

- # Section 15:-Charging Section
- Income is taxable under the head salary if there is **Employee - Employer relationship**. (master - servant relation).
 - Salary is taxable even in case of part time job like employee work with 2 employer's simultaneously.
 - Salary is taxable on the basis of **due** or **received** whichever is **earlier**.
 - Salary received by partner from partnership firm shall be taxable under the head **PGBP**.
 - Salary received by MP, MLA, MLC shall be taxable under the head **IFOS**.
 - Contract **of** service **salary**.
Contract **for** service **PGBP**.
 - Salary forgone is always taxable since it is merely application of income. Salary surrendered to central Govt, shall not to be treated as salary.
 - Any amount received before joining employment or after cessation of employment with that person is treated as "**Profit in lieu**" of salary & it is taxable.
 - In this topic we have to find out salary income of employee.

Shankar Krishnan (2012) (Bom.)

Rent free accommodation perquisite is computed based on "actual" hire charges paid by the employer or 15% of Salary of employee. Notional interest on Interest free Security deposit given to landlord by the employer shall not be included while calculating perks value.

Director, Delhi Public School (2011) (Punj. & Har.)

Education facility provided by ER to the children of EE is fully exempt if value of such facility is upto 1000 per month per child. Limit of 1000 is not a standard deduction so if value is more than 1000 it is fully taxable for EE.

Statement of salary. Name of the Assessee _____ P.Y. 2022-23 A.Y. 23-24

Computation of salary.

Particulars	₹
Basic Salary (Note-1)	xxx
Dearness Allowance (D.A.) (Note - 2)	xxx
Commission (Note-3)	xxx
Bonus (Note-4)	xxx
Advance Salary / Arrears salary (Note-5)	xxx
Gratuity (Note-6)	xxx
Pension (Note-7)	xxx
Leave salary (Note-8)	xxx
Allowances (Note-9)	xxx
Provident Fund (Note-10)	xxx
Voluntary Retirement Compensation (VRS) (Note-11)	xxx
Super Annuation fund (Note -12)	xxx
Retrenchment Compensation (Note-13)	xxx
Perquisite (Note-14)	xxx
Gross Salary	xxxx
Less: Deduction u/s 16 :	
1. Professional Tax (Note-15)	(xxx)
2. Entertainment Allowance (Note-16)	(xxx)
3. Standard deduction (Note-17)	(xxx)
Net Salary	xxxx

Note 1 : Basic salary

It is fully taxable.

Note 2 : Dearness Allowance (DA)

DA is fully taxable whether it is 'in terms' or 'not in terms'.

DA in terms means DA which is forming part of retirement benefit calculation. In all the formulas, DA is considered only if it is 'in terms'. If nothing is given about DA then assume it is 'not in terms'.

Note 3 : Commission - Commission is fully taxable whether it is Turnover commission or any other commission.

Note 4 : Bonus - It is taxable on receipt basis. It only declared is given then it should be ignored.

Note 5 : Advance & Arrears Salary

(A) Advance Salary : Advance salary is taxable on receipt basis. It advance against salary is given or only advance is given then it should be ignored because it is treated as loan.

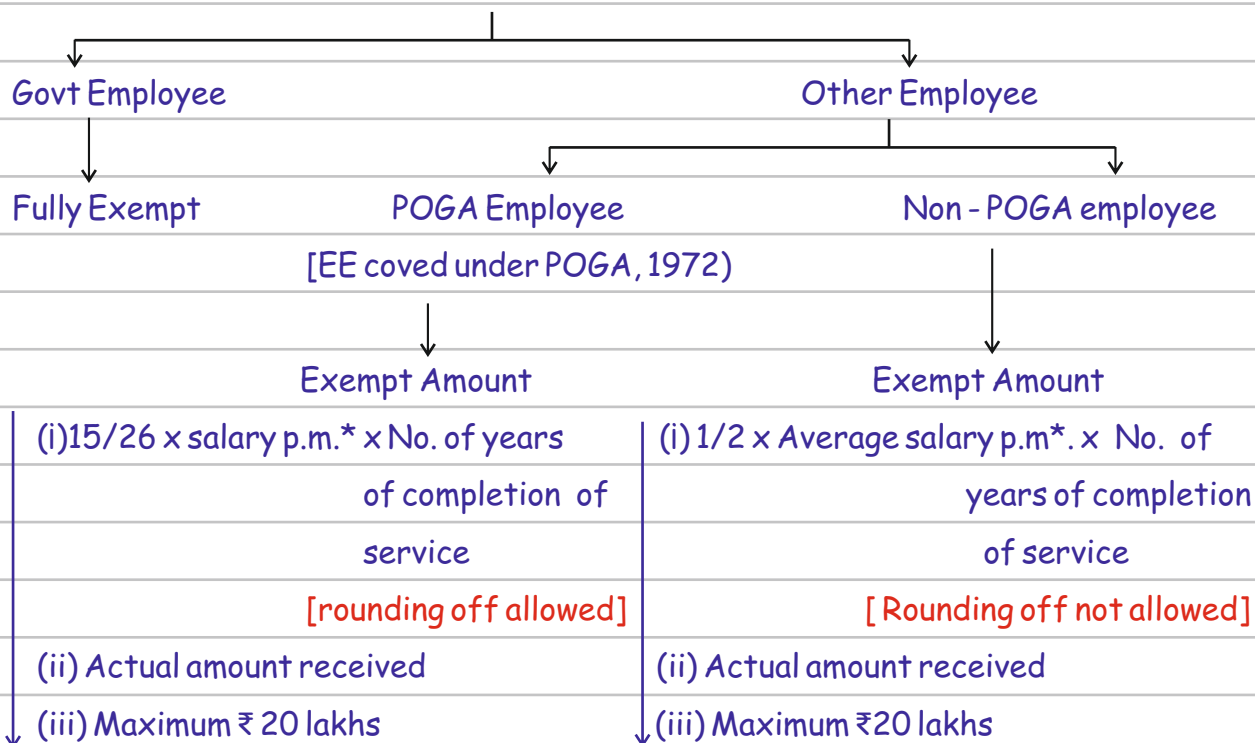
(B) Arrears Salary : It means salary under dispute or increase of salary retrospectively. It is taxable in the year in which it is received.

Note 6 : Gratuity

(A) Gratuity received during the employment - fully taxable for all employees (Government as well as non-government employees).

(B) Gratuity received at the time of retirement-

Exempt u/s 10(10)



#	Salary p.m*	Average Salary p.m *
		(Don't include month of retirement)
	Latest Basic salary p.m xx	Avg Basic salary of last 10 months xxx
	(+) Latest D.A (both) xx	(+) Avg DA(T) of last 10 months xxx
	xx	(+) Avg T/O comm of last 10 months xxx
		xxx

Notes:

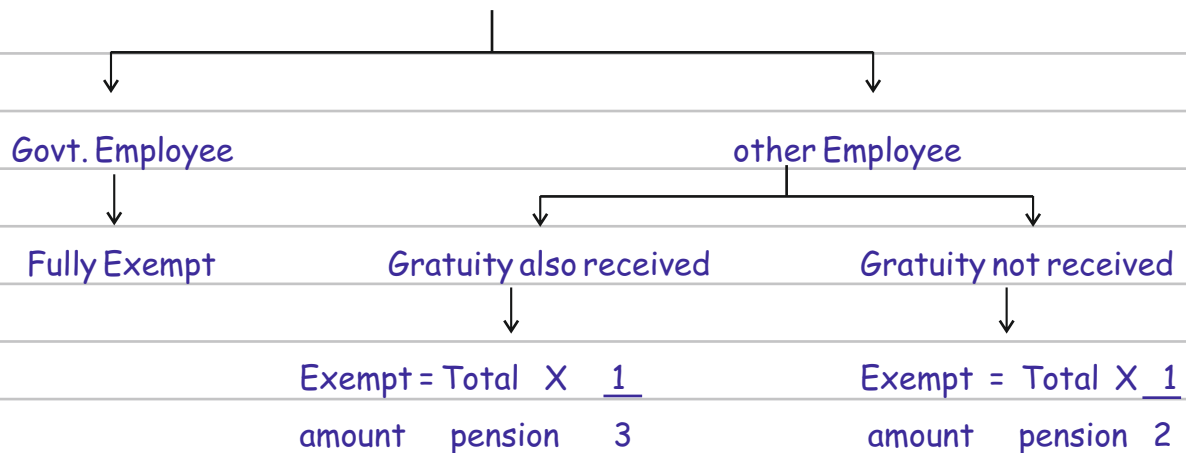
- In case of POGA employee if fraction is more than 6 months, it should be rounded off.
e.g. 30 years 4 months = 30 years
30 years 6 months = 30 years
30 years 9 months = 31 years
- In case of Non-POGA employee fraction should be ignored.
eg: 30 years 3 months = 30 years
30 years 11 months = 30 years

Note 7 : Pension

- Uncommuted pension (monthly pension) - Taxable for All employees

- Commuted pension (lumpsum pension)

Exempt u/s 10 (10A)



Total Pension = Full value of pension.

Note -8: Leave Salary

It means en-cashment of un-utilised leave.

1. Leave salary during employment - **Fully taxable for all employees.**

2. Leave salary at the time of retirement,

Exempt u/s 10(10AA)

Govt. Employee

Other Employee

Fully Exempt

Exempt amount

(i) Leave credit x Avg. salary p.m.

(ii) 10 months x Avg. salary p.m.

(iii) Actual amount received

(iv) Maximum ₹ 3,00,000

(whichever is lower)

[Avg of last 10 months upto date of Retirement]

Average salary p.m

Avg. Basic salary of last 10 months xxx

Avg. DA (in terms) of last 10 months xxx

Avg. Turnover Commission of last 10 months xxx

xxx

Leave Credit

Leave credit = Leave allowed - Leave taken

[Max. 30 days for every completed year]

Note 11 : VRS - Exempt u/s 10(10C)

(i) Salary p.m. x 3 months x No. of years of completion of service.

(Fraction IGNORED)

(ii) Salary p.m. x No. of remaining months of service;

(iii) Actual amount received.

(iv) Maximum ₹ 5,00,000

Salary p.m. = Basic + DA(T) + T/O Commission.

Note 13: Retrenchment Compensation.

Exempt u/s 10 (10B)

(i) * Compensation as per Industrial Disputes Act.

(ii) Maximum ₹ 5,00,000

* $15/26 \times \text{Avg salary of last 3 months (Basic + DA(T) + T/O Commission)} \times \text{No. of years of completion of service (if fraction is more than 6 months, then round off)}$

Note - 9: Allowances

	Allowance	Exempt u/s 10 (14)
1.	Commutation / Transport allowance (office ↔ Ghar) (Ghar ↔ office)	Max ₹ 3200 p.m (in case of blind/deaf & dumb or handicapped)
2.	Children Education Allowance	Max ₹ 100 p.m. per child (Max 2 child.)
3.	Children Hostel Allowance	Max ₹ 300 p.m. per child (Max 2 child.)
4.	Underground Allowance (Mines)	Max ₹ 800 p.m.
5.	Tribal area Allowance	Max ₹ 200 p.m.
6.	Allowance to employees of Transport undertaking	Amount received x 70% OR ↓ 10000 P.m
7.	Traveling or Tour allowance	} Exempt amount = Amount spent
8.	Conveyance allowance	
9.	Uniform allowance	
10.	Daily allowance	
11.	Helper allowance (for office Purpose)	
12.	Research allowance/ Academy allowance	

13. HRA - House Rent Allowance

Exempt u/s 10(13A)

(i) 40% / 50%* of salary [BS + DA(T) + T/O Commission]

(ii) Actual Amount received

(iii) Rent paid - 10% of salary [BS + DA (T) + T/O Commission]

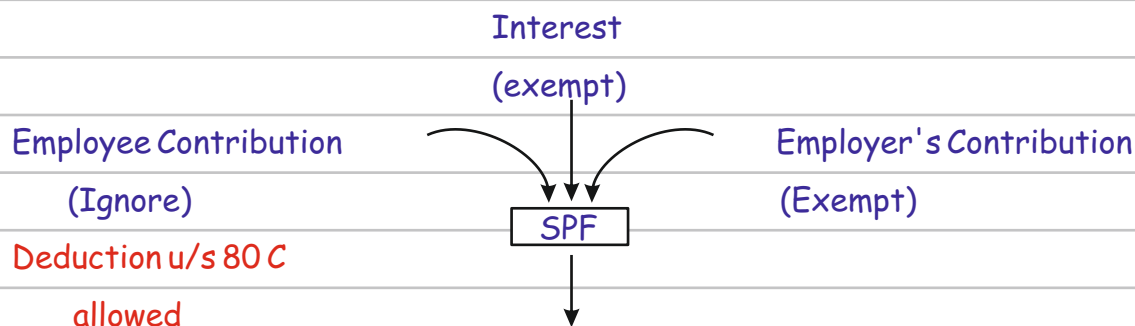
*50% if metro cities (Mumbai/Delhi/Chennai/Kolkata), 40% for other cities.

14. All other allowances are fully taxable.

*[Entertainment allowance explained separately in Note-16]

Note 10: Provident Fund

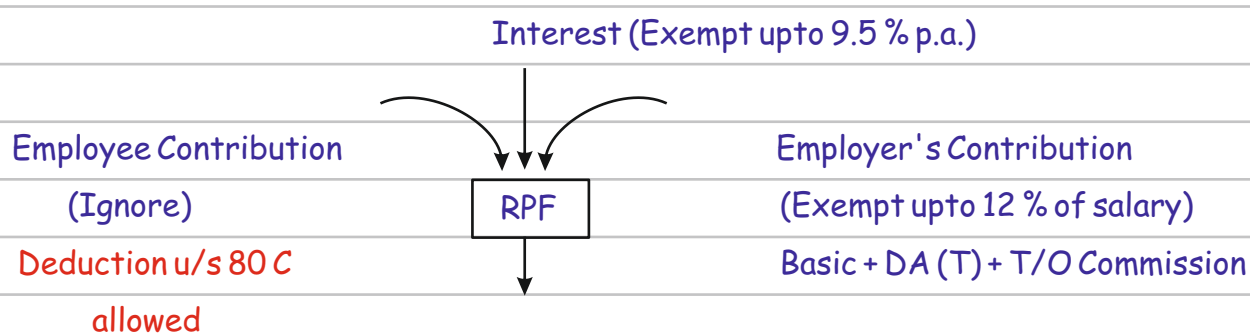
a. Statutory Provident Fund (SPF)



Lumpsum amount received by Employee
on retirement

Exempt u/s 10 (11)

b. Recognised provident Fund (RPF)



Lumpsum amount received by Employee
on retirement

Exempt u/s 10 (12)

Note: Lumpsum amount received from RPF is exempt u/s 10(12) if employee has rendered service of 5 years or more, If employee rendered service less than 5 years then exemption allowed in respect of employer's contribution and interest shall be withdrawn. However in the following 3 cases exemption shall not be withdrawn even though service is less than 5 years:

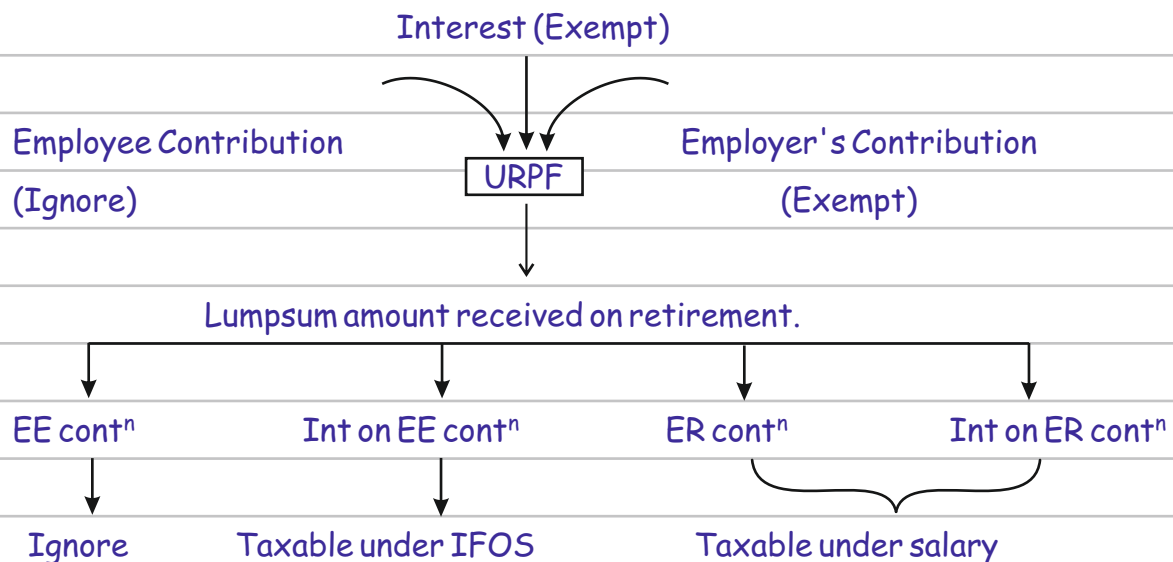
1. Employee retired due to ill health
2. Employee retired due to shut down of employer's business.
3. Employee has retired with the instruction that his balance in RPF should be transferred to new employer, or to NPS A/C referred u/s 80CC D

Amendment by FA-21 : Interest on EE's Contribution towards SPF/RPF

- Exemption u/s 10(11) or 10(12) not available for interest accrued during the PY to the extent it relates to the contribution made by that person/employee exceeding ₹ 2,50,000 in any PY in that fund, on or after 01/04/21.
- If in that fund employer not made any contribution, then, a higher limit of ₹ 5,00,000 would be applicable.
- It may be noted that interest accrued on contribution to such funds upto 31/03/21 would be exempt without any limit, even if the accrual of income is after that date.

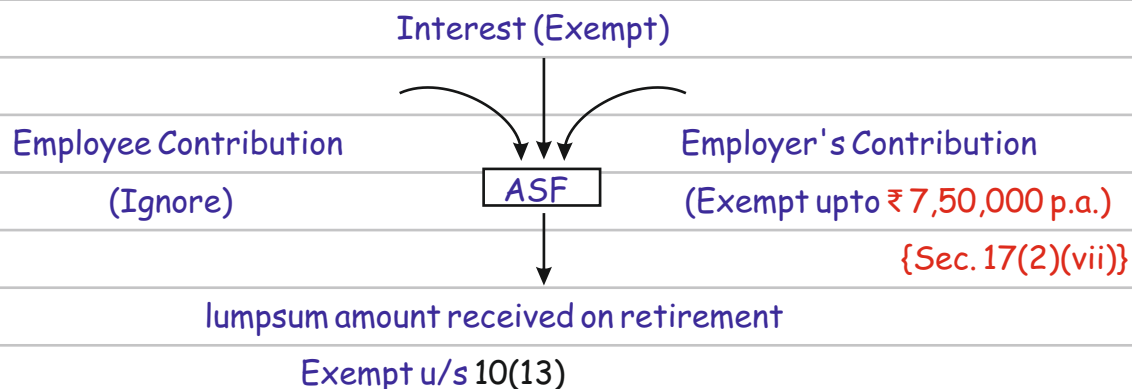
(Also refer rule 9D at the end of topic)

C. Unrecognised Provident Fund (URPF).



Note 12: Super annuation Fund

a. Approved super annuation fund



b. Unapproved super annuation fund - Treatment same as URPF.

Note 14: Perquisites sec 17(2)

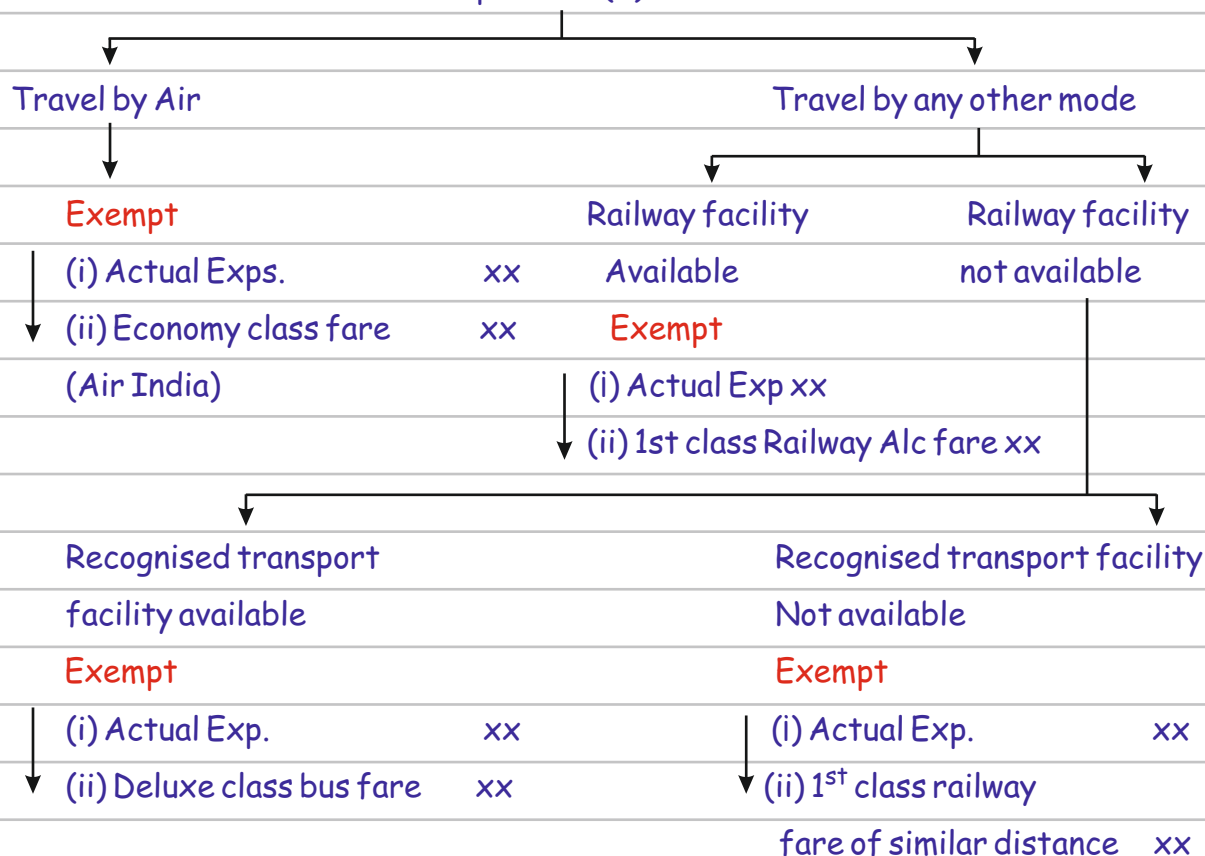
It means extra benefit offered by employer to employee. It may be monetary or non-monetary.

Difference between allowance & perquisites.

- a. Allowance - It means monthly fixed amount received by employee from employer whether actual expenditure is incurred or not. It is part of salary, e.g. HRA, Medical Allowance etc.
- b. Perquisites - It means benefits or facility provided by employer. It is received when actual expenditure is incurred e.g. Medical facility, car facility etc.

1. Leave Travel Concession (LTC)

Exempt u/s 10(5)



Note:

1. LTC exemption is available for the travel of employee, his spouse, children* & dependent relative - (Mother, Father, Brother, Sister)

* Exemption of LTC is available only for 2 children born on or after 1/10/1998.

1) 1st time = 1 child 2nd time = Twins

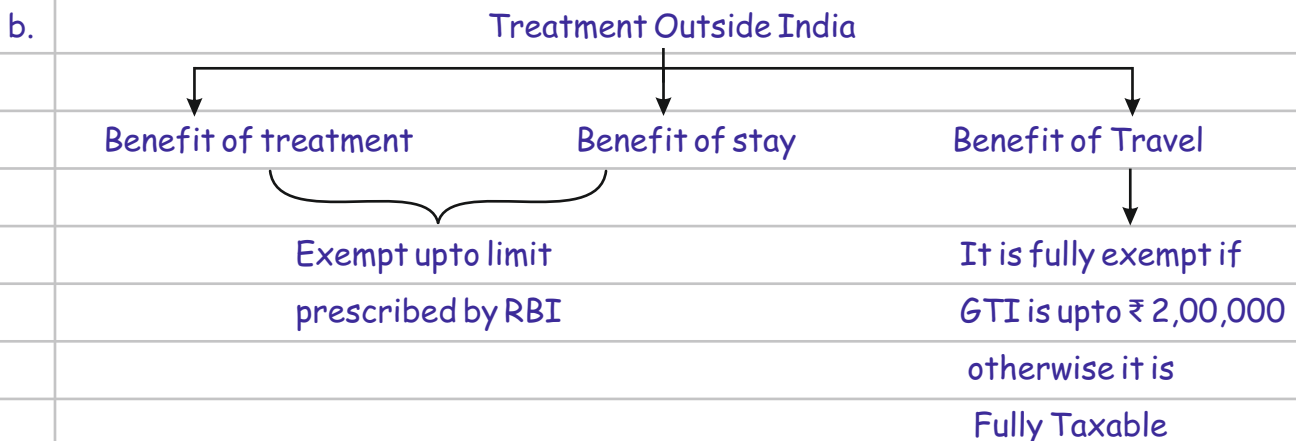
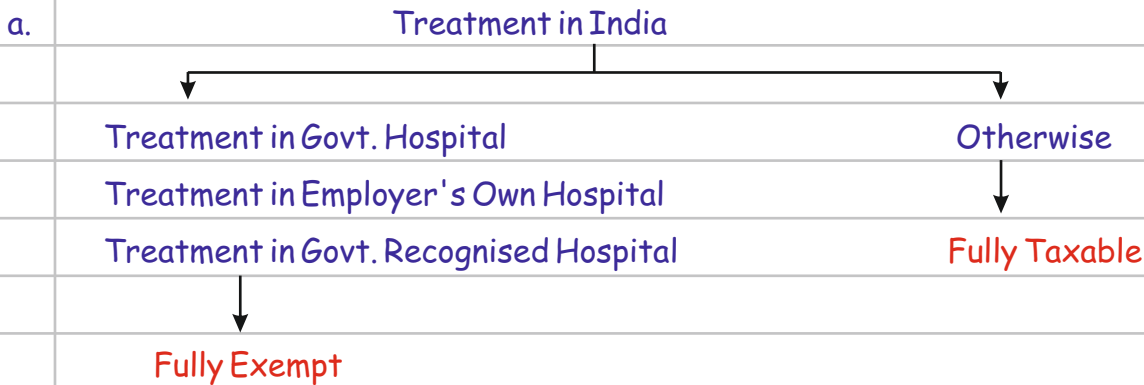
Total 3 children = Exemption Allowed to **all 3 children**.

2) 1st time = Twins 2nd time = 1 child

Total 3 children = Exemption allowed to **only 2 children**.

2. LTC exemption is available for 2 years during the block of 4 years (current block is 2018 - 21)

2. Medical Facility



Notes :

(i) Medical insurance premium is **fully exempt**.

(ii) Exemption for treatment is allowed for employee, spouse, children & dependent relative (Mother, Father, Brother, Sister)

(iii) Exemption of stay & travel is allowed **only** for **one** patient & **one** attendant.

(iv) Exemption allowed in respect of any illness relating to COVID-19 subject to such conditions as the CG may notify.

The employee shall submit the following documents to the employer, -

(i) The COVID-19 positive report of the employee or family member;

(ii) all necessary documents of medical treatment of the employee or his family member for COVID-19 or illness related to COVID-19 suffered within 6 months from the date of being determined as COVID-19 positive; and

(iii) a certification in respect of all expenditure incurred on the treatment.

3. "Loan" given by Employer to Employee at concessional rates of interest or without rate of interest.

Taxable amount = Loan amt. \times (SBI Interest rate - Actual Interest rate)

Notes:-(I) Loan amount is upto ₹20,000 then interest benefit is **not** taxable.

(ii) If loan is taken for treatment of specified disease then interest benefit is not taxable even loan amt is more than ₹20,000

4. Gift

a. Gift in cash = Taxable

b. Gift in kind = if FMV of Gift is less than ₹5000 p.a. then it is **fully exempt** otherwise **fully taxable**.

5. ESOP: Employee stock option plan

It means Company offers shares to employee at concessional rates.

Taxable amount: - FMV of shares - Issue price

FMV should be taken on the date on which option is exercised by employee.

6. Use of Moveable asset

a. Computer / Laptop - **Fully exempt**

b. Other asset (TV, AC, etc)

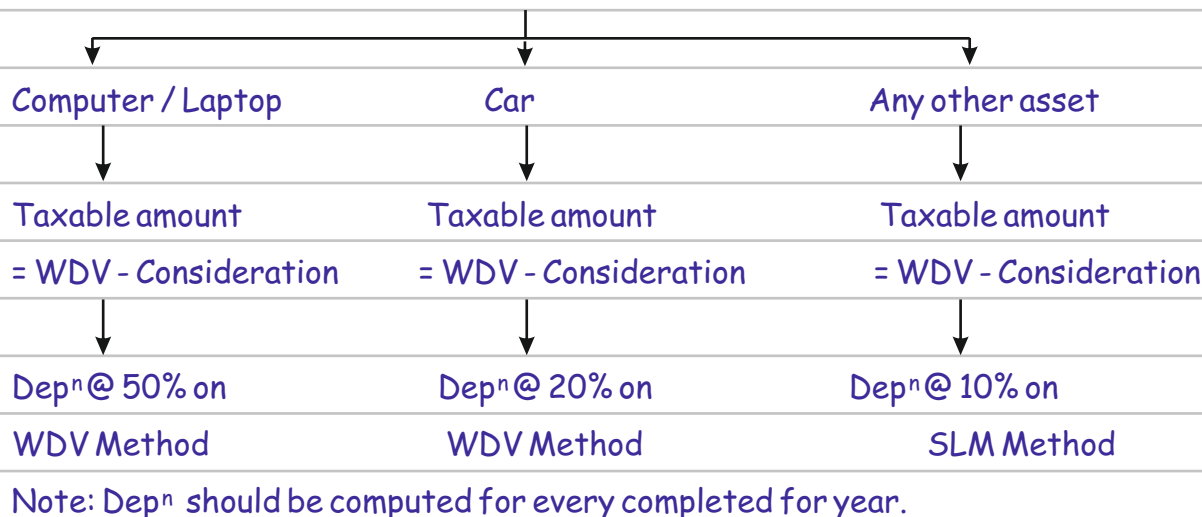
Owned by Employer

Taxable amount = 10% of cost

Hired by Employer

Taxable amount = Hire charges paid by Employer

7. Transfer of Movable Assets



8. Lunch Facility

It is exempt upto ₹50 per meal, if lunch is provided in office premises or through Paid voucher.

NOTE: (i) Tea, coffee, or breakfast provided in office - Not taxable.

(ii) Lunch is provided in remote area is Not taxable

9. Sec 17(2)(vii) : Employer contribution towards Recognized Provided Fund (RPF), New Pension Scheme (NPS) referred u/s 80CCD, Approved Superannuation Fund (ASF) in excess of 7,50,000 is treated as perquisite in hands of EE and Taxable.

10. Sec 17(2)(viiia): Annual Accretion by way of Interest/dividend/similar amount on contribution of more than 7,50,000 by ER also treated as perquisite in hands of EE and Taxable. (Added by FA-20 w.e.f. AY 21-22)

Calculation of Annual Accretion of Interest, dividend etc in PY

$$TP = (PC/2)*R + (PC1 + TP1)*R$$

TP : Taxable perquisite under section 17(2)(viiia) for the current PY.

PC : Amount or aggregate of amounts of ER's contribution in excess of ₹ 7.5 lakh to RPF, NPS and ASF during the PY.

PC1 : Amount or aggregate of amounts of ER's contribution in excess of ₹ 7.5 lakh to RPF, NPS and ASF for the PY or years commencing on or after 01/04/20 other than the current PY.

TP1 : Aggregate of taxable perquisite u/s 17(2)(viia) for the PY or years commencing on or after 01/04/20 other than the current PY.

R : I / Favg

I : Amount or aggregate of amounts of income accrued during the current PY in RPF, NPS and ASF.

Favg : (Amount or aggregate of amounts of balance to the credit of RPF, NPS and ASF on 01/04/22 + Amount or aggregate of amounts of balance to the credit of RPF, NPS and ASF on 31/03/23)/2

Note : Where the amount or aggregate of amounts of TP1 and PC1 exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on 01/04/22, then, the amount in excess of the amount or aggregate of amounts of the said balance shall be ignored for the purpose of computing the amount or aggregate of amounts of TP1 and PC1.

Example:

Mr. Bala is appointed as a CFO of ABC Ltd. in Mumbai from 1.5.2021. His basic salary is ₹ 5,50,000 p.m. He is paid 10% as D.A. He contributes 11% of his pay and D.A. towards his RPF and the company contributes the same amount. The accumulated balance in RPF as on 1.4.2022 and 31.3.2023 is ₹15,35,000 and ₹33,55,000. Compute the perquisite value chargeable in the hands of Mr. Bala u/s 17(2)(vii) and 17(2)(viia) for the P.Y. 2022-23.

Solution:

1. Perquisite value taxable u/s 17(2)(vii) = ₹7,98,600, being employer's contribution to RPF during the P.Y. 2022-23 - ₹7,50,000 = ₹48,600

2. Annual accretion on perquisite taxable u/s 17(2)(vii) = $(PC/2)*R + (PC1 + TP1)*R$
 $= (48,600/2)*0.091 + 0 = ₹2,211$

PC : ABC Ltd.'s contribution in excess of ₹ 7.5 lakh to RPF during P.Y.2022-23 = ₹48,600

PC1 : Nil since employer's contribution is less than ₹7.5 lakh to RPF in P.Y. 2021-22.

TP1 : Nil

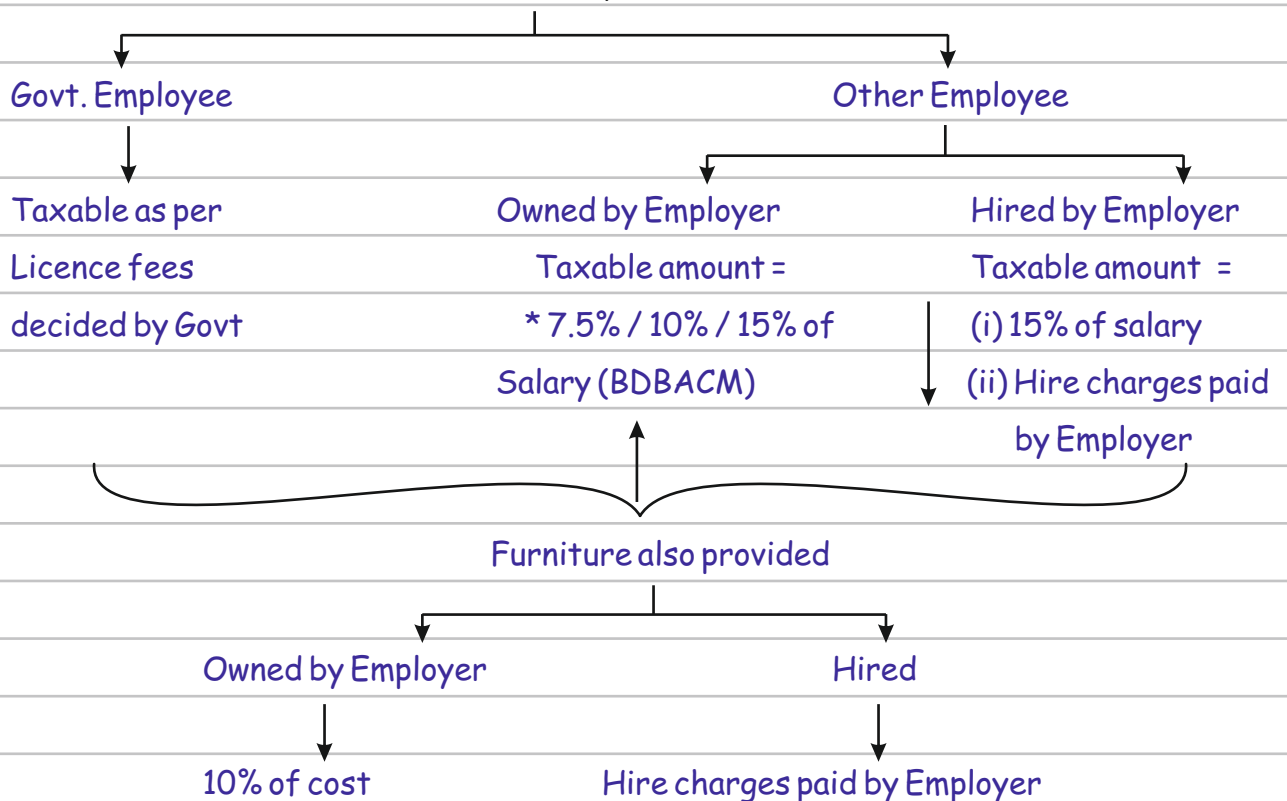
R : $I / \text{Favg} = 2,22,800 / 24,45,000 = 0.091$

I : RPF balance as on 31.3.2023 - employee's and employer's contribution during the year - RPF balance as on 1.4.2022 = ₹2,22,800 (₹33,55,000 - ₹7,98,600 - ₹7,98,600 - ₹15,35,000)

Favg : Balance to the credit of RPF as on 1 April, 2022 + Balance to the credit of RPF as on 31 March, 2023)/2 = (₹15,35,000 + ₹33,55,000)/2 = ₹ 24,45,000

Note - Since the employee's contribution to RPF exceeds ₹2,50,000 in the P.Y.2022-23, interest on ₹ 5,48,600 (i.e., ₹ 7,98,600 - ₹2,50,000) will also be chargeable to tax.

10. Rent Free Accommodation (House Facility)



Notes:

- Population upto 10 lakhs = 7.5%
> 10 Lakhs upto 25 lakhs = 10%
> 25 Lakhs = 15%
- Meaning of Salary - BDBACM

B - Basic salary	A - Taxable Allowances
D- Dearness Allowance	C - Commission (All)
B- Bonus	M - Other monetary income excluding perks.
- For computing BDBACM perks should not be considered.
- BDBACM should be calculated on due basis, means salary of **current** period should be **considered**. Advance salary, arrears salary should be ignored.

5. For computing BDBACM, retirement benefit should not be considered i.e. gratuity, Pension, leave salary, VRS, Retrenchment compensation, lump sum amount from P.F. etc.
6. BDBACM should be considered for the time for which assessee had occupied such house.
7. Employer contribution towards PF & interest on PF should also be not considered.

11. Hotel Benefit

Taxable amount = (i) 24 % of salary (BDBACM)
(ii) Hire (Rent) charges paid by Employer.

Notes :

1. If hotel facility is provided at the time of transfer of employee & if it is upto 15 days, then it is not taxable.
2. In house facility & hotel facility if employer recover any rent from employee then such rent should be deducted from above taxable amount.

12. Car Facility

- a. Car is used for fully office purpose - Fully Exempt.

If Employer maintains record of each journey & Employer issue a certificate that car is used exclusively for office purpose.

- b. Car is used for fully personal purpose.

Car is owned by Employer = 10% of cost

OR

Hired by Employer = Hire charges paid
+ by Employer

Driver's salary (If paid by Employer) = x x x x

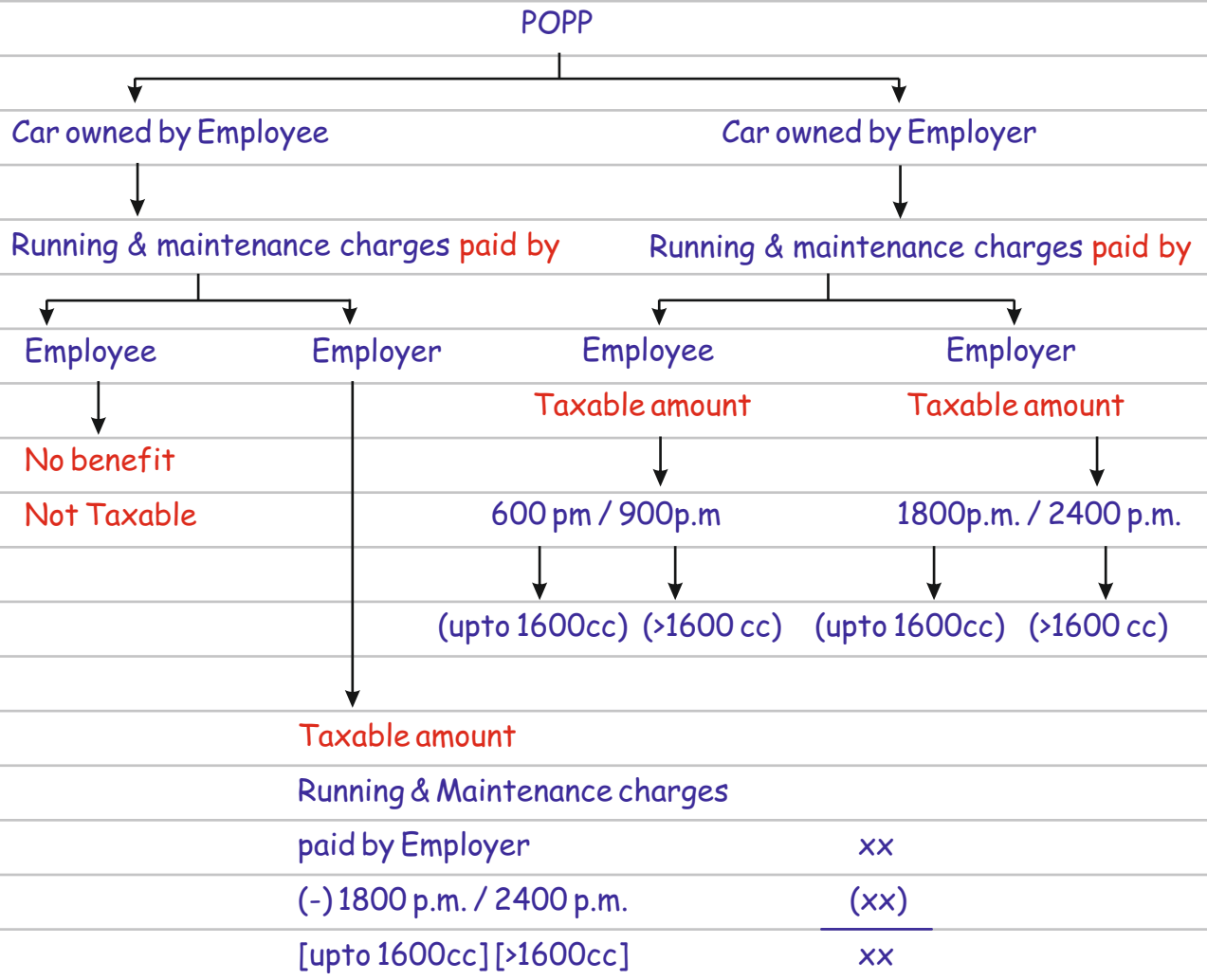
+

Running & maintenance charges = x x x x

(If paid by Employer)

x x x x

C. Car is used for partly office & partly personal purpose (POPP).



Notes:

1. If employer also provided driver, then ₹900 pm, should be added to above taxable amount.
2. If more than one car is provided for POPP then one car is taxable according to above standard amount & other car shall be taxable on the assumption that it is fully used for personal purpose.

13. Transport facility for Transport Employee (Free tickets)

- (i) For airlines & railway employee - Airlines & Railway facility is fully exempt fully.
- (ii) For other employees - It is fully taxable

14. Education Facility

(i) For employee - Fully exempt

(ii) For children - It is exempt if value of education is upto ₹1000 p.m. per child & education is provided in employer's own institution or institution where employer have tie-ups, otherwise fully taxable.

(iii) For other relatives - Fully taxable.

15. Gas, Electricity & Water Supply → Fully taxable

16. Free Servant → Fully Taxable

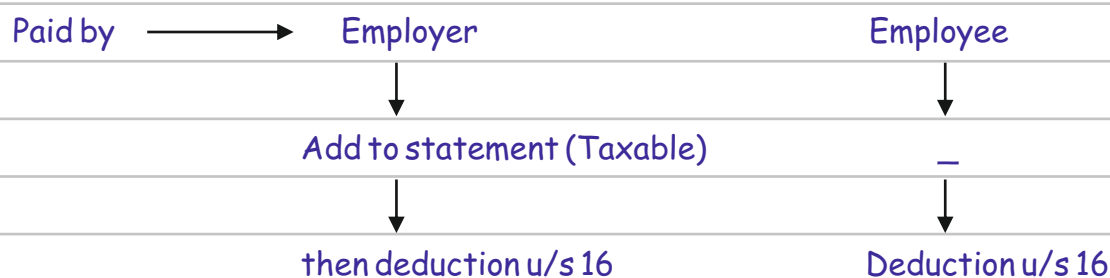
17. Any other Perquisite → Fully taxable

Following perquisites are Fully Exempt :

1. Telephone / mobile bill paid or re-imbursed by Employer.
2. Scholarship to employee's children.
3. Goods sold by employer to employee at reasonable price.
4. Tax on Non- monetary perquisites paid by employer.

Note 15: Professional Tax.

It means tax on employment. If it is paid by employer on behalf of employee, then first it should be taxable and there after deduction allowed u/s 16. If it is paid by employee then only deduction is allowed.



Note 16: Entertainment allowance

It is fully taxable for all employees. But deduction is allowed to government employees u/s 16 as follows:

- (i) 20% of Basic Salary
- (ii) Actual amount received
- ↓ (iii) Maximum ₹ 5000

Note : 17 A standard deduction of ₹50,000 or the amount of salary , whichever is lower.

Concept of Pay Scale*

Eg:- MS. Priyal joined Railways as on 1/7/2018 on a pay scale of 10000 - 1000 - 13000 - 1500 - 16000 - 2000 - 20000 - 3000. Compute basic salary for A.Y. 2023-24

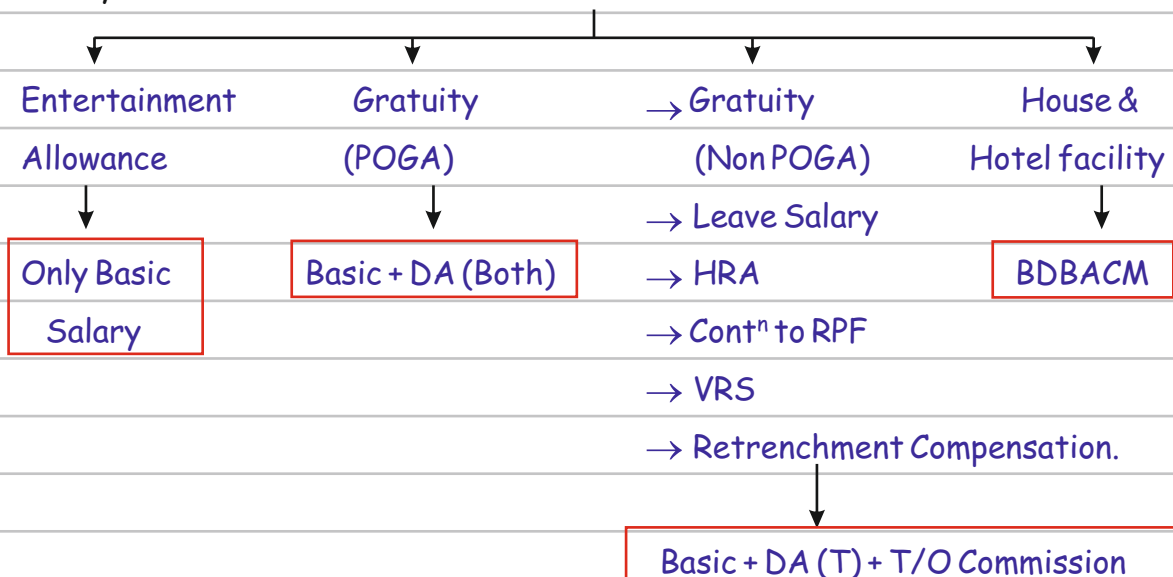
1/7/18	→	30/6/19	10000
1/7/19	→	30/6/20	11000
1/7/20	→	30/6/21	12000
1/7/21	1.4.22 →	30/6/22	13000
1/7/22	31.3.23 →	30/6/23	14500

P.Y. 2022-23

1/4/22 → 31/3/23

$$\begin{aligned}
 \text{Salary for P.Y. 2022-23} &= (13000 \times 3m) + (14500 \times 9m) \\
 &= 39000 + 130500 \\
 &= 169500
 \end{aligned}$$

Salary Definition



#	Rebate u/s 89 for Arrears of salary
	To calculate the relief, the following steps should be taken :
	Step 1 : Firstly, calculate the tax due in the current year by including the arrears in your total income.
	Step 2 : Now calculate the tax due in the current year by excluding the arrears from your total income.
	Step 3 : Compute the difference of the two figures of Step 1 & 2 and let's call that difference as 'X'.
	Step 4: Now Calculate your tax due in the year for which the arrears have been received by including the arrears in your total income.
	Step 5 : Then Calculate your tax due in the year for which the arrears have been received by excluding the arrears from your total income.
	Step 6 : After that compute the difference of the two figures of Step 4 & 5 and let's call the difference as 'Y'.
	Step 7: Lastly subtract X (Step 3) from Y (Step 6) and you will get the relief amount.
#	Rule 9D: Calculation of taxable interest relating to contribution in a SPF or RPF, exceeding specified limit
	Separate accounts within the PF account shall be maintained during the PY 21-22 and all subsequent PY's for taxable contribution and non-taxable contribution made by a person.
(a)	Non-taxable contribution account shall be the aggregate of the following, namely:-
	(i) closing balance in the account as on 31/03/21;
	(ii) any contribution made by the person in the account during the PY 21-22 and subsequent PY's, which is not included in the taxable contribution account; and
	(iii) interest accrued on (i) and (ii), as reduced by the withdrawal, if any, from such account;
(b)	Taxable contribution account shall be the aggregate of the following, namely:-
	(i) contribution made by the person in a PY in the account during the PY 21-22 and subsequent PY's, which is in excess of 2,50,000/5,00,000; and
	(ii) interest accrued on sub- clause (i)

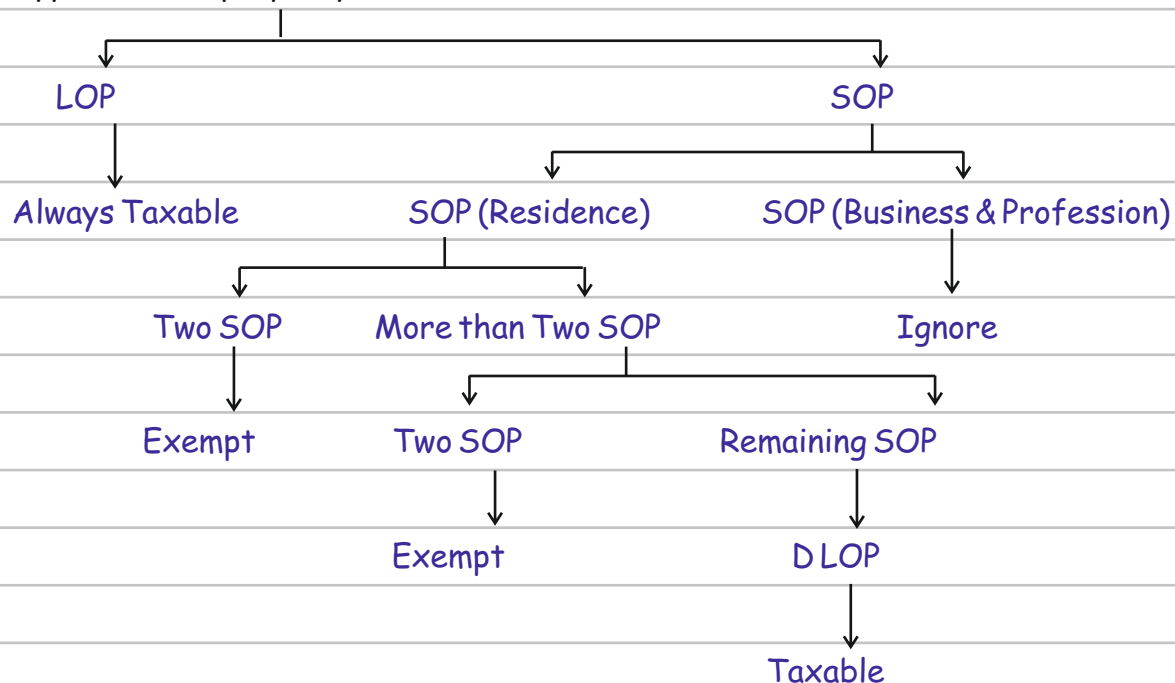
Sec 22 : Charging Section

Rental income (Annual value) is taxable under the head income from house property if following **two** conditions are satisfied:

1. There should be **House property** **
2. Assessee should be **owner** of that house property.

** House property means building or land appurtenant thereto

Type of house property.



LOP : Let Out Property.

SOP : Self Occupied Property.

DLOP : Deemed to be Let Out Property.

Amendment by F.A. 2019

Where the house property is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to Two Years from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be NIL.

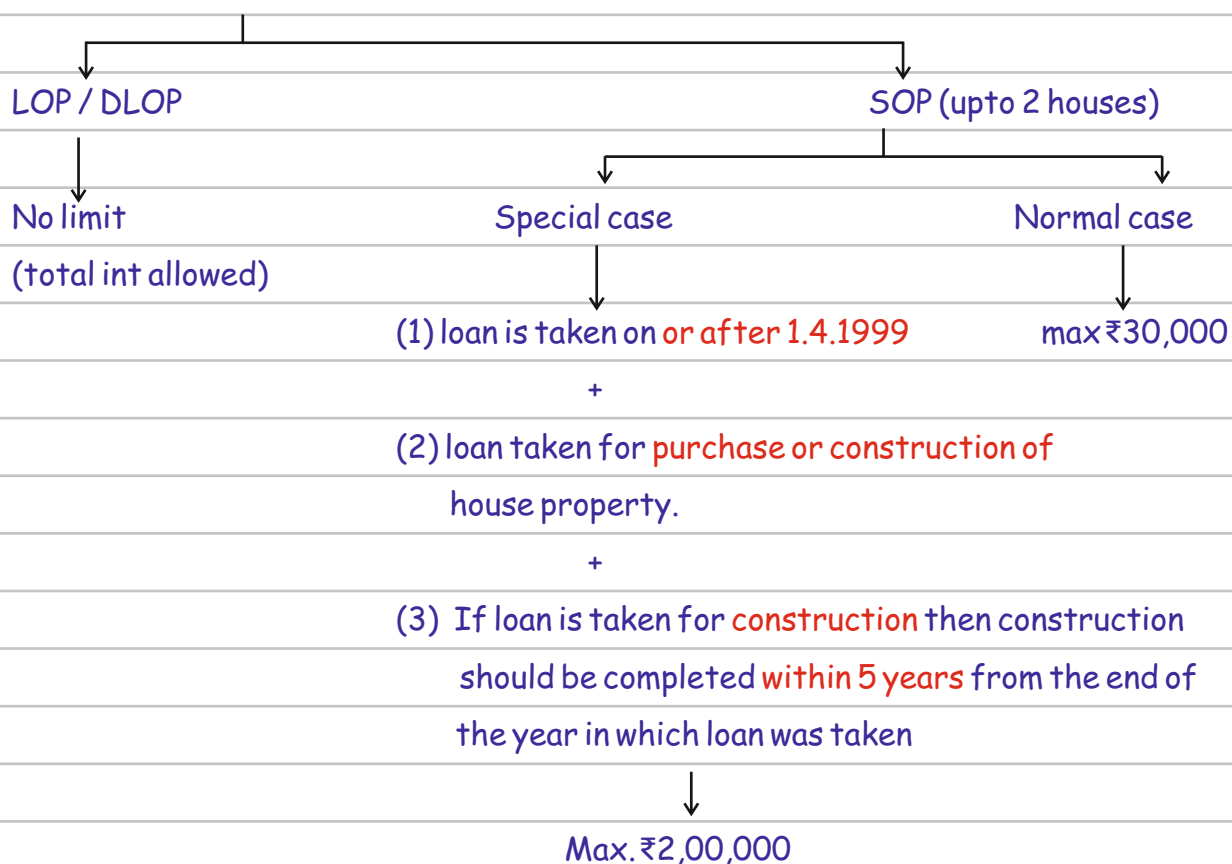
Computation of income from House property

		P.Y.2022-2023	A.Y.2023-24	
		SOP (Res)	LOP	DLOP
↑	Municipal value	-	xx	xx
↑	Fair Rent	-	xx	xx
	whichever is higher	-	xx	xx
↓	Standard Rent	-	xx	xx
↑	Expected Rent	-	xx	xx
↑	Actual Rent	-	xx	-
	Gross Annual Value (GAV)	-	xx	xx
	(-) Municipal taxes paid	-	(xx)	(xx)
	Net Annual value (NAV)	-	xx	xx
	(-) Deduction u/s 24			
	(i) standard deduction @ 30% of NAV	-	(xx)	(xx)
	(ii) interest on loan	(xx)	(xx)	(xx)
	Income From house property	-(xx)	xx	xx

1. Municipal value: It means value of property as per municipality record.
2. Fair Rent: It means rent of similar property in same locality. It is also known as reasonable rent/reasonable letting value.
3. Standard Rent: It means rent as per rent control Act, It is the maximum amount of rent that can be legally recovered by Owner from tenant.
4. Actual Rent: Actual Rent = Rent received (+) Rent receivable (-) unrealised rent.
5. Municipal Taxes.
 - a. It means tax which is recovered by Municipality, local Authority, gram panchayat
 - b. It is also known as house Tax, property tax, local tax etc.
 - c. It is allowed on payment basis [paid - Allowed; o/s - Not allowed]
 - d. It is allowed only if it is paid by owner.
 - e. If municipal taxes are given on % age basis then it should be calculated on municipal value.

6. Interest on Loan.

- a. Interest on loan is allowed as deduction, if loan is taken for the purpose of house property i.e. purpose, construction, repair, renovation.
- b. Loan may be taken from banks, financial institutions trusts, friends, family etc.
- c. Interest is allowed on due basis [paid - Allowed; o/s - Allowed)
- d. Interest on Interest (Penal interest) is not allowed as deduction
- e. Limit :



6. Any fresh loan is taken for repayment of earlier loan & earlier loan was taken for the purpose of house property then interest of fresh loan shall be allowed as deduction.
7. Interest paid outside India shall not be allowed as deduction if TDS not deducted on such interest.
8. **Pre-construction/Acquisition interest** : It means interest paid before the year in which construction was completed. It is allowed in Five equal instalments from the year in which construction was completed.

Example: Tanzila taken a loan from SBI Housing Ltd, for ₹12,00,000 on 1/12/2019, She made principal repayment as follows :

1.4.2020 3,00,000

1.10.2021 4,00,000

1.1.2023 2,50,000

Calculate interest deduction u/s 24 for P.Y. 2022-23. Construction completed on 14/02/2023. Rate of interest @ 12%.

Solution:

P.Y.

2019-20 $12,00,000 \times 12\% \times 4/12 = 48,000$ $\frac{2,40,000}{5} = ₹ 48,000$

2020-21 $9,00,000 \times 12\% \times 12/12 = ₹ 1,08,000$

2021-22 $[9,00,000 \times 12\% \times 6/12] + [5,00,000 \times 12\% \times 6/12]$

$= 54,000 + 30,000 = ₹ 84,000$

2022-23 $[5,00,000 \times 12\% \times 9/12] + [2,50,000 \times 12\% \times 3/12] = ₹ 52,500$

$= 45,000 + 7,500$

$= ₹ 48,000$

Total interest for A.Y. 23-24

₹ 1,00,500

Un-realised Rent and recovery of un-realised Rent.

Actual Rent = Rent received + Receivable - unrealised rent.

Unrealised rent : It means rent which is not recovered by owner from tenant. It is like **Bad debts** of rent, it is deductible while calculating actual rent if following **four conditions** of **Rule 4** are satisfied.

1. Tenancy should be **bonafide**.
2. Tenant should have **vacated that house property**.
3. Such tenant should **not occupy any other house property of same assessee**.
4. Reasonable step should have been taken for recovery of unrealised rent.

Note: As per ITR forms unrealised rent is deductible from Gross annual value so students can deduct UR from GAV instead of Actual Rent.

Arrears of rent : It means rent under dispute.

Sec 25A : Recovery of un-realised rent & arrears of rent.

Recovery is taxable in the year in which it is recovered, under the head house property, whether the assessee is the OWNER of the property or not is that Financial year. Any expenditure incurred for such recovery shall be Ignored

Taxable Amt = Recovery x 70% [30% std deduction].

Example:

1)	Unrealised rent	=	₹ 60,000 (for P.Y. 2010 - 11)
	Allowed by AO	=	₹ 35,000.
	Recovery during P.Y. 2022-23	=	₹ 52,000
	Taxable amount	=	Recovery - Disallowed earlier
		=	52,000 - 25,000
		=	27,000 x 70%
		=	₹ 18,900/-
2)	Unrealised rent	=	₹ 50,000 (for P.Y. 2010-11)
	Disallowed earlier by A.O.	=	₹ 22,000
	Recovery during P.Y. 2022-23	=	₹ 45,000
	Taxable amount	=	₹ 45,000 - ₹ 22,000
		=	₹ 23,000 x 70%
		=	₹ 16,100/-
3)	Unrealised rent	=	₹ 50,000 (for P.Y. 2010-11)
	Allowed by A.O.	=	₹ 20,000
	Recovery during P.Y. 2022-23	=	₹ 18,000
	Taxable amount	=	NIL

Other Expenses.

Repair & Maintenance

Society charges

Parking charges

Insurance charges

Electricity & water charges

Lift charges, etc

Not allowed because 30 %

Standard deduction on NAV

is allowed

Concept of Vacancy

$$ER \leq AR + VR$$



GAV

$$ER > AR + VR$$



GAV

Example :

1) Monthly Rent = ₹ 20,000 p.m.
 Expected Rent = ₹ 1,92,000
 Vacancy = 3 months.

$$ER \quad AR + VR$$

$$₹ 1,92,000 \leq 1,80,000 + \underbrace{60,000}_{₹ 2,40,000}$$

↓
GAV

2) Monthly Rent = ₹ 3,000 p.m
 Expected Rent = ₹ 1,95,000
 Vacancy = 2 months

$$ER \quad AR + VR$$

$$₹ 1,95,000 > 30,000 + 6,000$$

↓
GAV

3) Expected Rent = ₹ 3,00,000
 Monthly Rent = ₹ 25,000 p.m
 Vacancy = 3 months

$$ER \quad AR + VR$$

$$₹ 3,00,000 \leq 2,25,000 + \underbrace{75,000}_{₹ 3,00,000}$$

↓
GAV

Concept of Partly Let out property (Area wise)

If some area of House property is let out & remaining is self occupied then let out portion is treated as LOP & self occupied portion is treated as SOP. In this case, Municipal value, fair rent, standard rent, municipal taxes, interest on loan should be divided between SOP & LOP on area basis.

Actual rent should never divided because it is always for LOP.

Concept of Partly Let out property (Time wise)

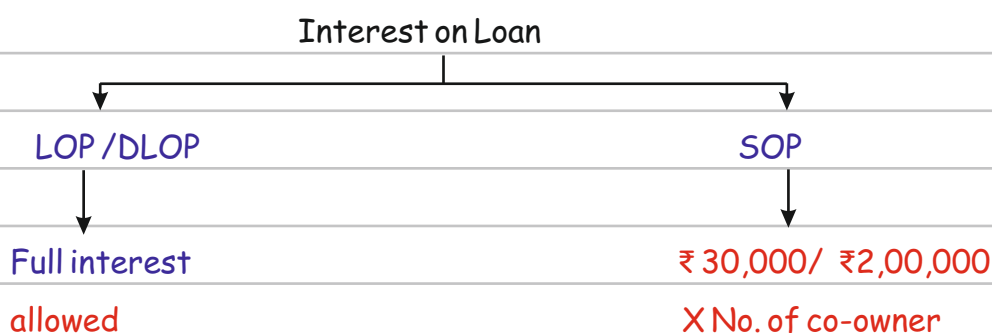
If property is let out for some period of time & self-occupied for remaining time then such property is treated as LOP only. If property is let out for even 1 day then, also that property is treated as LOP.

Assessee owns more than Two SOP.

Two of such house properties (at the option of Assessee) treated as SOP & remaining be treated as DLOP.

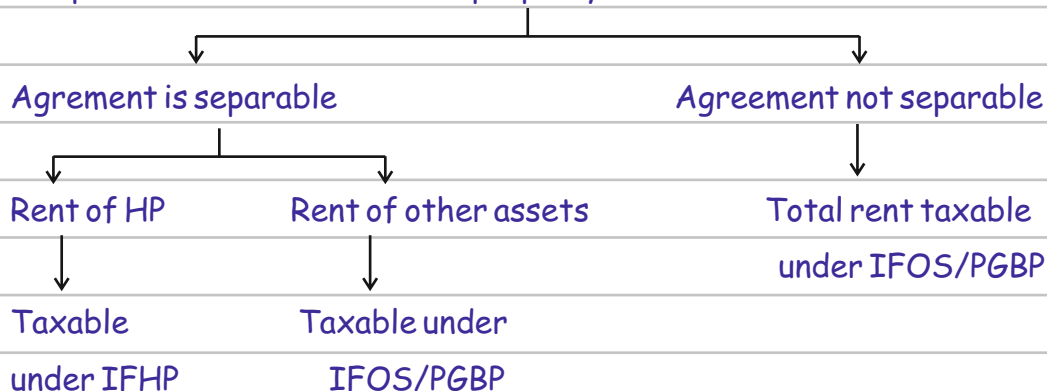
Concept of Joint ownership.

Joint ownership (co-ownership) means property is owned by more than one owner, in this case, income from house property is calculated normally & thereafter it should be divided between co-owners in their ownership ratio.



Concept of composite Rent

Composite rent = Rent of House property + Rent of other assets & amenities.



Note : If let out of property not feasible without other asset then total rent is taxable under the head income from Business / Profession or income from other sources whether agreement is separable or not. Eg. Hotel.

- | # | Section 27 : Deemed owner |
|----|--|
| 1. | If any individual transfers any house property to his / her spouse for without consideration or inadequate consideration then such individual is treated as Deemed owner of such property.
Exception : Transfer in connection of live apart. |
| 2. | If any individual transfers any house property to a minor child (other than minor married daughter) for without consideration or inadequate consideration then such individual is treated as deemed owner. |
| 3. | In case of a co-operative society, shareholder is treated as deemed owner of such property. |
| 4. | Holder of an impartible estate. |

New Delhi Hotels Ltd. (2014) (Delhi)

Rental income derived from unsold flats which were shown as stock-in-trade in the books of the assessee should be assessed under the head "IFHP" and not under the head "PGBP".

NDR Warehousing P Ltd (2015) (Mad)

The assessee engaged in the business of warehousing, handling and transport business claimed income from letting out of buildings and godowns as business income. HC held Income earned by the assessee from letting out of godowns and provision of warehousing services is chargeable to tax under the head "PGBP" and not under the head "HP".

Hariprasad Bhojnagarwala (2012) (Guj.)

HUF is a group of individuals related to each other, HUF cannot consist of artificial persons, it cannot be said to be a fictional entity. HUF is entitled to claim benefit exemption of self-occupation of house property u/s 23(2).

Asian Hotels Ltd. (2010)(Del.)

Notional interest on interest-free deposit received by an assessee in respect of a shop let out on rent can neither be taxed as business income nor income from house property.

#	Sec 159 : Legal Representative (when a person dies)
1.	Whenever a person dies, his legal representative/ heir shall be liable to pay the tax which deceased was liable to pay, if he had not died.
2.	Any proceeding which was taken up against the deceased prior to his death and remain pending on the date of death, shall be continued on his legal representative, for the purpose of making an assessment or reassessment or for the purpose of levying any sum under the income tax Act. (Including any penalty proceeding)
3.	All the provisions of the income-tax Act shall apply to the legal representative in as much as they would have been applicable to deceased had he not died.
4.	The legal representative shall be deemed to be an assessee under the Income-tax Act.
5.	Every such person who is consider to be the legal representative of another person, shall be personally liable if he disposes off the personal asset/ property of the deceased without discharging the outstanding liability of the deceased under the income-tax Act.
6.	The liability of the legal representative shall be restricted to the maximum of the value of estate inherited by him from deceased. (in simple words, the legal heir shall not be liable to pay, anything from their own pocket.)
7.	A legal representative may be penalized for a default committed by the deceased prior to his death. However, he cannot be prosecuted for the Offences committed by the deceased,

Sec. 160 : Representative Assessee

In case of certain assessee, the assessment may be made on some other person. Such other persons are called as "Representative Assessee". As per this section, the following persons shall act as a representative assessee for other persons:

	Persons	Representative Assessee
(a)	Minor child, Lunatic or an Idiot	Guardian or manager, who is in receipt of income on behalf of minor child, lunatic or an idiot.
(b)	Non-resident	Agent of such Non-resident (including deemed agent u/s 163)
(c)	Trust/ Oral trust	Trustee of such trust
(d)	Any person in respect of whom Official trustee Court of Wards/Court	Such Official trustee /Court of Wards/Court Receiver/ Manager is appointed by the Court
	Receiver/ Manager is appointed by the Court	

Every Representative Assessee shall be deemed to be an assessee for the purposes of income-tax Act. [Sec. 160(2)]

Sec. 161 : Liability of a Representative Assessee

The representative assessee has the same duties, responsibilities and liabilities under the income-tax Act, as are applicable to the Assessee. The tax shall be levied upon and recovered from the Representative Assessee in the same manner and to the same extent, as it would have been levied upon and recovered from the person represented by him. [Sec. 161(1)].

If a particular income has already been taxed in the hands of a particular person in his capacity as a Representative Assessee, then the same amount of income shall not be taxed in the hands of that person again in his personal capacity. (sec. 161(2))

Sec. 162 : Rights of a Representative Assessee

Every person who claims that he is liable to be assessed to tax in respect of another person as a representative assessee, then such person will be authorized to retain with him any money or any asset, which is belonging to such other person. In case of any disagreement, the Representative Assessee may secure a certificate from the A.O., certifying the maximum estimated tax liability of the assessee. The certificate shall be treated as a warrant authorizing retention of money or assets. However in such situation, the A.O. cannot recover an amount more than the amount so certified by A.O. in his certificate.

Sec. 163 : Person who may be deemed to be agent of Non-resident

Apart from a person, who is specifically appointed by Non-resident person to be his agent in writing the following person(s) may be deemed as agent of Non-resident in India:

A person -

- (a) who is employed by or on behalf of Non-resident; or
- (b) who has any business connection with the Non-resident; or
- (c) from or through whom Non-resident is in receipt of any income, whether directly or indirectly; or
- (d) who is the trustee of Non-resident; or
- (e) who has acquired by way of transfer any capital asset in India from such non-resident.

Note: No person shall be deemed to be an agent of non-resident unless such person had been given an opportunity of being heard.

- # Sec. 168 : Liability of legal executor/ administrator in case of death of the assessee
- This section shall apply only in a situation, where assessee had specifically appointed someone as his executor/ administrator by way of making a will prior to his death. If no such person was appointed by the deceased or in a case where the deceased died without any will, then the provisions of this section shall not apply. Such situation will then be governed by the provisions of sec.159, i.e., the Legal Heirs/ Legal Representative of deceased will be responsible. According to this section:
- (a) The legal executor/ administrator of deceased will be responsible to file the ROI of the deceased as well to pay taxes of the deceased.
 - (b) Executor/ administrator shall have the same residential status as in case of the deceased in the year of death.
 - (c) The legal executor, administrator will be assessed to tax in their dual capacity, firstly in their capacity as legal executor/ administrator of the deceased and secondly in their personal capacity. Therefore, if an income which has already been taxed in their hands in their representative capacity shall not be assessed their hands again in their personal capacity.
 - (d) If any amount is paid by such legal executor/ administrator on behalf of the deceased, then he shall be entitled to recover the same from the estate of such deceased person.
 - (e) In any case the legal executor/ administrator will be responsible only till the date of complete distribution of all the assets of the deceased. Thereafter, the legal heirs of the deceased shall be responsible,
 - (f) In some part of the income or the estate of the deceased was distributed to the legal heirs or beneficiaries then part of such income shall be excluded from the hands of legal executor/ administrator, but shall then be included in the income of the respective recipient (legatee).

Section 169

Every executor, who pays any amount under the income-tax Act on behalf of another so paid by him. Alternatively, if executor has any money belonging to such person lying in his possession, then he can retain such amount with him to the extent found necessary.

(same as sec. 162)

#	Sec. 170 : Liability of a successor, where predecessor could not be found or taxed etc., cannot be recovered from the predecessor
	When a person carrying on business/ profession (predecessor) is succeeded by another person (successor otherwise than by death and such person carries on that business/ profession, then;
(a)	Two separate assessment will be made for the year of succession;
	(1) one on the predecessor (upto the date of succession) and
	(2) second on the successor (for the period, after the date of succession)
(b)	If the predecessor cannot be found, then the assessment of predecessor will be made on the successor
(c)	If the predecessor cannot be found, then the tax, interest, penalty etc., of the predecessor for the year of succession as well as for any earlier year will be recover from the successor. (However, successor shall be entitled to recover from the predecessor any such sum so paid)
Note:	where there is succession, the proceedings, made or initiated on the predecessor during the course of pendency of such succession, shall be deemed to have been made or initiated on the successor and all the provisions of this Act shall, so far as may be, apply accordingly.
	Explanation—the term "pendency" means the period commencing from the date of filing of application for such succession of business before the HC or tribunal or the date of admission of an application for corporate insolvency resolution by the Adjudicating Authority (AA) in IBC, 2016 and ending with the date on which the order of such HC or tribunal or such AA, as the case may be, is received by CIT/PCIT.
#	Sec 170A: Effect of order of tribunal or court in respect of business reorganisation
	In a case of business reorganisation, where prior to the date of order of a HC or tribunal or an AA, as the case may be, any return of income has been furnished by the successor u/s 139 for any AY relevant to the PY to which such order applies, such successor shall furnish, within a period of 6 months from the end of the month in which the said order was issued, a modified return in such form and manner, as may be prescribed, in accordance with and limited to the said order.
	Explanation.—In this section, the expressions—
(i)	"business reorganisation" means the reorganisation of business involving the amalgamation or demerger or merger of business of one or more persons;

(ii)	"successor" means all resulting companies in a business reorganisation, whether or not the company was in existence prior to such business reorganisation.
#	<p>Sec. 171 : Assessment of a HUF after its partition</p> <p>(a) At the time of making an assessment u/s 143/144, if it is claimed by any member of HUF, that a partition has taken place in HUF, then AO shall inquire into the matter by issuing a notice in this regard to all the members of HUF.</p> <p>(b) If AO is satisfied about partition having taken place, he shall record his findings to that effect.</p> <p>(c) In such a case, HUF shall be assessed to tax only upto the date of the partition.</p> <p>(d) Every person who was the member of HUF immediately before partition, shall be jointly and severally liable for the liabilities of the HUF.</p> <p>(e) Several (individuals) liability of the members shall be in the ratio in which the assets of HUF are received by them.</p>
#	<p>Sec. 171 (9) : Partial partition of HUF (taking place after 31.12.1978)</p> <p>If partial partition has taken place after 31.12.1978, such partition shall be deemed to have never taken place, in simple language, partial partition of HUF after 31.12.1978, is not regarded as partition or is not recognised and HUF shall be deemed to have continued.</p> <p>Each member of HUF, who was the member immediately before such partial partition, shall jointly and severally be liable to any liability of HUF under this Act. Several liability of each member shall be worked out in the ratio in which the assets of HUF are received by them</p>
#	<p>Sec. 178 : Company in liquidation</p> <p>(a) Every person who has been appointed as a liquidator/ receiver of any company, which has been wound up, shall give notice of his appointment as liquidator to the concerned AO having jurisdiction over the company, within 30 days from the date of his appointment as a liquidator.</p>

- (b) Within 3 months from the date of receipt of such notice, AO shall after making necessary inquiry notify the liquidator, the amount, which in the opinion of AO would be sufficient to meet the tax which is likely to be payable by the company.
- (c) Once, notified by AO, the liquidator shall set aside an amount equivalent to the amount notified.
- (d) The liquidator shall not part with any of the assets of the company, till he is so notified by AO or till he sets aside the amount as notified, except with the leave of CCIT/ CIT.
- (e) Otherwise, he himself shall be personally liable for paying the tax, which the company would have been liable for. (However, his personal liability in such situation shall not exceed the amount notified by AO) (+) He may be prosecuted under sec 276A with an imprisonment ranging between 6 months to 2 years.
- (f) If there are more than one liquidator, then liability of all of them shall be joint and several.
- (g) Nothing contained in this section shall debar the liquidator from making payment of the following:
- Payment of tax payable by the company;
 - Payment to secured creditors
 - Meeting costs and expenses of winding up (as are found reasonable to CCIT/ CIT)
- (h) The provisions of this section shall apply, notwithstanding anything to the contrary contained in any other law.

#

Sec, 179 Liability of a director of a private company

Irrespective of anything contained in the Companies Act, 1956, if tax due from a private company cannot be recovered, then every person who was director of such private company at any time during the relevant Py, shall jointly and severally be liable for the payment of tax, interest and fees.

However, if such director proves that the non-recovery cannot be attributed to gross neglect misfeasance, or breach of duty on his part, then he shall not be liable to pay.