV) XX  
Less Deductions under section 24      Standard deduction      XX Interest on borrowed  
capital      XX XX Net Income from house property (Let Out) XX

**GROSS ANNUAL VALUE [Sec. 23(1)]**      Tax under the head “Income from house property” is not a tax upon rent of a property. It is tax on inherent capacity of a building to yield income. The standard selected as a measure of the income to be taxed is “annual income”.

**Calculation of gross annual value (GAV)**      Step 1      Find out reasonable expected rent of the property [Municipal value or fair rent whichever is higher but subject to a maximum of standard rent]      Expected Rent      It is deemed to be the sum for which the property might reasonably be expected to be let out from year to year.      Fair rent      Rent fetched by a similar property in the same or similar locality.      Standard Rent      It is the maximum rent which a person can legally recover from his tenant under a Rent Control Act.

Step 2      Find out rent actually received or receivable after excluding unrealized rent but before deducting loss due to vacancy

Step 3      Higher of amount computed in Step 1 or Step 2 is taken

Step 4      Find out loss due to vacancy

Step 5      Step 3 minus Step 4 is gross annual value.

**UNREALIZED RENT-** Unrealized rent is the rent which the owner could not realize. Unrealized rent shall be excluded from rent received/ receivable only if the following conditions are satisfied [Conditions of Rule 4]      1. The tenancy is bonafide.

2. The defaulting tenant has vacated, or steps have been taken to compel him to vacate the property.      3. The defaulting tenant is not in occupation of any other property of the assessee.

4. The assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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**MUNICIPAL TAXES-** Municipal taxes (like house tax, service tax, local tax) levied by any local authority in respect of the house property are deductible only if these taxes are borne and actually paid by the owner during the previous year. It doesn't matter whether the taxes belong to the earlier years, current year or coming years. If property is situated in a foreign country, municipal taxes levied by foreign local authority are deductible (if such taxes are paid by the owner).

**STANDARD DEDUCTION [Sec. 24 (a)]-** 30% of NAV is deductible irrespective of any expenditure incurred by the assessee. Thus, no deduction can be claimed in respect of expenses on insurance, ground rent, land revenue, repairs, collection charges, electricity, water supply, salary of liftman, etc.

**INTEREST ON BORROWED CAPITAL [Sec. 24 (b)]-** Interest on borrowed capital is allowable as deduction, if capital is borrowed for the purpose of purchase, construction, repair, renewal or reconstruction of the property. Interest of pre-construction period- Pre-construction period means the period commencing from the date of borrowing and ending on – a. 31st March immediately prior to the date of completion of construction/ date of acquisition; or b. Date of repayment of loan, whichever is earlier.

Interest payable by an assessee in respect of funds borrowed for the acquisition or construction of a house property and pertaining to a period prior to the previous year in which such property has been acquired or constructed, to the extent it is not allowed as a deduction under any other provision of the Act, is deductible in five equal annual installments and the first installment starts from the previous year in which the property is acquired or constructed. For the purpose of computing pre-construction period, even if the construction is completed on March 31, 2011, then 31st March prior to date of completion means 31st March 2010. Current year interest- It is charged from the year of completion (YOC) to date of repayment (DOR). The following points should be noted in this regard 1. Interest on

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**





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borrowed capital is calculated by adding pre-construction period interest and current year interest.

2. Interest on borrowed capital is deductible on “accrual basis”. It can be claimed as deduction on yearly basis, even if the interest is not actually paid during the year.

3. If interest is calculated on the basis of number of days, the date of borrowing is included while the date of repayment of loan is excluded.

4. Income from a self-occupied house property can be negative. Its value always lies between Zero to (-) 1,50,000.

5. Repayment of any loan taken from a friend/ relative for the purpose of purchasing any property is not deductible.

### INCOME FROM BUSINESS OR PROFESSION

The word ‘Business’ is defined in section 2(13) to include any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture. Sections 30 to 37 cover expenses which are expressly allowed as deduction while computing business income, sections 40, 40A and 43B cover expenses which are not deductible.

**BASIS OF CHARGE [Section 28]** Under section 28, the following income is chargeable to tax under the head “Profits and gains of business or profession”

a. Profits and gains of any business or profession;

b. Income derived by a trade, professional or similar association from specific services performed for its members;

c. The value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;

d. Export incentive available to exporters;

e. Any interest, salary, bonus, commission or remuneration received by a partner from firm;

f. Any sum received for not carrying out any activity in relation to any business or not to share any know-how, patent, copyright, trademark, etc.;

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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- g. Any sum received under a Keyman insurance policy including bonus;
- h. Profits and gains of managing agency;
- i. Income from speculative transaction etc.

**RENT, rates, taxes, repairs and insurance for building [Section 30]**- Under section 30, the following deductions are allowed in respect of rent, rates, taxes, repairs and insurance for premises used for the purpose of business or profession

- a. the rent of premises, the amount of repairs (not being capital expenditure), if he has undertaken to bear the cost of repairs (this is applicable if the assessee has occupied the property as a tenant);
- b. the amount of current repairs (not being capital expenditure) (if the assessee has occupied the premises otherwise than as a tenant);
- c. any sum on account of land revenue, local rates or municipal taxes; and
- d. amount of any premium in respect of insurance against risk of damage or destruction of the premises.

**DEPRECIATION ALLOWANCE [Sec. 32]**- Following conditions must be satisfied to avail depreciation

- 1. Asset must be owned by the assessee.
- 2. Asset must be used for the purpose of business or profession.
- 3. Asset should be used during the relevant previous year Normal depreciation (i.e., full year's depreciation) is available if an asset is put to use at least for sometime during the previous year. However, where an asset is acquired during the previous year but put to use for the purpose of business or profession for less than 180 days during that year, in such a case, half of the normal depreciation is allowed.
- 4. Depreciation is available on tangible assets (Building, machinery, plant or furniture) as well as intangible assets (know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature). However, it must be noted that the intangible assets must be acquired after March 31, 1998.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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If all the above conditions are satisfied, depreciation is available (it is a must, it is not at the option of the assessee to claim or not to claim, depreciation in such cases).

**Basis concepts for computation of depreciation allowance** 1. Block of Assets- The term “block of assets” means a group of assets falling within a class of assets in respect of which the same percentage of depreciation is prescribed. A taxpayer may have 13 different block of assets (out of which 12 blocks are for tangible assets and 1 block is for intangible asset).

Number	Nature of asset	ROD	Block	1	Buildings	Residential buildings other than hotels and boarding houses	5%
			2	Buildings	Office, factory, godowns or buildings which are not mainly used for residential purpose [it covers hotels and boarding houses but does not cover those which are covered under blocks 1 and 3]	10%	
			3	Purely temporary erections such as wooden structures	100%		
			4	Furniture	Any furniture/ fittings including electrical fittings	10%	
			5	Plant and machinery	Any plant and machinery (not covered by block 6, 7, 8, 9, 10, 11 or 12), motor cars (other than those used in a business of running them on hire) acquired or put to use on or after April 1, 1990	15%	
			6	Plant and machinery	Ocean-going ships, vessels ordinarily operating on inland waters including speed boats	20%	
			7	Plant and machinery	Buses, lorries and taxis used in the business of running them on hire (applicable only when the assessee is in the business of hiring out its/ his buses, lorries or taxis), machinery used in semi-conductor industry, moulds used in rubber and plastic goods factories and life saving medical equipment	30%	
			8	Plant and machinery	Aeroplanes	40%	
			9	Plant and machinery	Containers made of glass or plastic used as re-fills	50%	
			10	Plant and machinery	Computers including computer software. It also includes books (other than annual publications) owned by a professional. It also includes gas cylinders; plant used in field operations by mineral oil concerns; direct fire glass melting furnaces	60%	
			11	Plant and machinery	Energy saving devices; renewal energy	80%	

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
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Number Nature of asset ROD Block 1 Buildings Residential buildings other than hotels and boarding houses 5% Block 2 Buildings Office, factory, godowns or buildings which are not mainly used for residential purpose [it covers hotels and boarding houses but does not cover those which are covered under blocks 1 and 3] 10% Block 3 Purely temporary erections such as wooden structures 100% Block 4 Furniture Any furniture/ fittings including electrical fittings 10% Block 5 Plant and machinery Any plant and machinery (not covered by block 6, 7, 8, 9, 10, 11 or 12), motor cars (other than those used in a business of running them on hire) acquired or put to use on or after April 1, 1990 15% Block 6 Plant and machinery Ocean-going ships, vessels ordinarily operating on inland waters including speed boats 20% Block 7 Plant and machinery Buses, lorries and taxis used in the business of running them on hire (applicable only when the assessee is in the business of hiring out its/ his buses, lorries or taxis), machinery used in semi-conductor industry, moulds used in rubber and plastic goods factories and life saving medical equipment 30% Block 8 Plant and machinery Aeroplanes 40% Block 9 Plant and machinery Containers made of glass or plastic used as re-fills 50% Block 10 Plant and machinery Computers including computer software. It also includes books (other than annual publications) owned by a professional. It also includes gas cylinders; plant used in field operations by mineral oil concerns; direct fire glass melting furnaces 60% Block 11 Plant and machinery Energy saving devices; renewal energy 80% devices; rollers in flour mills, sugar works and steel industry Block 12 Plant and machinery Air pollution control equipments; water pollution control equipments; solid waste control equipments, recycling and resource recovery systems; cinematograph films, bulbs of studio lights; wooden match frames; and books (being annual publications) owned by assesses carrying on a profession or books (may or may not be annual publications) owned by a person carrying on business in running lending libraries 100%

Block 13 Intangible assets (acquired after March 31, 1998) Know-how, patents, copyrights, trademarks, licenses, franchises and any other business or commercial rights of similar nature 25%

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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2. Written down value/ Depreciated value = WDV at the year end = WDV of the block on the 1st day of the previous year Add Actual cost of the asset (falling in the block) acquired during the previous year Less Money received/ receivable\* (together with scrap value) in respect of that asset (falling within the block of assets) which is sold, discarded, demolished or destroyed during the previous year (\* It does mean gross consideration. It is net consideration after excluding expenditure incidental to sale. Further, here actual money received or receivable in cash or by cheque or draft is deductible. In other words, any other things or benefit which can be converted in terms of money cannot be deducted.)

3. No depreciation will be charged in the following cases i. If WDV of the BOA is reduced to zero, though the block of assets does not cease to exist on the last day of the previous year; or

ii. If BOA is empty or ceases to exist on the last day of the previous year, though the WDV is not zero (\*In such cases WDV of the block on the first day of the next previous year will be taken as Nil); or

iii. If any imported car is used for the purpose of business or profession in India which is acquired during March 1, 1975 and March 31, 2001. If, however, such imported car is used in the business of running it on hire for tourist or for the purpose of business or profession outside India, then depreciation is admissible at the usual rate.

4. Meaning of "Actual Cost" - It means the actual cost to the assessee as reduced by the proportion of the cost thereof, if any, as has been met, directly or indirectly, by any other person or authority. Actual cost for any asset includes all expenses directly relatable to acquisition of the asset. It is to note that interest pertaining to the period till the asset is put to use should be added to the "actual cost" of the asset.

5. The following points should be noted in this regard i. The restriction of 50% depreciation limit is applicable only in the year in which an asset is acquired and not in subsequent years. ii. If an asset is not used at all, no depreciation in respect of that asset is available. This rule is applicable in the first year in which the asset is acquired as well as in the subsequent years. iii. If an asset is acquired during any previous year but not put to use

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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during that previous year; the actual cost of such asset will become part of the block of assets on day 1 of the next year. For example, if any asset is purchased during the previous year 2009-10 but put to use in the previous year 2010-11; this asset is a part of the block on April 1, 2010. This rule is applicable even if the asset is not put to use in the previous year 2009-10 and depreciation is available for the first time in the previous year 2010-11.

iv. If nothing is mentioned about the date of use of an asset, then assume that the asset is put to use on the same day the asset is acquired.

**Computation of ADDITIONAL DEPRECIATION-** To claim additional depreciation, the following conditions must be satisfied

1. Manufacture/ production of any article or thing  
The assessee should be engaged in the manufacture or production of any article or thing (may be priority sector item or even non-priority sector item given in the Eleventh Schedule). However, in the case of power generating units, additional depreciation is not applicable.

2. New plant and machinery installed and acquired after March 31, 2005- Additional depreciation is available only in respect of new plant and machinery acquired and installed after March 31, 2005. The following points should be noted in this regard
  - Additional depreciation is not available in respect of building or furniture even if the other conditions are satisfied.
  - Additional depreciation is not available in respect of old plant and machinery.

3. Eligible plant and machinery- Any plant and machinery which has been acquired and installed after March 31, 2005 by an assessee is qualified for additional depreciation. However, the following assets are not eligible for additional depreciation
  - a. Ships and aircrafts; or
  - b. Any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or
  - c. Any machinery or plant which is installed in any office premises or any residential accommodation, or accommodation in the nature of a guest house; or
  - d. Any office appliances or road transport vehicles; or
  - e. Any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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**Rate of additional depreciation-** Additional depreciation shall be available @ 20% of the actual cost of new plant and machinery acquired and installed after March 31, 2005. If, however, the asset is put to use for less than 180 days in the year in which it is acquired, the rate of additional depreciation will be 10%.

**UNABSORBED DEPRECIATION** Following steps must be applied to claim depreciation Step 1 Depreciation allowance of the previous year is first deductible from the income chargeable under the head “Profits and gains of business or profession”.

Step 2 Depreciation allowance, if not fully deductible under the head “Profits and gains of business or profession”, it is deductible from the income chargeable under other heads of income (except salaries) for the same assessment year.

Step 3 If depreciation allowance is still unabsorbed, it can be carried forward to the subsequent year.

The following points should be noted in this regard 1. Unabsorbed depreciation can be carried forward for unlimited number of years.

2. Continuity of business is not relevant for the purpose of adjusting unabsorbed depreciation.

3. In the subsequent year(s), unabsorbed depreciation can be set-off against any income (except income under the head salaries). In the matter of set-off, following order of priority must be followed to adjust unabsorbed depreciation from the “Profits and gains of business or profession” in the subsequent year(s) a. Current depreciation b. Brought forward business loss c. unabsorbed depreciation

**EXPENDITURE ON SCIENTIFIC RESEARCH [Sec. 35]-** The term “scientific research” means “any activity for the extension of knowledge in the fields of natural or applied sciences including agriculture, animal husbandry or fisheries”.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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Following is the classification of such expenditures

1. Revenue expenditure incurred by the assessee himself [Sec. 35(1)(i)]- Deduction is allowed for such expenditure only if such research relates to the business. Pre-commencement period expenses Revenue expenses (other than expenditure on providing perquisites to employees) incurred before the commencement of business (but within 3 years immediately before commencement of business) on scientific research related to the business are deductible in the previous year in which the business is commenced. However, the deduction is limited to the extent it is certified by the prescribed authority. Such expenses may be the expenditure on purchasing materials used in scientific research, salary paid to employees (not being a perquisite).

2. Contribution made to outsiders [Sec. 35 (ii)/ (iii)]- Deduction is allowed for any sum paid to a scientific research association or to a university, college or other institution if
  - a. the payment is made to an approved scientific research association which has, as its object, undertaking of scientific research related or unrelated to the business of assessee, deduction allowed is 175% of actual expenditure [Sec. 35(1)(ii)].

- b. the payment to an approved university, college or other institution\* for the use of scientific research related or unrelated to the business of assessee, deduction allowed is 175% of actual expenditure [Sec. 35(1)(ii)].

- c. the payment is made to an approved university, college or other institution\* for the use of research for social science or statistical research related or unrelated to the business of the assessee, deduction allowed is 125% of actual expenditure [Sec. 35(1)(iii)].

3. Capital expenditure incurred by an assessee himself [Sec. 35(2)]- Deduction is allowed for such expenditure, if such research relates to the business. However, the following points must be noted in this regard
  - a. Such expense may be on plant or equipment for research or constructing building (excluding cost of land) for research or expenses of capital nature connected with research like expenses on purchase of buses to transport research personnel.

- b. Where any capital expenditure has been incurred on scientific research related to business before the commencement of business, the amount of such expenditure incurred within 3 years immediately preceding the commencement of the business, is deductible in the previous year in which the business is commenced.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
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c. Deduction is available even if the relevant asset is not put to use for research and development purposes during the previous year in which the expenditure is incurred.

4. Contribution to national laboratory [Sec. 35 (2AA)]- “National Laboratory” for this purpose means a scientific laboratory functioning at national level under the aegis of the Indian Council of Agricultural Research (ICAR), the Indian Council of Medical Research (ICMR) or the Council of Scientific and Industrial Research (CSIR), the Defence Research and Development Organisation (DRDO), the Department of Electronics, the Department of Bio Technology or the Department of Atomic Energy. Deduction allowed is 1.75 times of actual payment made to a “National Laboratory” or a University or IIT or a specified person. However, the above payment must be used by the aforesaid person for undertaking scientific research programme approved by the prescribed authority.

5. Expenditure on in-house research and development expenses [Sec. 35(2AB)] Deduction allowed is 2 times of the expenditure incurred if all the given below conditions are satisfied

a. The taxpayer is a company.

b. The company should be engaged in the business of manufacture or production of any article or thing except those specified in the Eleventh Schedule.

c. It incurs any expenditure on scientific research and such expenditure is of capital nature or revenue nature (not being expenditure in the nature of cost of any land or building). The expenditure on scientific research in relation to drugs and pharmaceuticals shall include expenditure incurred on clinical drug trial, regulatory approval and filling an application for a patent.

d. The above expenditure is incurred on in-house research and development facility up to March 31, 2012.

e. The research and development facility is approved by the prescribed authority.

f. The taxpayer has entered into an agreement with the prescribed authority for cooperation in such research and development facility and for audit of the accounts maintained for that facility.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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However, if the aforesaid conditions are not satisfied, then deduction may be claimed as per the rules mentioned in point (1) and point (3) above relating to revenue expenses and capital expenses respectively.

6. Contribution to a company to be used by such company for scientific research [Sec. 35(1)(ia)]- The taxpayer can claim a deduction of 1.25 times of the amount paid to the payee-company if all the given below conditions are satisfied a. The taxpayer is any person (may be an individual, HUF, firm, company or any other person).

b. The taxpayer has paid any sum to a company (hereinafter referred to as “payee company”) to be used by the payee for scientific research.

c. The scientific research may or may not be related to the business of the tax payer.

d. The payee-company is registered in India which has, as its main object, scientific research and development.

e. The payee-company is for the time being approved by the prescribed authority.

f. The payee-company fulfils such other conditions as may be prescribed.

**Point to be noted** If on account of inadequacy or absence of profits of the business, deduction on account of capital expenditure on scientific research cannot be allowed, fully or partly, the deficiency so arising is to be carried forward as if it is an unabsorbed depreciation.

### OTHER DEDUCTIONS [Sec. 36]

1. Premia for insurance on health of employees- An employer can claim deduction in respect of premia paid by him by any mode other than cash for insurance on the health of his employees in accordance with the scheme framed by the General Insurance Corporation (GIC) and approved by the Central Government or any other insurer and approved by IRDA.

2. Bonus or commission to employees- Bonus or commission paid to an employee is allowable as deduction subject to certain conditions a. Amount payable to employees as bonus or commission should not otherwise have been payable to them as profit or dividend.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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b. Bonus or commission is allowed as deduction only where payment is made during the previous year or on or before the due date of furnishing return of income under section 139.

3. Interest on borrowed capital- Interest on capital borrowed is allowed as deduction if the following conditions are satisfied a. The assessee must have borrowed money. b. The money so borrowed must be used for the purpose of business or profession. c. Interest is paid or payable on such borrowing.

4. Employer's contribution to recognized provident fund and approved superannuation fund [Sec. 36(1)(iv)]- Employer's contribution towards a recognized provident fund or an approved superannuation fund is allowable as deduction subject to the limits laid down for the purpose of recognizing the provident fund or approving superannuation fund [Fourth Schedule and rules 87 and 88] subject to the provisions of section 43B.

5. Employer's contribution towards an approved gratuity fund [Sec.36(1)(v)]- Employer's contribution towards an approved gratuity fund created by him exclusively for the benefit of his employees under an irrevocable trust is allowed as deduction subject to the provisions of section 43B.

6. Employees' contribution towards staff welfare Scheme [Sec. 36(1)(va)]- Section 2(24) defines income. Clause (x) of section 2(24) provides that any sum received by any taxpayer from his employees as contribution to provident fund or any fund for the welfare of such employees shall be included in the taxpayer's income. Moreover, section 36(1)(va) provides that any sum received by the taxpayer as contribution from his employees towards provident fund [whether RPF or UPF] or any welfare fund of such employees shall be allowed as deduction only if such sum is credited by the taxpayer to the employee's account in the relevant fund on or before the due date. For this purpose, "due date" means the date by which the assessee is required as an employer to credit such contribution to the employee's account in the relevant fund under the provisions of any law or term of contract of service or otherwise.

7. Bad debts [Sec. 36(1)(vii)]- Amount of any debt or part is allowable as deduction subject to the following conditions a. The debt has been taken into account in computing the income of the assessee of that previous year or of an earlier previous year, or represents

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
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money lent in the ordinary course of business of banking or money-lending which is carried on by the assessee; and b. It has been written off as irrecoverable in the accounts of the assessee for that previous year.

8. Family Planning Expenditure [Sec. 36(1)(ix)]- Any bonafide, expenditure incurred by a COMPANY for the purpose of promoting family planning among its employees, is allowable as deduction. If, however, such expenditure is of capital nature, then the amount is deductible in 5 equal annual installments and the first installment starts from the year in which the expenditure is incurred. It is to be noted that any family planning expenditure which is not allowed as deduction due to inadequacy of profits, shall be set-off and carry-forward as if it is an unabsorbed depreciation.

9. Banking cash transaction tax and securities transaction tax [Sec. 36(1)(xv)]- These taxes are deductible under section 36.

10. Advertisement expenses [Sec. 37(2B)]- Deduction is not available in respect of expenditure incurred by an assessee or advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party.

**GENERAL DEDUCTIONS [Sec. 37 (1)]** Section 37(1) is a residuary section. In order to claim deduction under this section, the following conditions should be satisfied 1. The expenditure should not be of the nature described under sections 30 to 36.

2. It should not be in the nature of capital expenditure.
3. It should not be assessee's personal expenditure.
4. It should have been incurred in the previous year. Note If a business liability has definitely arisen in the previous year, the deduction should be allowed although the liability may have to be quantified and discharged at a future date. What should be certain is the incurring of the liability.
5. It should be in respect of business carried on by the assessee.
6. It should have been expended wholly and exclusively for the purpose of such business.
7. It should not have been incurred for any purpose which is an offence or prohibited by any law.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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**SPECIFIC DISALLOWANCES** The following expenses given by sections 40, 40A and 43B are expressly disallowed by the Act while computing income chargeable under the head “Profits and gains of business or profession”. Besides these expenses, no deduction is permissible under sections 28 to 44D in respect of income referred to in sections 115A, 115AB, 115AC, 115AD, 115BBA and 115D.

### **AMOUNT NOT DEDUCTIBLE UNDER SECTION 40(a)**

1. Fringe benefit tax- FBT is not deductible while calculating business income.
2. Income-tax- Any sum paid on account of income tax (i.e., any rate or tax levied on the profits or gains of any business or profession) is not deductible. Similarly, any interest/ penalty/ fine for non-payment or late payment of income-tax is not deductible. This rule is applicable whether income-tax is payable in India or outside India. Any tax paid outside India and which is subject to relief under section 90/ 90A/ 91 is not deductible.
3. Wealth-tax- Any sum paid on account of wealth-tax under the Wealth-tax Act, 1957, or tax of a similar nature chargeable under any law outside India is not deductible.
4. Salary payable outside India without tax deduction [Sec. 40(a)(iii)]- Section 40(a)(iii) is applicable if the following conditions are satisfied Condition 1 The payment is chargeable under the head “Salaries” in the hands of the recipient. Condition 2 It is payable (a) outside India (to any person resident or non-resident); or (b) in India to a non-resident. Condition 3 Tax has not been paid to the Government nor deducted at source under the Income-tax Act, 1961.

If the aforesaid conditions are satisfied, then the payment is not allowed as deduction.

5. Provident fund payment without tax deduction at source [Sec. 40(a)(iv)]- Any payment to a provident fund (or other fund established for the benefit of employees of the assessee) in respect of which the assessee has not made effective arrangements to secure that tax shall be deducted at source from any payment made from the fund which are taxable under the head “Salaries”.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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**AMOUNT NOT DEDUCTIBLE UNDER SECTION 40A-** In the case of any assessee, the following expenses are expressly disallowed under section 40A

1. Amount not deductible in respect of payment to relatives [Sec.40A(2)] Any expenditure incurred by an assessee in respect of which payment has been made to the relatives is liable to be disallowed in computing business profits to the extent such expenditure is considered to be excessive or unreasonable, having regard to the fair market value of goods or services or facilities, etc. Relative [Sec. 2(41)] Relative means the husband, wife, brother or sister or any linear ascendant or descendant of that individual.

**Substantial Interest** A person is deemed to have substantial interest in the business or profession if such person is the beneficial owner of at least 20% of equity capital (in case of a company) or if such person is entitled to 20% profits of a concern (in any other case) at any time during the previous year.

2. Amount not deductible in respect of expenditure exceeding 20,000 ( 35,000 in case of payment made for plying, hiring or leasing goods carriages w.e.f. October 1, 2009) [Sec.40A(3)]- No deduction is allowed if the following conditions are satisfied a. The assessee incurs any expenditure which is otherwise deductible under other provisions of the Act for computing business/ profession income (i.e., expenditure for purchase of raw material, trading goods, expenditure on salary, etc.). The amount of expenditure exceeds 20,000. b. A payment (or aggregate of payments made to a person in a day) in respect of the above expenditure exceeds 20,000. c. The above payment is made otherwise than by an account payee cheque or an account payee demand draft.

The following points must be noted in this regard - If aggregate payment in a day (otherwise than by an account payee cheque/ draft) to the same person in respect of an expenditure exceeds 20,000\*, it will be disallowed under section 40A(3), even if none of each payment in a day exceeds 20,000\*.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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- Where the assessee makes payment over 20,000\* at a time, partly by an account payee cheque and partly in cash or bearer cheque or crossed cheque to some parties but payment in cash (or by bearer cheque or crossed cheque) alone at one time does not exceed 20,000\*, section 40A(3) is not attracted.

- Provision of section 40A(3) does not apply in respect of an expenditure which is not to be claimed as deduction under sections 30 to 37. 3. Amount not deductible in respect of provision for unapproved gratuity fund [Sec. 40A(7)] Provision for gratuity fund (for meeting future liability) is deductible only if such gratuity fund is an approved gratuity fund.

4. Amount not deductible in respect of contributions to non-statutory funds [Sec. 40A(9), (10), (11)]- Any sum paid by the assessee as an employer by way of contribution towards recognized provident fund, or approved superannuation fund or an approved gratuity fund is deductible to the extent it is required by any law.

If the following conditions are satisfied, then contribution or payment is not deductible by section 40A(9) a. The contribution/ payment is made by an assessee as an employer.

b. It is paid towards setting up (or formation of) any trust, company, association of persons, body of individuals, society or it is paid by way of contributions to any fund.

c. The contribution or payment is not required by any law.

### **AMOUNT NOT DEDUCTIBLE IN RESPECT OF UNPAID LIABILITY [Sec. 43B]-**

Sec 43B is applicable only if the taxpayer maintains books of account on the basis of merchantile system of accounting. The following expenses (which are otherwise deductible under the other provisions of the Income-tax Act) are deductible on payment basis 1. Any sum payable by way of tax, duty, cess or fee (by whatever name called under any law for the time being in force);

2. Any sum payable by an employer by way of contribution to provident fund or superannuation fund or any other fund for the welfare of employees;

3. Any sum payable as bonus or commission to employees for service rendered;

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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4. Any sum payable as interest on any loan or borrowing from a public financial institution (i.e., ICICI, IFCI, IDBI, LIC and UTI) or a state financial corporation or a state industrial investment corporation;
5. Interest on any loan or advance taken from a scheduled bank including a co-operative bank; and
6. Any sum payable by an employer in lieu of leave at the credit of his employee

**DEEMED PROFITS [Sec. 41]** 1. Recovery against any deduction [Sec. 41(1)]- Recovery against any deduction is chargeable to tax in the previous year in which the amount is received or recovered whether the business is in existence or not.

2. Sale of assets used for scientific research [Sec. 41(3)]- Where any capital asset used in scientific research is sold without having been used for other purposes and the sale proceeds, together with the amount of deduction allowed under section 35, exceed the amount of capital expenditure incurred on purchase of such asset, such surplus (i.e., sale price) or the amount of deduction allowed, whichever is less, is chargeable to tax as business income in the year in which the sale took place even if the business is not in existence.

3. Recovery of bad debts [Sec. 41(4)]- Where any bad debt has been allowed as deduction under section 36(1)(vii) and the amount subsequently recovered on such debt is greater than the difference between the debt and the deduction so allowed, the excess realization is chargeable to tax as business income of the year in which the debt is recovered even if the business is not in existence.

4. Recovery after discontinuance of business or profession [Sec. 176(3A), (4)]- Where any business or profession is discontinued by reason of retirement or death of the person carrying on such business or profession, any sum received after the discontinuance of the business or profession is deemed to be the income of the recipient and charged to tax in the year of receipt.

## CAPITAL GAINS

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**





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**BASIS OF CHARGE [Sec. 45]-** Capital gains tax liability arises when the following conditions are satisfied

1. There should be a capital asset.
2. The capital asset is transferred by the assessee.
3. Such transfer takes place during the previous year.
4. Any profit or gains arises as a result of such transfer.
5. Such profit or gains is not exempt from tax under section 54, 54B, 54D, 54EC, 54F and 54G and 54GA.

If the aforesaid conditions are satisfied, then capital gain is taxable in the assessment year relevant to the previous year in which the capital asset is transferred.

**CAPITAL ASSET [Section 2(14)]-** “Capital asset” is defined to include property of any kind, whether fixed or circulating, movable or immovable, tangible or intangible but does not include the following

1. Any stock-in-trade, consumable stores or raw material held for the purposes of business or profession.

2. Personal effects of the assessee, that is to say, movable property including wearing apparel and furniture held for his personal use or for the use of any member of his family dependent upon him (jewellery, house property, immovable asset, archaeological collections, drawings, paintings, sculptures, or any work of art will not be taken as “personal effects”. Consequently, on transfer of these shares, capital gain will be chargeable to tax).

3. Agricultural land in India provided it is not situated – a. in any area within the territorial jurisdiction of a municipality or a cantonment board, having a population of 10,000 or more; or b. in any notified area (within 8 kilometres from a municipality stated above).

4. 6½ per cent Gold Bonds, 1977 or 7 per cent Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government.

5. Special Bearer Bonds 1991.

6. Gold Deposit Bonds issued under Gold Deposit Scheme, 1999.

**SHORT-TERM/ LONG-TERM CAPITAL ASSET-** “Short term capital asset” means a capital asset held by an assessee for not more than 36 months, immediately prior to its date of transfer.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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In the following cases, however, such period is taken as 12 months 1. Equity or Preference Shares in a company (shares may or may not be quoted). 2. Securities (like debentures, Government securities) listed in a recognized stock exchange in India. 3. Units of UTI (units may or may not be quoted). 4. Units of a mutual fund specified under section 10(23D) [units may or may not be quoted].

5. Zero coupon bonds (bonds may or may not be quoted).

In the aforesaid cases, if the asset is held for more than 12 months immediately prior to its date of transfer, then it is “long-term capital asset”.

**TRANSFER OF CAPITAL ASSET** Transfer, in relation to a capital asset, includes sale, exchange or relinquishment of the asset or the extinguishment of any rights therein or the compulsory acquisition thereof under any law. However, certain transactions are not regarded as transfers

1. Transfer of capital asset at the time of liquidation [Sec. 46(1)] If the capital assets are distributed in kind by a company to its shareholders on its liquidation, then such a distribution is not treated as “transfer”.

2. Transfer of capital asset at the time of partition of family [Sec. 47(i)] If the capital assets are distributed in kind by a Hindu Undivided Family on total or partial partition of the family, then such a distribution is not treated as “transfer”.

3. Transfer of capital asset by gift [Sec. 47(iii)] If a capital asset is transferred in kind by any of the given mode (viz., under gift, under will or under an irrevocable transfer), then it is not treated as “transfer”. Exception The aforesaid rule is not applicable if the following conditions are satisfied a. The taxpayer is an employee; b. He has been allotted (directly or indirectly) shares/ debentures/ warrants by the employer company under a notified Employees’ Stock Option Plan/ Scheme in accordance with the guidelines issued by the Central Government; and c. The aforesaid shares/ debentures/ warrants are gifted by the concerned-employee to any person. If the aforesaid case, the gift of shares/ debentures/ warrants will be treated as “transfer”.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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4. Transfer of capital asset by holding company to subsidiary company [Sec. 47(iv)] If the given below conditions are satisfied, then the transaction is not treated as “transfer”. a. Capital asset is transferred by a parent company or its nominee. b. It is transferred to a wholly\* owned subsidiary company (\* There should be at least 2 shareholders in a company. To apply this provision, if shares are held by the holding company, say 99%, along with one of its directors, say 1%, in the subsidiary company, this condition is satisfied). c. The subsidiary company is an Indian company. It may, however, be noted that if capital asset is transferred as stock-in-trade after February 28,1988, then the aforesaid rule is not applicable and it will be treated as “transfer”.

5. Transfer of capital asset by subsidiary company to holding company [Sec. 47(v)]- If the given below conditions are satisfied, then the transaction is not treated as “transfer”. a. The whole\* (\* There should be at least 2 shareholders in a company. To apply this provision, if shares are held by the holding company, say 99%, along with one of its directors, say 1%, in the subsidiary company, this condition is satisfied) of the share capital of a subsidiary company is held by the holding company. b. Capital asset is transferred by the aforesaid subsidiary company to its holding company c. The holding company is an Indian company.

It may, however, be noted that if capital asset is transferred as stock-in-trade after February 28, 1988, then the aforesaid rule is not applicable and it will be treated as “transfer”.

6. Transfer of capital asset in a scheme of amalgamation [Sec. 47(vi)] If any capital asset is transferred by the amalgamating company to an Indian amalgamated company, in a scheme of amalgamation, then the transaction is not treated as “transfer”.

7. Transfer of capital asset in a scheme of amalgamation of two foreign companies [Sec. 47(via)] If the given below conditions are satisfied, then the transaction is not treated as “transfer” a. The capital asset is shares in an Indian company. b. Such shares are held by a foreign company (amalgamating company). c. Such shares are transferred in a scheme of amalgamation. d. Such shares are transferred to another foreign company (amalgamated company). e. Persons holding at least 25% (in value) shares in the amalgamated foreign company should become shareholders in the amalgamated foreign company. f. The above

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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transaction does not attract tax on capital gains in the country in which the amalgamating company is incorporated.

8. Transfer in a scheme of amalgamation of banking company [Sec. 47(viaa)] Any transfer of a capital asset by a banking company to a banking institution in a scheme of amalgamation of such banking company with such banking institution, is not treated as “transfer”.

9. Transfer of capital asset in a scheme of demerger [Sec. 47(vib)] If any capital asset is transferred by the demerged company to an Indian resulting company, in a scheme of demerger, then the transaction is not treated as “transfer”.

10. Transfer of shares in Indian company in a scheme of demerger of a foreign company [Sec. 47(vic)] If the given below conditions are satisfied, then the transaction is not treated as “transfer”

- A foreign company (demerged company) holds shares in Indian company.
- Such shares are transferred in a scheme of demerger by the aforesaid demerged company to the resulting foreign company.
- Persons holding at least 75% (in value) shares in the demerged foreign company should become shareholders in the resulting foreign company.
- The above transaction does not attract tax on capital gains in the country in which the demerged company is incorporated.

11. Issue of shares by the resulting company to the shareholders of the demerged company [Sec. 47(vid)] Whenever shares are issued in a scheme of demerger by the resulting company to the shareholders of demerged company, in consideration of demerger of undertaking, then the transaction is not treated as “transfer”.

12. Allotment of shares in amalgamated company in lieu of shares held in amalgamating company [Sec. 47(vii)] If the given below conditions are satisfied, then the transaction is not treated as “transfer”

- There is an amalgamation of 2 companies.
- The amalgamated company is an Indian company.

To the shareholders of amalgamating company, shares are allotted in the amalgamated company. d. Such shares are allotted in consideration of allotment of shares in the amalgamating company.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
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13. Transfer of agricultural land before March 1, 1970 [Sec. 47(viii)] If agricultural land is situated in India and it is transferred before March 1, 1970, then it is not treated as “transfer”

14. Transfer of work of art, manuscript, painting, etc., to Government/ University/ National Museum, etc. [Sec. 47(ix)] If the given below conditions are satisfied, then the transaction is not treated as “transfer”

a. Capital asset is any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print. b. It is transferred to the Government or a University or the National Museum, National Art Gallery, National Archives or any other notified institution.

15. Conversion of bonds or debentures into shares [Sec. 47(x)] If the given below conditions are satisfied, then the transaction is not treated as “transfer”

a. The capital asset is bonds or debentures or debenture-stock or deposit certificate in any form of a company (the company may be Indian company or foreign company). b. The above-noted capital asset is converted into shares or debentures of that company.

It may be noted that conversion of preference shares into equity shares is treated as “transfer” as it is not covered by the aforesaid conditions.

16. Transfer by way of exchange of membership of a recognized stock exchange for shares of a company [Sec. 47(xi)] If the given below conditions are satisfied, then the transaction is not treated as “transfer”

a. The taxpayer is a person other than a company. b. The capital asset is membership of a recognized stock exchange. c. It is transferred to a company in exchange of shares allotted by that company to the transferor. d. It is transferred on or before December 31, 1998. It may be noted that if the transfer is made after December 31, 1998 then such a case may be covered by section 47(xiv).

17. Transfer of land by a sick industrial company which is managed by its workers’ cooperative [Sec. 47(xii)] If the given below conditions are satisfied, then the transaction is not treated as “transfer”

a. The capital asset is land of a sick industrial company. b. The sick industrial company is being managed by its workers’ co-operative. c. The land is transferred under a scheme prepared and sanctioned under section 18 of Sick Industrial Companies (Special Provisions) Act, 1985. d. The above transfer is made during the period commencing from the previous year in which the said company has become a sick industrial company and ending with the previous year during

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

**COST OF IMPROVEMENT-** Cost of improvement is capital expenditure incurred by an assessee in making any additions/ improvement to the capital asset. It also includes any expenditure incurred to protect or complete the title to the capital assets or to cure such title. Cost of improvement includes only expenditure on improvement incurred on or after April 1, 1981 (whether incurred by the previous owner or by the assessee).

### **INDEXED COST OF ACQUISITION AND INDEXED COST OF IMPROVEMENT:**

Indexed cost of acquisition is the amount which bears to the cost of acquisition, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or the year beginning on April 1, 1981, whichever is later. It is to be noted that in case a property is acquired by making payments by installments, the benefit of indexation is available from the date of acquisition and not from the date of payment of various installments.

Similarly, indexed cost of improvement is an amount which bears to the cost of improvement, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place.

Cost inflation index is notified by the Central Government for a previous year having regard to seventy-five percent of average rise in the Consumer Price Index for urban non-manual employees of the immediately preceding previous year to such previous year.

**COMPUTATION OF CAPITAL GAINS/ LOSS [Sec. 48]**-The tax incidence is generally higher in the case of short-term capital gain as compared to long-term capital gain. It is to be noted that no deduction is allowed in respect of securities transaction tax in computing income under the head "Capital gains".

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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**Short Term Capital Gain/ loss** Full value of consideration XX Less Expenses on transfer XX Cost of acquisition XX Cost of improvement XX XX Balance XX Less Exemption under section 54B, 54D, 54G and 54GA XX STCG/ STCL XX

**Long Term Capital Gain/ loss** Full Value of Consideration XX Less Expenses on transfer XX Indexed cost of acquisition (ICA) XX Indexed cost of improvement (ICI) XX XX Balance XX Less Exemption under section 54, 54B, 54D, 54EC, 54F, 54G and 54 GA XX LTCG/ LTCL

## INCOME FROM OTHER SOURCES

**TREATMENT OF DIVIDEND-** Any dividend, declared, distributed or paid by a company to its shareholders is chargeable to tax under the head "Income from other sources" irrespective of the fact whether shares are held by the assessee as investment or stock-in-trade.

**The following points should be noted in this regard**

1. Actual dividend received from a domestic company is exempt in the hands of shareholders under section 10(34). However, the company declaring dividend has to pay corporate dividend tax under section 115-O @ 16.995%.
2. Actual dividend received from a non-domestic company is taxable in the hands of shareholders.
3. Deemed dividend if covered under clause 2(22) (a), (b), (c) or (d), then it is exempt in the hands of shareholders under section 10(34). However, the payer-company has to pay CDT/ DDT (corporate dividend tax/ dividend distribution tax) @ 16.995% under section 115-O.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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4. However, if dividend is covered under clause 2(22) (e), then it is taxable in the hands of shareholders. However, it is the obligation of the payer-company to deduct tax at source @ 10% under section 194 on such dividend.

Treatment of Winnings From Lotteries, Crossword Puzzles, Horse Races And Card Games, ETC.

1. Gross winnings from lotteries, crossword puzzles, races including horse races (other than income from the activity of owning and maintaining race horses), card games and other games of any sort or from gambling or betting of any nature whatsoever are chargeable to income-tax at a flat rate of 30% + surcharge, if any + cess @ 3% on the amount of gross winnings (without claiming any allowance or expenditure).

2. No deduction is allowed from such incomes under section 80C to 80U.

**Interest Exempt From Tax [Sec. 10(15)]-** Interest on the following is exempt from tax

1. Interest on notified securities, bonds or certificates.
2. Interest on 7% Capital Investment Bonds in the hands of individuals and Hindu undivided families.
3. Interest received by a non-resident Indian from notified bonds [i.e., NRI Bonds and NRI Bonds (Second Series) issued by the SBI].
4. Interest on notified Relief Bonds, in the case of an individual or HUF.
5. Interest on notified bonds/ debentures of a public sector company.
6. Interest on deposit made by a retired Government employee or an employee of a public sector company, out of money due to him on account of retirement [a deposit scheme has been formulated in which such employee may invest (whole or part) of his retirement benefits for a lock-in-period of three years].
7. Interest on securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, or interest on deposits for the benefit of the victims of the Bhopal gas leak disaster held in such account with the RBI or with a public sector bank, as the Central Government may, by notification in the Official Gazette, specify in this behalf.
8. Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999.

**Some deductions allowed from “Income from other sources”**

1. In the case of income in the nature of family pension, the amount deductible is 15,000 or 1/3 of such income,

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**





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whichever is less. For this purpose, “family pension” means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death.

2. Any expenditure is deductible if the following basic conditions are satisfied – a. The expenditure must be laid out or expended wholly and exclusively for the purpose of making or earning the income; b. The expenditure must not be in the nature of capital expenditure; c. It must not be in the nature of personal expenses of the assessee; d. It must be laid out or expended in the relevant previous year and not in any prior or subsequent year.

Any interest chargeable under the Act which is payable outside India is not deductible if tax has not been paid or deducted therefrom.

4. Any payment chargeable under the head “Salaries” and payable outside India is not deductible if tax has not been paid or deducted therefrom.

**Points to be noted** 1. In the case of public issue, the first interest is payable from the date of allotment till the first due date as per the terms of the allotment.

2. The term “ex-interest” means the next interest immediately after this transaction will be given to the seller.

**Interest Exempt From Tax [SEC. 10(15)]** 1. Interest on notified securities, bonds or certificates. 2. Interest on 7% Capital Investment Bonds in the hands of individuals and HUF. 3. Interest on notified Relief Bonds, in the case of an individual or HUF. 4. Interest payable to any foreign bank performing central banking functions outside India. 5. Interest on notified bonds/debentures of a public sector company. 6. Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999. 7. Interest on notified bonds issued by a local authority. 8. Interest on deposit made by a retired Government employee or an employee of a public sector company, out of money due to him on account of retirement. 9. Interest on securities held by the welfare Commissioner, Bhopal Gas Victims, Bhopal, or interest on deposits for the benefit of the victims of the Bhopal gas leak disaster held in such account with the RBI or with a public sector bank, as the Central Government may, by notification in the official

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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Gazette, Specify in this behalf. 10. Interest received by a non-resident Indian from notified bonds issued by the SBI or by any individual owing the bonds by virtue of being a nominee or survivor of such nonresident Indian or by an individual to whom the bonds have been gifted by the NRI.

## UNIT-III

### DEDUCTIONS U/S80

Deductions allowed under the income tax act helps to reduce your taxable income. It can be availed as the deductions only in case of tax-saving investments or incurred eligible expenses. There are a number of deductions available under various sections that will bring down taxable income.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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- Section 80C -Deductions on Investments - A deduction of Rs 1.5 lakh of total income under section 80C. In simple terms, it can reduce up to Rs 1,50,000 from the total taxable income, and it is available for individuals and HUFs.
- Section 80CCC – Insurance Premium -Section 80CCC provides a deduction to an individual for any amount paid or deposited in any annuity plan of LIC or any other insurer. The plan must be for receiving a pension from a fund referred to in Section 10(23AAB). Pension received from the annuity or amount received upon surrender of the annuity, including interest or bonus accrued on the annuity, is taxable in the year of receipt.
- **Section 80CCD – Pension Contribution**
  - **Deduction for Contribution to Pension Account**
    - a. Employee’s contribution under Section 80CCD (1)**

Maximum deduction is 10% of salary (in case the taxpayer is an employee) or 20% of gross total income (in case the taxpayer being self-employed) or Rs 1.5 lakh – whichever is less. (Until FY 2016-17, maximum deduction allowed was 10% of gross total income for self-employed individuals.)
    - b. Deduction for self-contribution to NPS – section 80CCD (1B)** A new section 80CCD (1B) has been introduced for an additional deduction of up to Rs 50,000 for the amount deposited by a taxpayer to their NPS account. Contributions to Atal Pension Yojana are also eligible.
    - c. Employer’s contribution to NPS – Section 80CCD (2)** Claim additional deduction on contribution to employee’s pension account for up to 10% of salary. There is no monetary ceiling on this deduction.
- Section 80 TTA – Interest on Savings Account- **Deduction from Gross Total Income for Interest on Savings Bank Account** - An individual or an HUF, may claim a deduction of maximum Rs 10,000 against interest income from savings account with a bank, co-operative society, or post office. Do include the interest from savings bank account in other income. Section 80TTA deduction is not available on

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
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interest income from fixed deposits, recurring deposits, or interest income from corporate bonds.

- **Section 80GG – House Rent Paid**

### **Deduction for House Rent Paid Where HRA is not Received**

- a. Section 80GG deduction is available for rent paid when HRA is not received. The taxpayer, spouse or minor child should not own residential accommodation at the place of employment
- b. The taxpayer should not have self-occupied residential property in any other place
- c. The taxpayer must be living on rent and paying rent
- d. The deduction is available to all individuals

- **Section 80E – Interest on Education Loan**

### **Deduction for Interest on Education Loan for Higher Studies**

A deduction is allowed to an individual for interest on loans taken for pursuing higher education. This loan may have been taken for the taxpayer, spouse or children or for a student for whom the taxpayer is a legal guardian. 80E deduction is available for a maximum of 8 years (beginning the year in which the interest starts getting repaid) or till the entire interest is repaid, whichever is earlier. There is no restriction on the amount that can be claimed.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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- **Section 80EE – Interest on Home Loan**

**Deductions on Home Loan Interest for First Time Home Owners-** This deduction is available in FY 2017-18 if the loan has been taken in FY 2016-17. The deduction under section 80EE is available only to home-owners (individuals) having only one house property on the date of sanction of the loan. The value of the property must be less than Rs 50 lakh and the home loan must be less than Rs 35 lakh. The loan taken from a financial institution must have been sanctioned between 1 April 2016 and 31 March 2017. There is an additional deduction of Rs 50,000 available on your home loan interest on top of deduction of Rs 2 lakh (on interest component of home loan EMI) allowed under section 24.

- **Section 80D – Medical Insurance**

Deduction for the premium paid for Medical Insurance

An individual or HUF can claim a deduction of Rs.25,000 under section 80D on insurance for self, spouse and dependent children. An additional deduction for insurance of parents is available up to Rs 25,000, if they are less than 60 years of age. If the parents are aged above 60, the deduction amount is Rs 50,000, which has been increased in Budget 2018 from Rs 30,000.

In case, both taxpayer and parent(s) are 60 years or above, the maximum deduction available under this section is up to Rs.1 lakh.

- **Section 80DD – Disabled Dependent**

**Deduction for Rehabilitation of Handicapped Dependent Relative**

Section 80DD deduction is available to a resident individual or a HUF and is available on:

- a. Expenditure incurred on medical treatment (including nursing), training and rehabilitation of handicapped dependent relative
- b. Payment or deposit to specified scheme for maintenance of handicapped dependent relative.
  - i. Where disability is 40% or more but less than 80% – fixed deduction of Rs 75,000.
  - ii. Where there is severe disability (disability is 80% or more) – fixed deduction of Rs 1,25,000.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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To claim this deduction a certificate of disability is required from prescribed medical authority. From FY 2015-16 – The deduction limit of Rs 50,000 has been raised to Rs 75,000 and Rs 1,00,000 has been raised to Rs 1,25,000.

- **Section 80DDB – Medical Expenditure**

Deduction for Medical Expenditure on Self or Dependent Relative

a. For individuals and HUFs below age 60

A deduction up to Rs.40,000 is available to a resident individual or a HUF. It is available with respect to any expense incurred towards treatment of specified medical diseases or ailments for himself or any of his dependents. For an HUF, such a deduction is available with respect to medical expenses incurred towards these prescribed ailments for any of the HUF members.

b. For senior citizens and super senior citizens

In case the individual on behalf of whom such expenses are incurred is a senior citizen, the individual or HUF taxpayer can claim a deduction up to Rs 1 lakh. Until FY 2017-18, the deduction that could be claimed for a senior citizen and a super senior citizen was Rs 60,000 and Rs 80,000 respectively. This has now become a common deduction available upto Rs 1 lakh for all senior citizens (including super senior citizens) unlike earlier.

c. For reimbursement claims

Any reimbursement of medical expenses by an insurer or employer shall be reduced from the quantum of deduction the taxpayer can claim under this section.

Also remember that there should be a prescription for such medical treatment from the concerned specialist in order to claim such deduction.

- **Section 80U – Physical Disability**

**Deduction for Person suffering from Physical Disability**

A deduction of Rs.75,000 is available to a resident individual who suffers from a physical disability (including blindness) or mental retardation. In case of severe disability, one can claim a deduction of Rs 1,25,000.

From FY 2015-16 – Section 80U deduction limit of Rs 50,000 has been raised to Rs 75,000 and Rs 1,00,000 has been raised to Rs 1,25,000.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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- **Section 80G – Donations**

### **Deduction for donations towards Social Causes**

The various donations specified in u/s 80G are eligible for deduction up to either 100% or 50% with or without restriction. From FY 2017-18 any donations made in cash exceeding Rs 2,000 will not be allowed as deduction. The donations above Rs 2000 should be made in any mode other than cash to qualify for 80G deduction.

*a. Donations with 100% deduction without any qualifying limit*

- National Defence Fund set up by the Central Government
- Prime Minister's National Relief Fund
- National Foundation for Communal Harmony
- An approved university/educational institution of National eminence
- Zila Saksharta Samiti constituted in any district under the chairmanship of the Collector of that district
- Fund set up by a State Government for the medical relief to the poor
- National Illness Assistance Fund
- National Blood Transfusion Council or to any State Blood Transfusion Council
- National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities
- National Sports Fund
- National Cultural Fund
- Fund for Technology Development and Application
- National Children's Fund
- Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund with respect to any State or Union Territory
- The Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund, Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996
- The Maharashtra Chief Minister's Relief Fund during October 1, 1993 and October 6, 1993

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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- Chief Minister's Earthquake Relief Fund, Maharashtra
- Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat
- Any trust, institution or fund to which Section 80G(5C) applies for providing relief to the victims of earthquake in Gujarat (contribution made during January 26, 2001 and September 30, 2001) or
- Prime Minister's Armenia Earthquake Relief Fund
- Africa (Public Contributions — India) Fund
- Swachh Bharat Kosh (applicable from financial year 2014-15)
- Clean Ganga Fund (applicable from financial year 2014-15)
- National Fund for Control of Drug Abuse (applicable from financial year 2015-16)

*b. Donations with 50% deduction without any qualifying limit*

- Jawaharlal Nehru Memorial Fund
- Prime Minister's Drought Relief Fund
- Indira Gandhi Memorial Trust
- The Rajiv Gandhi Foundation

*c. Donations to the following are eligible for 100% deduction subject to 10% of adjusted gross total income*

- Government or any approved local authority, institution or association to be utilized for the purpose of promoting family planning
- Donation by a Company to the Indian Olympic Association or to any other notified association or institution established in India for the development of infrastructure for sports and games in India or the sponsorship of sports and games in India

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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*d. Donations to the following are eligible for 50% deduction subject to 10% of adjusted gross total income*

- Any other fund or any institution which satisfies conditions mentioned in Section 80G(5)
- Government or any local authority to be utilized for any charitable purpose other than the purpose of promoting family planning
- Any authority constituted in India for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns, villages or both
- Any corporation referred in Section 10(26BB) for promoting the interest of minority community
- For repairs or renovation of any notified temple, mosque, gurudwara, church or other places.

### **Deductions-Summary**

#### **Section 80 Deduction Table**

Section	Deduction on	Allowed Limit (maximum) FY 2018-19
80C	Investment in PPF	Rs. 1,50,000
	– Employee's share of PF contribution	
	– NSCs	
	– Life Insurance Premium payment	
	– Children's Tuition Fee	
	– Principal Repayment of home loan	
	– Investment in Sukanya Samridhi Account	
	– ULIPS	
	– ELSS	
	– Sum paid to purchase deferred annuity	
– Five year deposit scheme		

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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Section	Deduction on	Allowed Limit (maximum) FY 2018-19
	<ul style="list-style-type: none"> <li>– Senior Citizens savings scheme</li> <li>– Subscription to notified securities/notified deposits scheme</li> <li>– Contribution to notified Pension Fund set up by Mutual Fund or UTI.</li> <li>– Subscription to Home Loan Account scheme of the National Housing Bank</li> <li>– Subscription to deposit scheme of a public sector or company engaged in providing housing finance</li> <li>– Contribution to notified annuity Plan of LIC</li> <li>– Subscription to equity shares/ debentures of an approved eligible issue</li> <li>– Subscription to notified bonds of NABARD</li> </ul>	
80CCC	For amount deposited in annuity plan of LIC or any other insurer for a pension from a fund referred to in Section 10(23AAB)	-
80CCD(1)	Employee's contribution to NPS account (maximum up to Rs 1,50,000)	-
80CCD(2)	Employer's contribution to NPS account	Maximum up to 10% of salary
80CCD(1B)	Additional contribution to NPS	Rs. 50,000
80TTA(1)	Interest Income from Savings account	Maximum up to 10,000
80TTB	Exemption of interest from banks, post office, etc. Applicable only to senior citizens	Maximum up to 50,000
80GG	For rent paid when HRA is not received from employer	Least of : – Rent paid minus 10%

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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Section	Deduction on	Allowed Limit (maximum) FY 2018-19
		of total income
		– Rs. 5000/- per month
		– 25% of total income
80E	Interest on education loan	Interest paid for a period of 8 years
80EE	Interest on home loan for first time home owners	Rs 50,000
		Lower of
		– 50% of amount invested in equity shares;
80CCG	Rajiv Gandhi Equity Scheme for investments in Equities	or – Rs 25,000
	Medical Insurance – Self, spouse, children	
80D	Medical Insurance – Parents more than 60 years old or (from FY 2015-16) uninsured parents more than 80 years old	– Rs. 25,000 – Rs. 50,000
	Medical treatment for handicapped dependent or payment to specified scheme for maintenance of handicapped dependent	– Rs. 75,000
80DD	– Disability is 40% or more but less than 80% – Disability is 80% or more	– Rs. 1,25,000
	Medical Expenditure on Self or Dependent Relative for diseases specified in Rule 11DD	– Lower of Rs 40,000 or the amount actually paid
80DDB	– For less than 60 years old – For more than 60 years old	– Lower of Rs 1,00,000 or the amount actually paid
80U	Self-suffering from disability	– Rs. 75,000

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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Section	Deduction on	Allowed Limit (maximum) FY 2018-19
	– An individual suffering from a physical disability (including blindness) or mental retardation. – An individual suffering from severe disability	– Rs. 1,25,000
80GGB	Contribution by companies to political parties	Amount contributed (not allowed if paid in cash)
80GGC	Contribution by individuals to political parties	Amount contributed (not allowed if paid in cash)
80RRB	Deductions on Income by way of Royalty of a Patent	Lower of Rs 3,00,000 or income received

## UNIT-IV

### SET-OFF AND CARRY FORWARD OF LOSSES

Profit and losses are two sides of a coin. Losses, of course, are hard to digest. However, the Income-tax law in India does provide taxpayers some benefits of incurring losses too.

#### Set off of losses

Set off of losses means adjusting the losses against the profit or income of that particular year. Losses that are not set off against income in the same year can be carried forward to the subsequent years for set off against income of those years. A set-off could be an intra-head set-off or an inter-head set-off.

- An intra-head set-off
- An inter-head set-off

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
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## **a. Intra-head Set Off**

The losses from one source of income can be set off against income from another source under the same head of income.

For eg: Loss from Business A can be set off against profit from Business B, where Business A is one source and Business B is another source and the common head of income is “Business”.

### **Exceptions to an intra-head set off:**

1. Losses from a Speculative business will only be set off against the profit of the speculative business. One cannot adjust the losses of speculative business with the income from any other business or profession.
2. Loss from an activity of owning and maintaining race-horses will be set off only against the profit from an activity of owning and maintaining race-horses.
3. Long-term capital loss will only be adjusted towards long-term capital gains. However, a short-term capital loss can be set off against both long-term capital gains and short-term capital gain.
4. Losses from a specified business will be set off only against profit of specified businesses. But the losses from any other businesses or profession can be set off against profits from the specified businesses.

## **b. Inter-head Set Off**

After the intra-head adjustments, the taxpayers can set off remaining losses against income from other heads.

Eg. Loss from house property can be set off against salary income

Given below are few more such instances of an inter-head set off of losses:

1. Loss from House property can be set off against income under any head
2. Business loss other than speculative business can be set off against any head of income except income from salary.

One needs to also note that the following losses can't be set off against any other head of income:

- a. Speculative Business loss

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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- b. Specified business loss
- c. Capital Losses
- d. Losses from an activity of owning and maintaining race-horses

### **Carry forward of losses**

After making the appropriate and permissible intra-head and inter-head adjustments, there could still be unadjusted losses. These unadjusted losses can be carried forward to future years for adjustments against income of these years. The rules as regards carry forward differ slightly for different heads of income. These have been discussed here:

#### **Losses from House Property :**

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from house property
- Can be carried forward even if the return of income for the loss year is belatedly filed.

#### **Losses from Non-speculative Business (regular business) loss :**

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from business or profession
- Not necessary to continue the business at the time of set off in future years
- Cannot be carried forward if the return is not filed within the original due date.

#### **Speculative Business Loss :**

- Can be carry forward up to next 4 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from speculative business
- Cannot be carried forward if the return is not filed within the original due date.
- Not necessary to continue the business at the time of set off in future years

#### **Specified Business Loss under 35AD :**

- No time limit to carry forward the losses from the specified business under 35AD
- Not necessary to continue the business at the time of set off in future years
- Cannot be carried forward if the return is not filed within the original due date

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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- Can be adjusted only against Income from specified business under 35AD

### Capital Losses :

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Long-term capital losses can be adjusted only against long-term capital gains.
- Short-term capital losses can be set off against long-term capital gains as well as short-term capital gains
- Cannot be carried forward if the return is not filed within the original due date

### Losses from owning and maintaining race-horses :

- Can be carry forward up to next 4 assessment years from the assessment year in which the loss was incurred
- Cannot be carried forward if the return is not filed within the original due date
- Can only be set off against income from owning and maintaining race-horses only

### GROSS TOTAL INCOME

#### Difference between Gross Total Income & Total Income

To understand their difference in simple terms, look at the following formulae:

$$TI = GTI - \text{deductions under Section 80}$$

Or

$$GTI = TI + \text{deductions under Section 80}$$

So, GTI is the total of all the heads of income while TI is GTI minus the deductions.

To calculate GTI, you add the following:

- **Income from salary:** This includes the earning from employment.
- **Income from house property:** This includes any rent you earn by letting out a house.
- **Income from business or profession:** This includes the income earned by a businessman or a self-employed professional.
- **Capital gains/loss:** This includes profits or losses you incur by selling any movable or immovable capital property. That would include land, building, house, shares, jewellery, etc.

MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI



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- **Income from other sources:** The income not included in the above-mentioned heads features in this. Examples would be income from interest, a lottery gain, etc.

To calculate TI, the following deductions under Section 80 of Chapter VI of the Income Tax Act are subtracted from the GTI

- **80C:** Allows specific investments and expenses to be deducted from the GTI up to Rs 1.5 lakh.
- **80CCD:** NPS (National Pension System) contribution up to Rs 50,000 is allowed as deduction.
- **80D:** Health insurance premiums, up to Rs 60,000, paid for self and for parents qualify under this section.
- **80TTA:** Interest earned from the savings account, up to Rs 10,000, is tax-free.
- **80E:** Interest paid on education loan is deducted.
- **80GG:** This includes housing rent allowance (HRA) exemption for those who do not have an HRA component in their salary.
- **80DDB:** Expenses incurred on specific illnesses are deducted up to Rs 40,000 or Rs 60,000, depending on the patient's age.
- **80U:** This gives a fixed deduction if you have a physical disability. The deduction is Rs 75,000 or Rs 1.25 lakh, depending on the severity of the disability.
- **80G:** Charitable donations made to recognised institutes are allowed as deduction.

### Tax Liability:

**Tax liability** is the total amount of **tax** debt owed by an **individual**, corporation or other entity to a taxing authority, such as the IRS. Income **taxes**, sales **tax**, and capital gains **tax** are all forms of **tax liabilities**.

### Computation Of Total Income & Tax Liability of an Individual [Assessment of Individual]

**Step 1:** Compute the income of an individual under 5 heads of income on the basis of his residential status.

MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI





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- Step 2:** Income of any other person, if includible u/ss 60 to 64, will be included under respective heads.
- Step 3:** Set off of the losses if permissible, while aggregating the income under 5 heads of income.
- Step 4:** Carry forward and set off of the losses of past years, if permissible, from such income.
- Step 5:** The income computed under Steps 1 to 4 is known as Gross Total Income from 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. For details see below.
- 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.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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### **Rebate of maximum Rs. 2,500 for resident individuals having total income up to Rs. 3,50,000 [Section 87A]**

With a view to provide tax relief to the individual tax payers who are in lower income bracket, the Act has provided rebate from the tax payable by an assessee, if the following condition and satisfied:

1. The assessee is an individual
2. He is resident in India,
3. His total income does not exceed Rs. 3,50,000.

### **Quantum of Rebate:**

The rebate shall be equal to:

1. the amount of income-tax payable on the total income for any assessment year,  
or
2. Rs. 2,500,

*whichever is less.*

Income Tax Slabs and Rates for Financial Year: 2019-20	
Income Tax Slab	Individuals below the age of 60 years
Up to `2,50,000	Nil
2,50,001 to 5,00,000	5%
5,00,001 to 10,00,000	12,500 + 20% of total <b>income</b> exceeding 5,00,000
Above 10,00,000	1,12,500 + 30% of total <b>income</b> exceeding 10,00,000

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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## Unit- V

### Minimum Alternate Tax (MAT)

**MAT** or **Minimum Alternate Tax** is a provision in Direct **tax** laws to limit **tax** exemptions availed by companies, so that they pay at least a **minimum** amount of corporate **tax** to the government. The key reason for introduction of **MAT** is to ensure **minimum** levels of **taxation** for all domestic and foreign companies in India.

#### **MAT – A Brief Introduction**

Minimum Alternative Tax is payable under the Income Tax Act. The concept of MAT was introduced to target those companies that make huge profits and pay the dividend to their shareholders but pay no/minimal tax under the normal provisions of the Income Tax Act, by taking advantage of the various deductions, and exemptions allowed under the Act. But with the introduction of MAT, the companies have to pay a fixed percentage of their profits as Minimum Alternate Tax. MAT is applicable to all companies, including foreign companies.

MAT is calculated under Section 115JB of the Income-tax Act.

Every company should pay **higher** of the tax calculated under the following two provisions:

1. Tax liability as per the **Normal provisions** of income tax act (tax rate 30% plus 4% Education cess plus surcharge (if applicable))

TAX LIABILITY AS PER THE NORMAL PROVISIONS OF THE INCOME TAX ACT WHOSE TURNOVER OR GROSS RECEIPTS WAS OF Rs. 250Cr DURING THE FY 2016-17. (TAX RATE 25% PLUS 4% EDUCATION CESS PLUS SURCHARGE (IF APPLICABLE))

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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2. Tax liability as per the **MAT provisions** are given in Sec 115JB (18.5 % of Book Profits Plus 4 % education cess plus a surcharge if applicable). The tax rate is 15% with effect from AY 2020-21 (FY 2019-20)

### **How to calculate MAT?**

MAT is equal to 18.5% (15% from AY 2020-21) of Book profits (Plus Surcharge and cess as applicable). Book profit means the net profit as shown in the profit & loss account for the year as increased and decreased by the following items:

#### ***Additions to the Net Profit (If debited to the Profit and Loss Account):***

1. Income Tax paid or payable if any calculated as per normal provisions of income tax act.
2. Transfer made to any reserve
3. Dividend proposed or paid
4. Provision for loss of subsidiary companies
5. Depreciation including depreciation on account of revaluation of assets
6. Amount/provision of deferred tax
7. Provision for unascertained liabilities e.g. provision for bad debts
8. Amount of expense relating to exempt income under sections 10,11,12 (except sec 10AA and 10(38) This means income under section 10AA & long term capital gain exempt under section 10(38) are subject to MAT. Provision made for diminution in the value of any asset

#### ***Deletions to the Net Profit (If credited to the Profit and Loss Account)***

1. Amount withdrawn from any reserves or provisions
2. The amount of income to which any of the provisions of section 10, 11 & 12 except 10AA & 10(38) applies.
3. Amount withdrawn from revaluation reserve and credited to profit & loss account to the extent of depreciation on account of revaluation of asset.
4. Amount of loss brought forward or unabsorbed depreciation, whichever is less as per the books of account. However, the loss shall not include the depreciation. (if loss brought forward or unabsorbed depreciation is nil then nothing shall be deducted.)
5. Amount of Deferred Tax, if any such amount is credited in the profit & loss account

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**



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6. Amount of depreciation debited to the Profit and Loss Account (excluding the depreciation on revaluation of Assets)

### What is MAT Credit?

When any amount of tax is paid as MAT by the company, then it can claim the credit of such tax paid in accordance with the provision of section 115JAA.

**Allowable Tax Credit:** Tax paid as per MAT calculation — Income tax payable under normal provision of Income-tax Act, 1961.

(However, no interest shall be paid on this Tax credit by the Department.)

*For Instance*

ABC Ltd has the taxable income as per normal provisions of the income tax Act Rs 40 lakhs and Book profits of Rs 75 lakhs for the FY 2019-20.

- Tax payable will be higher of the following two:

Rs 40, 00,000 @ 30 % plus 4% = 12,48, 000

- Tax liability as per MAT provisions will be :

Rs 75, 00,000 @ 18.5 % plus 4% = Rs 14,43,000

Hence Tax payable by the company will be Rs 14,43,000.

**MAT CREDIT:** Rs 14,43,000 – Rs 12, 48,000 = Rs 1,95,000

Such tax credit shall be carried forward for **15 Assessment Years** immediately succeeding the assessment year in which such credit has become allowable. This is with effect from AY 2018-19 prior to which MAT could be carried forward only for a period of 10 AYs. For instance, if the excess tax is paid is in FY 2016-17, then the credit of such tax can be carried forward from in FY 2017-18.

MAT credit shall be allowed to be set off in a year when the tax becomes payable on the total income in accordance with the normal provisions of the Act. Set off shall be allowed to the extent of difference between the tax on the total income under normal provision and tax which would have been payable as per MAT under section 115JB.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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- Actual tax payable : Higher of Tax Payable under MAT OR Tax Payable as per normal provisions.
- MAT credit set off is allowed only if tax payable as per normal provisions is greater than tax payable as per MAT and also to the extent of the difference between the two.
- MAT Credit Available under section 115JAA: Tax Payable under MAT — Tax Payable as per normal provisions

## WEALTH TAX

**Wealth tax** is a **tax** levied on the value of held assets. A **wealth tax** is applicable to a variety of asset types including cash, bank deposits, shares, fixed assets, personal cars, assessed value of real property, pension plans, money funds, owner-occupied housing, and trusts.

### Background

Wealth tax is imposed on the richer section of the society. The intention of doing so is to bring parity amongst the taxpayers. However, wealth tax was abolished in the budget of 2015 (effective FY 2015-16) as the cost incurred for recovering taxes was more than the benefit is derived. Abolishing the wealth tax also simplified the tax structure. As an alternative to the wealth tax, the finance minister hiked the surcharge from 2% to 12% for the super rich section. Individuals with an income of above Rs.1 crore and companies with an income of over Rs.10 crore fall under the ambit of the super-rich segment.

### Who is Liable to pay wealth tax?

Wealth tax is applicable to individuals, HUFs, and companies. The deciding factor for applicability of wealth tax is the residential status. The thumb rule is the resident Indians are subject to wealth tax on their global assets. However, NRI's fall under the ambit of wealth tax for the assets held in India.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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## Charge on Wealth

If the total net wealth of an individual, HUF or company exceeds Rs. **30 lakhs**, on the valuation date, tax @**1%** will be leviable on the amount in excess of Rs. **30 lakhs**. Every person whose net wealth exceeds such limit shall furnish a return of net wealth. The due date is same as that of Income tax return.

## Computation of Net Wealth

Value of Assets belonging to the assessee on the valuation date	XXX
Add: Deemed wealth	XXX
Less: Exempt Assets	XXX
Less: Debts incurred in relation to the assets	XXX
Total	XXX

## Components of Wealth

**Assets:** *An asset is a resource which is held and has future economic benefit*

1. Any building or land appurtenant whether used for residential/ other purposes, but doesn't include:
  - a. House allotted by accompanying/ employer to be used exclusively for residential purposes, where the gross total salary of the assessee is less than Rs.10 lakhs
  - b. House which forms part of Stock in trade
  - c. House occupied by the assessee for business/ professional purpose
  - d. Residential property let out for minimum of 300 days in the previous year
  - e. Property in the nature of commercial establishment or complex
2. Motorcars, other than those used for running them on hire or those held as stock in trade
3. Jewellery, bullion, furniture, utensils or other articles made fully/ partly of gold, silver, platinum or such precious metals
4. Yachts, boats and aircrafts other than those used for commercial purpose
5. Urban land situated in the Specified area, other than:

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA**  
**ASSISTANT PROFESSOR**  
**MEASI INSTITUTE OF MANAGEMENT**  
**CHENNAI**



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- a. Those classified as agricultural land and used for such purpose
- b. Those in which building construction is not permissible
- c. Land occupied by building, which was constructed with the approval of the appropriate authority
- d. Unused land held by assessee for industrial purposes for a period of 2 years from the date of acquisition.
- e. Land held by the assessee as stock in trade for over 10 years from the date of acquisition
6. Cash in hand in excess of Rs. 50,000

**Deemed Assets: *These are assets, though not legally belonging to the assessee, are clubbed as his assets while computing his net wealth***

1. Assets transferred to Spouse otherwise than in connection with agreement to live apart.
2. Assets transferred to a person/ Association of Persons for the immediate or deferred benefit of assessee or spouse.
3. Assets transferred to son's wife.
4. Assets transferred to a person/ Association of Persons for the immediate or deferred benefit of son's wife.
5. Assets held by minor child other than those acquired using the skills of minor or those belonging to a minor with disability.
6. Interest of assessee in the asset of a firm/association of people where he is a partner or member.
7. Self-acquired property that is converted as the property of the family/transferred with inadequate consideration.
8. Assets transferred under revocable transfer.
9. Gift of money made in books maintained by assessee, by way of mere book entries.
10. Impartible assets held by assessee
11. Building allotted to assessee under a Homebuilding scheme.

**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**





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12. Building in which a person is allowed to take/ retain possession in part performance of a contract.

13. Building for which assessee has acquired the rights.

### **Exempted Assets: Assets which are not considered as a part of wealth for the computation of wealth tax**

1. Property held under trust/ for the purpose of charitable/religious purposes.
2. Interest in coparcenary property of Hindu Undivided family.
3. Jewellery in possession of ruler not being his personal property.
4. Money/Asset brought by a person of Indian origin/by an Indian citizen.
5. In case of an Individual/HUF, a house/ part of house or plot of land not exceeding 50sq.mtr in area.

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**MRS. D.CHARUMATHI, MBA, MFC, PGDCM&IA  
ASSISTANT PROFESSOR  
MEASI INSTITUTE OF MANAGEMENT  
CHENNAI**