CHAPTER 1

BASIC CONCEPTS



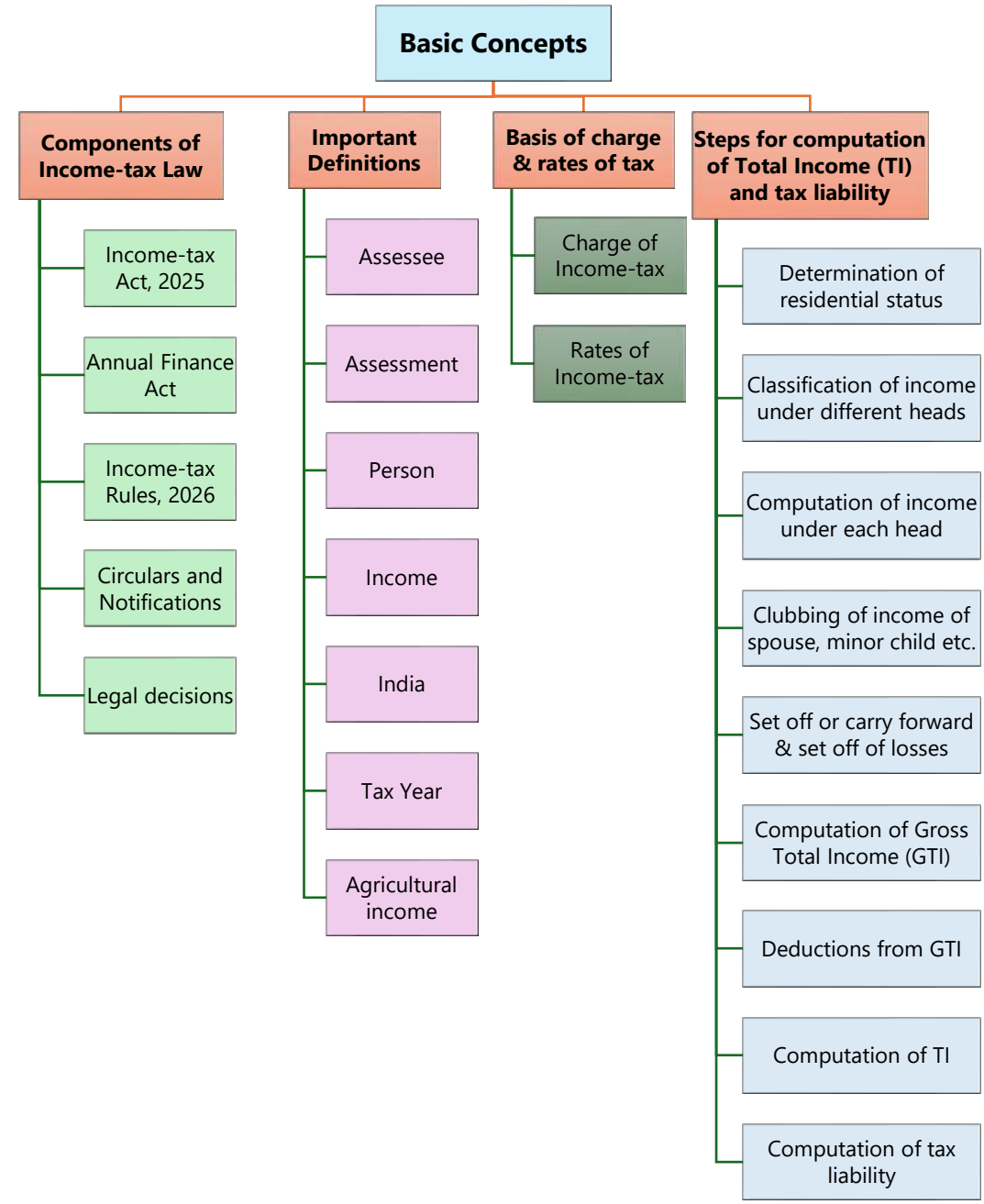
LEARNING OUTCOMES

After studying this chapter, you would be able to-

- **comprehend** the meaning of tax and types of taxes;
- **discern** the difference between direct and indirect taxes;
- **appreciate** the components of income-tax law;
- **comprehend** and appreciate the meaning of the important terms such as person, assessee, income, tax year, agriculture income used in the Income-tax Act, 2025;
- **comprehend** the meaning and scope of agricultural income and apply the same to identify whether a particular income falls within the scope of agricultural income;
- **comprehend** the procedure for computation of total income for the purpose of levy of income-tax;
- **apply** the rates of tax on total income of a person for determining the tax liability under new tax regime u/s 202 or a person who exercises the option u/s 202(4) to shift out of the new tax regime and pay tax as per the other provisions of the Act.

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CHAPTER OVERVIEW



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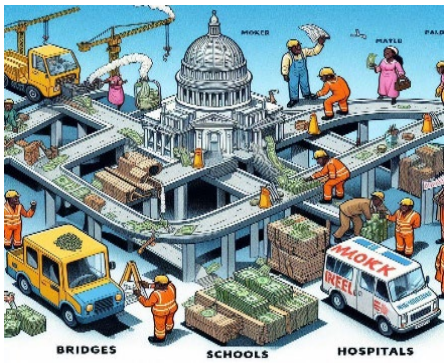
1. INTRODUCTION

1.1 What is the meaning of tax?

Let us begin by understanding the meaning of tax.

Article 366(28) of the Constitution of India defines the term "Taxation" as follows –

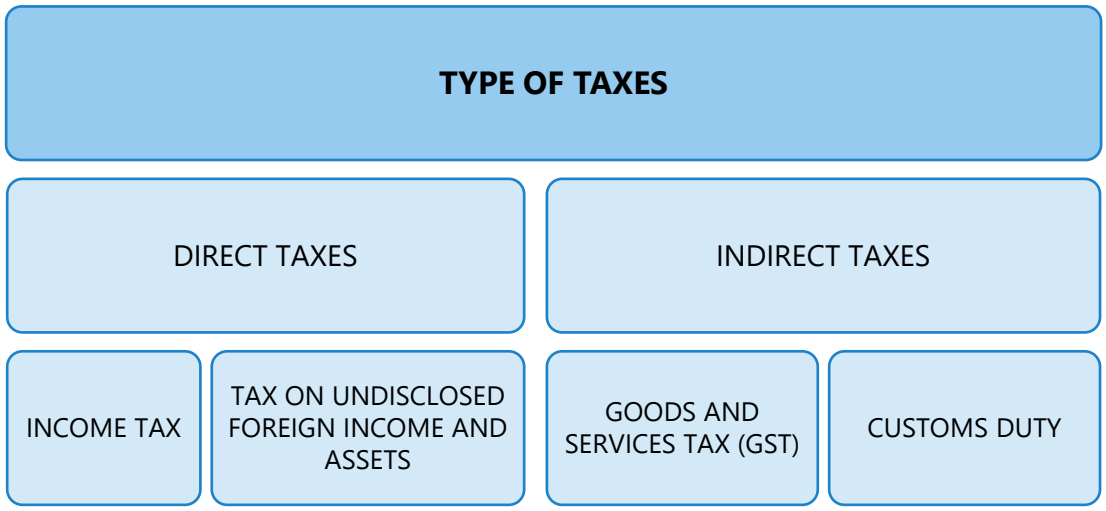
"Taxation includes the imposition of any tax or impost, whether general or local or special, and tax shall be construed accordingly."



Taxes are considered to be the "cost of living in a society". Taxes are levied by the Governments to meet the common welfare expenditure of the society. There are two types of taxes - direct taxes and indirect taxes.

Direct Taxes: If tax is levied directly on the income or wealth of a person, then, it is a direct tax. The person who pays the tax to the Government cannot recover it from somebody else i.e. the burden of a direct tax cannot be shifted. E.g., Income-tax.

Indirect Taxes: If tax is levied on the price of a good or service, then it is an indirect tax e.g. Goods and Services Tax (GST) or Custom Duty. In the case of indirect taxes, the person paying the tax passes on the incidence to another person.



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1.2 Why are taxes levied?

The reason for levy of taxes is that they constitute the basic source of revenue to the Government. Revenue so raised is utilized for meeting the expenses of Government like defence, provision of education, health-care, infrastructure facilities like roads, dams etc.

1.3 Power to levy taxes

The Constitution of India, in Article 265 lays down that *"No tax shall be levied or collected except by authority of law."* Accordingly for levy of any tax, a law needs to be framed by the government.



Constitution of India gives the power to levy and collect taxes, whether direct or indirect, to the Central and the State Government. The Parliament and State Legislatures are empowered to make laws on the matters enumerated in the Seventh Schedule by virtue of Article 246 of the Constitution of India.

Seventh Schedule to Article 246 contains three lists which enumerate the matters under which the Parliament and the State Legislatures have the authority to make laws for the purpose of levy of taxes.

The following are the lists:

(i) **Union List:** Parliament has the exclusive power to make laws on the matters contained in Union List [List I].

(ii) **State List:** The Legislature of any State has the exclusive power to make laws on the matters contained in the State List [List II].

(iii) **Concurrent List:** Both Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent list [List III].

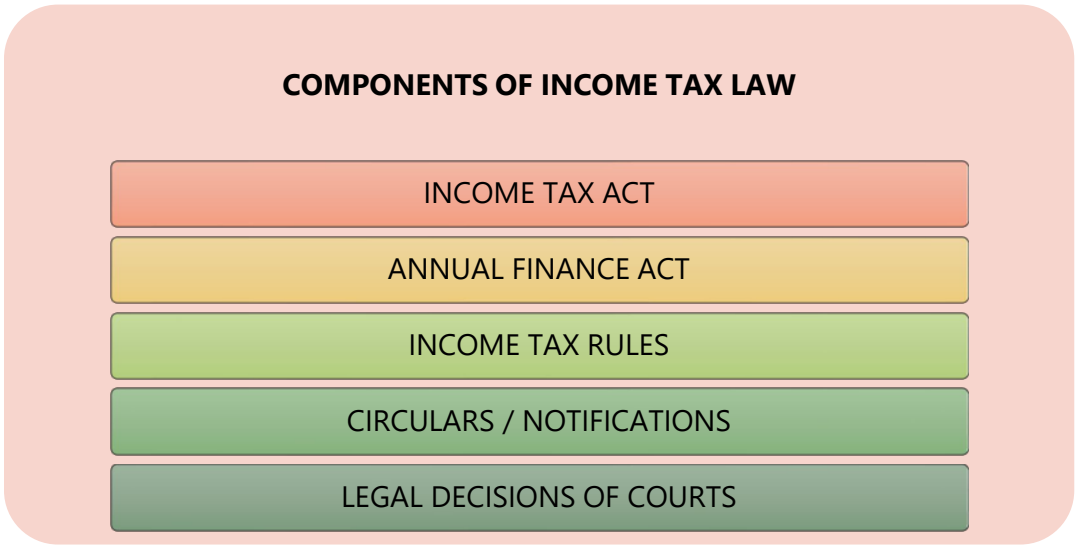


Income-tax is the most significant direct tax. ***Entry 82 of the Union List i.e., List I in the Seventh Schedule to Article 246*** *of the Constitution of India has given the power to the Parliament to make laws on taxes on income other than agricultural income.*

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1.4 Overview of Income-tax law in India

In this material, we would be introducing to the students the Income-tax law in India. The income-tax law in India consists of the following components –



The various instruments of law containing the law relating to income-tax are explained below.

Income Tax Act, 2025

The levy of income-tax in India is governed by the Income-tax Act, 2025. In this book, we shall briefly refer to this as the "Act".

- It extends to the whole of India.
- It came into force on 1st April, 2026.
- It contains 23 chapters comprising of 536 sections with 16 schedules.
- Prior to the Income-tax Act 2025 coming into force, i.e. till 31.03.2026, the levy of income tax in India was governed by the Income-tax Act, 1961.

" Section" in the Act

In the Income-tax Act, 2025, the provisions of the law are arranged in a hierarchical manner for easy understanding, reference and interpretation. The basic unit of the Act is a "section". **A section is a distinct legal provision dealing with a particular subject or matter.**

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Section 4 of the Income-tax Act, 2025 contains the charging provision relating to levy of income-tax. Similarly, section 19 contains provisions relating to deductions from salaries. Sections are identified by numbers such as section 4, section 19, section 56, etc.

Sub-section: A section may further be divided into smaller parts known as "sub-sections". A sub-section can relate with each other or can stand independently. However, all sub sections taken together completes the concept propounded in that section.

A sub-section is a subdivision of a section and is generally denoted by numbers in brackets such as (1), (2), (3), etc.



In section 19(1), "19" refers to the section and "(1)" refers to the sub-section.

Clause: A clause is a further subdivision of a section or sub-section containing a specific point or category. Clauses are generally denoted by letters such as (a), (b), (c), etc. For example, in section 19(1)(a), "(a)" is the clause. In certain provisions, especially definition sections, a section may be divided directly into clauses without any sub-sections.



The clauses of section 2 define the meaning of terms used in the Income-tax Act, 2025. Clause (5) defines "agricultural income", clause (6) defines "amalgamation" and so on.

Sub-clause: A clause may further be divided into sub-clauses denoted by Roman numerals such as (i), (ii), (iii), etc.

For example, in section 19(2)(c)(i), Section is 19, Sub-section is (2), clause is (c) and sub-clause is (i).

Amendments to the Act

The Income-tax Act, 2025 undergoes change every year with additions and substitutions brought in by the Annual Finance Act passed by Parliament.

Every year, the Finance Minister of the Government of India introduces the Finance Bill in the Parliament's Budget Session. When the Finance Bill is passed by both the houses of the Parliament and gets the assent of the President, it becomes the Finance Act.

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First Schedule to the Finance Act

The First Schedule to the Finance Act contains four parts which specify the rates of tax -

- **Part IB** of the First Schedule to the Finance Act specifies the rates of tax applicable for the current Tax Year. Accordingly, Part IB of the First Schedule to the Finance Act, 2026 specifies the rates of tax for T.Y. 2026-27.
- **Part II** specifies the rates at which tax is deductible at source for the current Tax Year. Accordingly, Part II of the First Schedule to the Finance Act, 2026 specifies the rates at which tax is deductible at source for T.Y. 2026-27.
- **Part III** gives the rates for calculating income-tax for deducting tax from income chargeable under the head "Salaries" and computation of advance tax for T.Y. 2026-27 where the assessee exercises the option to shift out of the default tax regime.
- **Part IV** gives the rules for computing net agricultural income.

Income-tax Rules, 2026

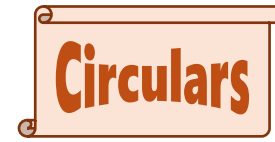
- The Income-tax Act, 2025 contains the provisions relating to levy and administration of income-tax. However, for effective implementation of these provisions, the Act empowers the Central Board of Direct Taxes (CBDT) or the Central Government to make rules.
- In this regard, the definition of the term "prescribed" may first be understood. As per section 2(80), "prescribed" means prescribed by rules made under this Act.
- Therefore, wherever the Act uses the words "in the prescribed manner", "prescribed form" or "prescribed authority", reference has to be made to the Income-tax Rules framed under the Act.
- Thus, the rules derive their authority from the provisions of the Act itself.
- It is important to keep in mind that along with the Income-tax Act, 2025, these rules should also be studied.

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Circulars and Notifications

Circulars

- Circulars are issued by the CBDT from time to time to deal with certain specific problems and to clarify doubts regarding the scope and meaning of certain provisions of the Act.



- Circulars are issued for the guidance of the officers and/or assessees.
- The department is bound by the circulars. While such circulars are not binding on the assessees, they can take advantage of beneficial circulars.
- Certain circulars are issued as **Guidelines.** These Guidelines may be issued with the approval of the Central Government and binding on the income-tax authorities and on the assessee and need to be laid before each House of Parliament.

Notifications

Notifications are issued by the Central Government to give effect to the provisions of the Act. The CBDT is also empowered issue of notifications which are binding on both department and assessees.



Legal Decisions of Courts

Case Laws refer to decision given by courts. The study of case laws is an important and unavoidable part of the study of Income-tax law. It is not possible for Parliament to conceive and provide for all possible issues that may arise in the implementation of any Act. Hence the judiciary will hear the disputes between the assessees and the department and give decisions on various issues.



The Supreme Court is the Apex Court of the Country and the law laid down by the Supreme Court is the law of the land. The decisions given by various High Courts will apply in the respective states in which such High Courts have jurisdiction.

Note – Case laws are dealt with at the Final level.

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1.	*Article 265 of the Constitution of India provides that –*	
	(a)	*Taxes can be levied by executive order*
	(b)	*No tax shall be levied or collected except by authority of law*
	(c)	*Only Parliament can levy taxes*
	(d)	*Taxes can be collected without legislation in emergencies*
2.	*Which of the following statements are correct regarding the Income-tax Act, 2025?* *(i) The Income-tax Act, 2025 came into force on 1st April, 2026.* *(ii) The Income-tax Act, 2025 contains 16 Chapters and 536 sections.*	
	(a)	*Only (i)*
	(b)	*Only (ii)*
	(c)	*Both (i) and (ii)*
	(d)	*Neither (i) nor (ii)*

2. CHARGE OF INCOME TAX

Section 4 of the Income-tax Act, 2025 is the charging section which provides that:

(i) Income-tax shall be charged at the **rates specified** for the tax year by the Annual Finance Act (such as tax rates for individual, firms, companies etc.) or the Income-tax Act, 2025 [such as tax rates specified under section 202(1)] or both.

(ii) Income-tax shall include additional income-tax, by whatever name called levied under this Act.

(iii) The charge is on every **person** specified under section 2(77).

(iv) Income-tax is chargeable on the **total income** earned during the **tax year**. Additionally, tax can also be chargeable in respect of income of a period other than tax year as provided in the Act.

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(v) Income-tax shall be levied as per and subject to the various provisions contained in the Act.

This section is the backbone of the law of income-tax in so far as it serves as the most operative provision of the Act. The tax liability of a person springs from this section.

3. IMPORTANT DEFINITIONS

In order to understand the provisions of the Act, one must have a thorough knowledge of the meanings of certain key terms like 'person', 'assessee', 'income', etc. To understand the meanings of these terms we have to first check whether they are defined in the Act.



Section 2 contains definitions of various terms and expressions used in the Income-tax Act, 2025. Further, certain terms are also specifically defined in particular sections or under interpretation provisions at the end of a Chapter of the Act. Where a term has been specifically defined in the Act, such definition has to be followed while interpreting the relevant provision.

For example, the term "perquisite" has been defined under section 17 for the purpose of taxation of salary income.



If a particular definition is not given in the Act, reference can be made to the General Clauses Act or dictionaries.

Students should note this point carefully because certain terms like "dividend", "transfer", etc. have been given a wider meaning in the Income-tax Act, 2025 than they are commonly understood.

Some of the important terms defined under section 2 are given below:

3.1 Assessee [Section 2(11)]

"Assessee" means a person by whom any tax or any other sum of money is payable under this Act. In addition, it includes –

- Every person in respect of whom any proceeding under this Act has been taken for the assessment

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- of his income or of the loss sustained by him or refund due to him
- of the income of any other person in respect of which he is assessable or loss sustained by such other person or refund due to such other person.

♦ Every person who is deemed to be an assessee under this Act;

♦ Every person who is deemed to be an assessee-in-default under this Act.

Every assessee is a 'person', but every 'person' need not be an assessee.

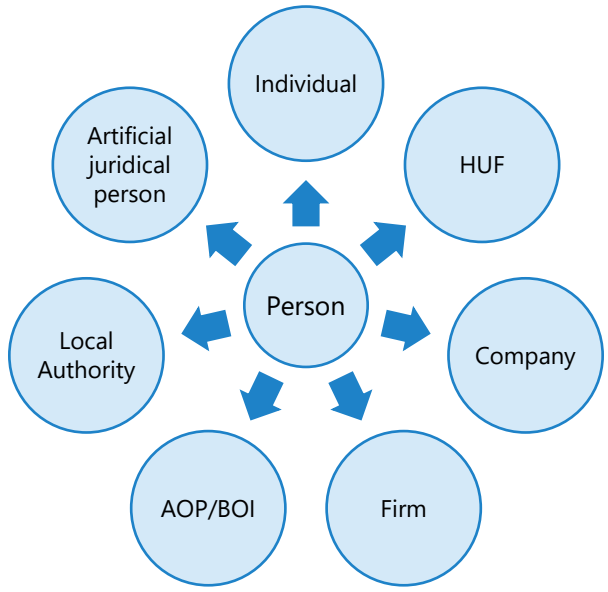
3.2 Assessment [Section 2(13)]

This is the procedure by which the income of an assessee is determined by the Assessing Officer. It includes reassessment and recomputation.

Assessment may be by way of a normal assessment or by way of reassessment of an income previously assessed[1].

3.3 Person [Section 2(77)]

The definition of 'assessee' leads us to the definition of 'person' as the former is closely connected with the latter. The term 'person' is important from another point of view also *viz.*, the charge of income-tax is on every 'person'.



[1] Assessment Procedure will be dealt with in detail at the Final level.

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We may briefly consider some of the above seven categories of person each of which constitutes a separate unit of assessment or a separate tax entity.

Individual



The term 'individual' means only a natural person, *i.e.,* a human being. It includes a minor or a person of unsound mind. But the assessment in such a case may be made on the guardian or manager of the minor or lunatic who is entitled to receive his income. In the case of deceased person, assessment would be made on the legal representative.

Hindu Undivided Family (HUF)

Under the Income-tax Act, 2025, a HUF is treated as a separate entity for the purpose of assessment. It is included in the definition of the term "person" under section 2(77). The levy of income-tax is on "every person". Therefore, income-tax is payable by a HUF.

"Hindu undivided family" has not been defined under the Income-tax Act, 2025. The expression is, however, defined under the Hindu Law as a family, which consists of all males lineally descended from a common ancestor and includes their wives and daughters.

Some members of the HUF are called **co-parceners**. They are related to each other and to the head of the family. HUF may contain many members, but members within four degrees including the head of the family (Karta) are called co-parceners. A Hindu Coparcenary includes those persons who acquire an interest in joint family property by birth. Earlier, only male descendants were considered as coparceners. With effect from 6th September, 2005, daughters have also been accorded coparcenary status.



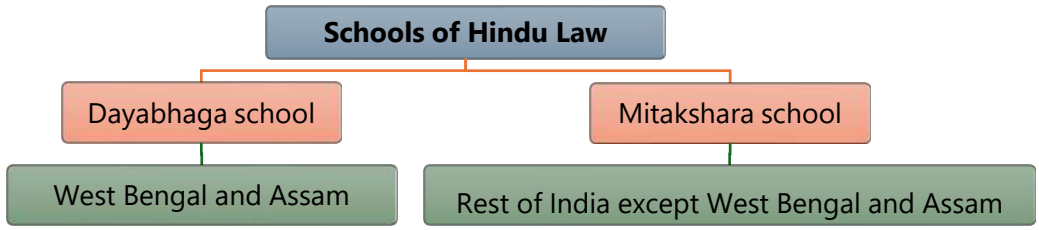
It may be noted that only the coparceners have a right to partition.

A daughter by birth shall become a coparcener in her own right in the same manner as the son. Being a coparcener, she can claim partition of assets of the family. The rights of a daughter in coparcenary property are equal to that of a son. However,

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other female members of the family, for example, wife of karta or daughter-in-law of karta are not eligible for such coparcenary rights. They are only members of the HUF.

There need not be more than one male member or one female coparcener w.e.f. 6th September, 2005 to form a HUF. The Income-tax Act, 2025 also does not indicate that a HUF as an assessable entity must consist of at least two male members or two coparceners.



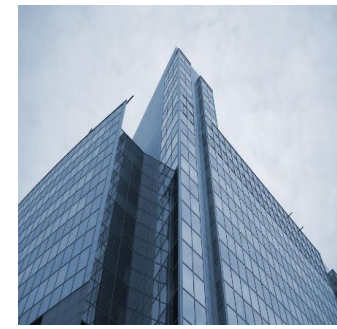
The basic difference between the two schools of Hindu law with regard to succession is as follows:

Dayabhaga school of Hindu law	Mitakshara school of Hindu law
Prevalent in West Bengal and Assam	Prevalent in rest of India
Nobody acquires the right, share in the property by birth as long as the head of family is living. Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Hence, the father and his brothers would be the coparceners of the HUF.	One acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus, every child born in the family acquires a right/share in the family property.

Company [Section 2(28)]

For all purposes of the Act, the term 'Company', has a much wider connotation than that under the Companies Act, 2013. Under the Act, the expression 'Company' means:

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(1) any Indian company as defined in section 2(53); or

(2) any body corporate incorporated by or under the laws of a country outside India, i.e., any foreign company; or

(3) any institution, association or body which is assessable or was assessed as a company under the repealed Income-tax Act, 1961 or

(4) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by order of the CBDT to be a company for such period as specified in such declaration.

Classes of Companies

(1) Domestic company and Foreign Company: Companies can be classified into two categories, viz. (1) Domestic company and (2) Foreign company.

Domestic company [Section 2(42)] - It means an

- Indian company or
- Any other company that has made the prescribed arrangements within India for the declaration and payment of the dividends (including dividend on preference shares) payable out of its income liable to tax under this Act.

Indian company [Section 2(53)] - A company is considered an "Indian company" under section 2(53) of the Income-tax Act, 2025 if it meets two key conditions:

1. **Formation and Registration**: The company should have been formed and registered under any law relating to companies formerly[2] or currently in force[3] in any part of India.
2. **Office Location**: The company's registered or principal office should be in India.

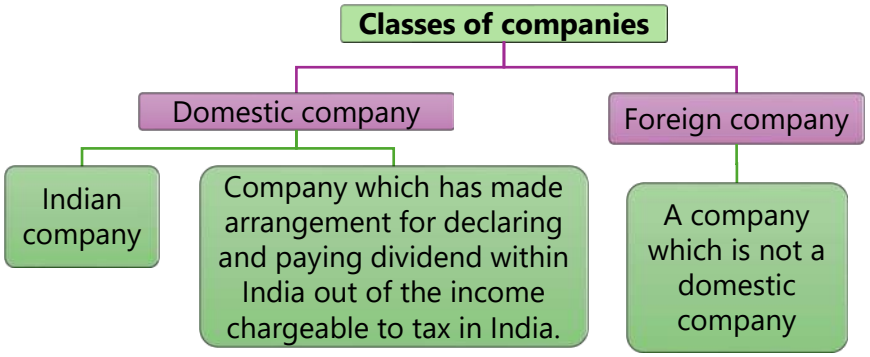
Additionally, the term "Indian company" also include the following provided their registered or principal office is in India:

[2] The Companies Act, 1956
[3] The Companies Act, 2013

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- Corporation established by or under a Central, State, or Provincial Act, such as Financial Corporation or State Road Transport Corporation.
- Institution, association, or body declared by the Board to be a company under section 2(28) of the Income-tax Act, 2025.

Foreign company [Section 2(46)] - Foreign company means a company which is not a domestic company



(2) A company is further classified into two primary categories based on public interest:

Widely Held Company (Company in which public are substantially interested): A company is considered to have substantial public interest if it meets any of the following criteria as outlined in section 2(29) of the Income-tax Act, 2025:

(a) Government or RBI Ownership or participation: A company owned by the Government or the Reserve Bank of India (RBI), or where at least 40% of the shares are held (whether individually or collectively) by the Government or the RBI or a corporation owned by the RBI.

(b) Company registered under section 8 of the Companies Act, 2013: A company registered under section 8 of the Companies Act, 2013, which is formed to promote commerce, art, science, education, research, social welfare, charity, environmental protection, etc., and does not distribute dividends to their members.

(c) Companies with no share capital and declared by the CBDT: A company which does not have share capital and is declared by the CBDT to be a company in which the public are substantially interested for specified period considering the objects, the nature and composition of its membership and other relevant considerations.

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(d) Mutual Benefit Finance Company (Nidhi or Mutual Benefit Society): A company that primarily accept deposits from its members and is declared by the Central Government under Section 406 of the Companies Act, 2013, to be a *Nidhi* or Mutual Benefit Society.

(e) Cooperative Society ownership: A company whose equity shares carrying at least 50% of the voting power are unconditionally allotted or acquired by and were beneficially held throughout the relevant tax year by one or more cooperative societies.

(f) Public Limited Company: A company which is not a private company as defined in the Companies Act, 2013 and which fulfills any of the following conditions:

- its equity shares were listed in a recognized stock exchange in India as on the last day of the relevant tax year; or
- its equity shares carrying at least 50% voting power (40% in case of an Indian company whose business consists mainly in construction of ships or in the manufacture or processing of goods or in mining or in generation or distribution of electricity or any other form of power) have been unconditionally allotted to or acquired by and should have been beneficially held throughout the relevant tax year by
  - (a) the Government or
  - (b) a corporation established by a Central Act or State Act or Provincial Act or
  - (c) a company in which public are substantially interested or
  - (d) any wholly owned subsidiary of company mentioned in (c).

Closely Held Company (Company in which public are not substantially interested): Any company that does not meet the criteria for being classified as widely held company is considered closely held company. Thus, all private limited companies will be treated as companies in which public are not substantially interested.

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Firm, Partner or Partnership [Section 2(45), 2(74) and 2(75)]

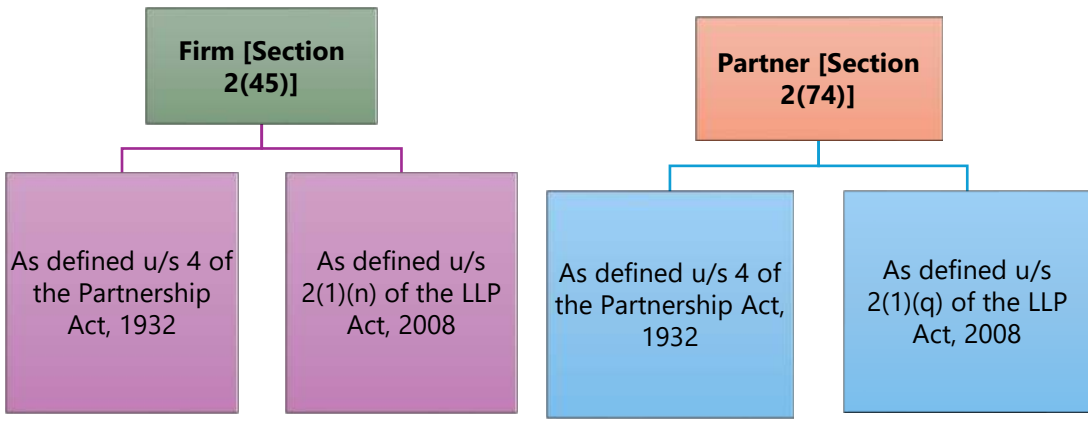
The terms 'firm', 'partner' and 'partnership' have the same meanings as assigned to them in section 4 of the Indian Partnership Act, 1932.



In addition, the definitions also include the terms limited liability partnership as defined under section 2(1)(n) of the Limited Liability Partnership (LLP) Act, 2008 and a partner of limited liability partnership as defined under section 2(1)(q) of the LLP Act, 2008.

In an LLP, since liability of the partners is limited to their agreed contribution therein, it contains elements of both a corporate structure as well as a partnership firm structure.

Further, for income-tax purposes a minor admitted to the benefits of an existing partnership would also be treated as partner.





A partnership is the relation between persons who have agreed to share the profits of business carried on by all or any of them acting for all. The persons who have entered into partnership with one another are called individually 'partners' and collectively a 'firm'.

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Association of Persons (AOP)



When persons combine together for promotion of joint enterprise, they are assessable as an AOP, if they do not in law constitute a partnership. In order to constitute an association, persons must join for a **common purpose or action** and their object must be to produce income; it is not enough that the persons receive the income jointly. Co-heirs, co-legatees or co-donees joining together for a common purpose or action would be chargeable as an AOP.

For e.g., Mr. Yash, AB & Co. (Firm) and X (P) Ltd. join together to carry on construction activity otherwise than as a partnership firm, such an association will be recognized as an association of persons.

Body of Individuals (BOI)

A BOI is a taxable unit consisting of two or more individuals who join together for a common purpose and earn income collectively.



A BOI generally consists only of individuals, unlike an AOP which may include non-individual members as well.

Income-tax shall not be payable by an assessee in respect of the receipt of share of income by him from BOI and on which the tax has already been paid by such BOI. For e.g., mutual trade associations, members club, etc.

Section 2(77) further explains that an association of persons or a body of individuals shall be treated as a person, whether or not it was formed with the object of deriving income, profits or gains. Accordingly, even if such entities have been formed not for earning any income/ profit still they are "person" for the purpose of the Act and are covered by the provisions of the Act.

Difference between AOP and BOI

In case of a BOI, only individuals can be the members, whereas in case of AOP, any person can be its member i.e. entities like company, firm etc. can be the member of AOP but not of BOI.

In case of an AOP, members voluntarily come together with a common will for a common intention or purpose, whereas in case of BOI, such common will may or may not be present.

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Local Authority

The term "Local Authority" means a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund.

Note: A local authority is taxable in respect of that part of its income which arises from any business carried on by it in so far as that income does not arise from the supply of a commodity or service within its own jurisdictional area. However, income arising from the supply of water and electricity even outside the local authority's own jurisdictional area is exempt from tax.

Artificial Juridical Persons

Artificial Juridical Persons are the entities which are not natural persons but are separate entities in the eyes of law. This being a residual category could cover all artificial persons with a juristic personality not falling under any other category of persons. Deities/Idols, Bar Council, Universities are some important examples of Artificial Juridical Persons.



3.	*Which of the following statements regarding HUF is correct?*	
	(a)	*HUF has been specifically defined under the Income-tax Act, 2025*
	(b)	*Only male members can be coparceners in an HUF*
	(c)	*Daughters are also coparceners with effect from 6th September, 2005*
	(d)	*Wife of Karta is a coparcener in all cases*
4.	*A company incorporated outside India would be regarded as –*	
	(a)	*Indian company*
	(b)	*Domestic company*
	(c)	*Foreign company*
	(d)	*HUF*

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3.4 Tax Year [Section 3]

The term has been defined under section 3. It means the twelve months period of the financial year commencing on the 1st April. The income earned during the tax year is taxable after the end of that tax year.

Business or profession newly set up during the financial year - In the case of a business or profession newly set up, or a source of income newly coming into existence in any financial year, the tax year shall be the period beginning with

(a) the date of setting up of such business or profession; or

(b) the date on which such source of income newly comes into existence

and ending with the said financial year i.e., 31st March.



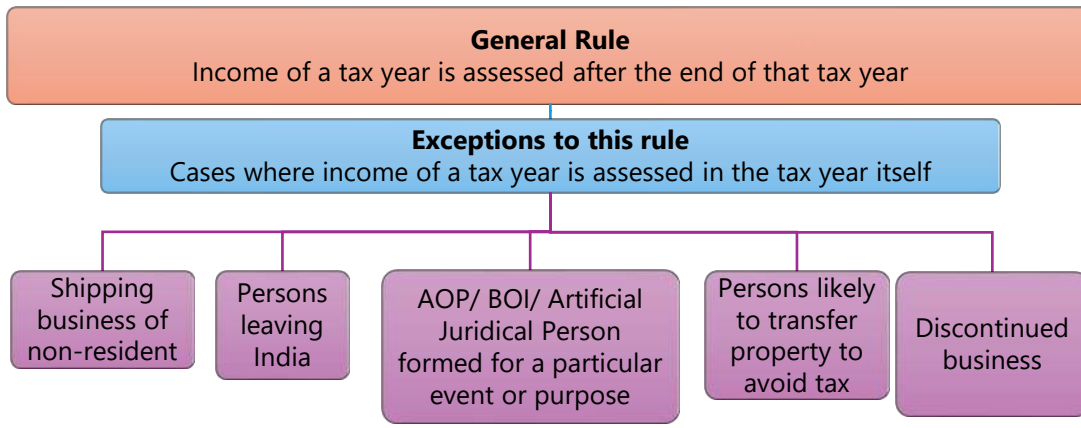
A is running a business from 2003 onwards. Determine the period of tax year for the assessee.

Ans. The tax year will be *1.4.2026 to 31.3.2027*.

A chartered accountant sets up his profession on 1st July, 2026. Determine the period of relevant tax year for him.

Ans. The tax year will be from *1.7.2026 to 31.3.2027*.

Certain cases when income of a tax year assessed in the tax year itself



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The income of an assessee for a tax year is assessed after the end of that tax year[4]. For instance, income of tax year 2026-27 is assessed after the end of the tax year 2026-27.

However, in a few cases, this rule does not apply, and the income is assessed in the tax year in which it is earned. These exceptions have been made to protect the interests of revenue.

The exceptions are as follows:

(i) Shipping business of non-resident [Section 316]

Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port



- only when the tax has been paid or satisfactory arrangement has been made for payment thereof.
- 7.5% of the amount paid or payable (including demurrage charge, handling charge or any other charge of similar nature) to the owner or the charterer or to any person on his behalf,
- whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.

(ii) Persons leaving India [Section 317]

Where it appears to the Assessing Officer that

- any individual may leave India during the current tax year or shortly after its expiry and
- he has no present intention of returning to India,



the total income of such individual for the period beginning from the first day of that current tax year up to the probable date of his departure from India is chargeable to tax in that current tax year.

[4] *Based on Q No. 1.9 of the FAQs on Interplay and Transition from the Income Tax Act, 1961 to the Income Tax Act, 2025 issued by CBDT*

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(iii) AOP/BOI/Artificial Juridical Person formed for a particular event or purpose [Section 318]



Where it appears to the Assessing Officer that

- an AOP/BOI etc. is formed or established for a particular event or purpose
- is likely to be dissolved in the same year or immediately after such year,

the total income of such AOP/BOI for the period beginning from first day of that tax year upto the date of dissolution shall be chargeable to tax in that tax year.

(iv) Persons likely to transfer property to avoid tax [Section 319]

During the current tax year, if it appears to the Assessing Officer that

- a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets
- to avoid payment of any liability under this Act,



the total income of such person for the period beginning from first day of that current tax year upto the date, when the Assessing Officer commences proceedings under this section is chargeable to tax in the current tax year.

(v) Discontinued business [Section 320]



Where any business or profession is discontinued in any tax year, the income of the period beginning from first day of that current tax year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that tax year.

3.5 Income [Section 2(49)]

(1) Definition of Income

The definition of income as per the Income-tax Act, 2025 begins with the words "Income includes". Therefore, it is an inclusive definition and not an exhaustive one. Such a definition does not confine the scope of income but leaves room for more inclusions within the ambit of the term.

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Section 2(49) of the Act gives a statutory definition of income. The following items of receipts are specifically included in the said definition:-



(1) Profits and gains;

(2) Dividends;

(3) The value of any perquisite or profit in lieu of salary taxable under section 17 and 18;

(4) Any special allowance or benefit, other than the perquisite included above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;

(5) Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;

(6) 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 that person;

(7) any sum chargeable to income-tax under the head "Profits and gains of business or profession" u/s 26(2)(b)/(c)/(d)/(e)/(g)

(8) Deemed profits chargeable to tax under section 38 or section 95;

(9) The value of any benefit or perquisite taxable under section 28(2)(f);

(10) Any capital gains chargeable under section 67;

(11) Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling, or betting of any form or nature whatsoever. For this purpose,

(i) "Lottery" includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement called by any name;

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(ii) "Card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;

(12) Any sum received by the assessee from his employees as contributions to any provident fund (PF) or superannuation fund or Employees State Insurance Fund (ESI) or any other fund for the welfare of such employees;

(13) Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy;

[5]"**Keyman insurance policy"** means a life insurance policy -

- taken by a person on the life of another person
- where such person is or was an employee of first mentioned person or is or was connected in any manner whatsoever with the first mentioned person's business and
- includes such policy which has been assigned to a person with or without any consideration, at any time during the term of the policy.

(14) Any **sum received** or receivable under an agreement **for not carrying out any activity or not sharing any know how, patent, copyright etc**. as referred to in section 26(2)(h).

(15) Fair market value of **inventory as on the date of its conversion** into or treatment as a capital asset under section 26(2)(j);

(16) Any sum of money received as **advance**, if such sum is **forfeited** consequent to failure of negotiation for transfer of a capital asset [Section 92(2)(h)];

(17) Any **sum of money or value of property** received without consideration or for inadequate consideration by any person [Section 92(2)(m)];

(18) Any **compensation** or other payment, due to or received by any person, in connection with termination of his employment or the modification of the term and conditions relating thereto [Section 92(2)(j)];

(19) Sum received, including the amount allocated by way of bonus, under a LIP other than under a **ULIP and keyman insurance policy**, which is not exempt under schedule II (Table Sl. No. 2), to the extent the same exceeds the

[5] Schedule II (Note 1)

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aggregate of the premium paid during the term of the policy, and not claimed as deduction under any other provision of the Act [Section 92(2)(l)];

[For details, refer to Unit 5 of Chapter 3: Income from Other Sources]

(20) Assistance in the form of a **subsidy or grant or cash incentive** or duty drawback or waiver or concession or reimbursement, by whatever name called, by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee is included in the definition of income.

However, subsidy or grant or reimbursement which has been taken into account for determination of the actual cost of the depreciable asset in as per section 39(1)(d) and (3) shall not be included in the definition of income.

(2) Concept of Income

- **Regular receipt *vis-a-vis* casual receipt:** Income, in general, means a periodic monetary return which accrues or is expected to accrue regularly from definite sources. However, under the Income-tax Act, 2025, even certain casual receipts which do not arise regularly are treated as income for tax purposes e.g. Winnings from lotteries, crossword puzzles.
- **Revenue receipt *vis-a-vis* Capital receipt:** Income normally refers to revenue receipts. Capital receipts are generally not included within the scope of income in general parlance. However, the Income-tax Act, 2025 has specifically included certain capital receipts within the definition of income e.g., Capital gains i.e., gains on sale of capital assets like land, jewellery.
- **Net receipt *vis-a-vis* Gross receipt:** Income means net receipts and not gross receipts. Net receipts are arrived at after deducting the expenditure incurred in connection with earning such receipts. The expenditure which can be deducted while computing income under each head is provided under the Income-tax Act, 2025. Income from certain eligible businesses/ professions is also determined on presumptive basis i.e., as a certain percentage of gross receipts. *[We will discuss in detail in Unit 3 of Chapter 3: Profits and gains of business or profession]*.
- **Due basis *vis-a-vis* receipt basis:** Income is taxable either on due basis or receipt basis. For computing income under the heads "Profits and gains of business or profession" and "Income from other sources", the method of

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accounting regularly employed by the assessee should be considered, which can be either cash system or mercantile system. Some receipts are taxable only on receipt basis, like, income by way of interest received on compensation or enhanced compensation.

- **Application of Income *vis-a-vis* Diversion of Income:** Application of income means to discharge an obligation (which is gratuitous or self-imposed) after such income reaches the assessee. Whereby virtue of an obligation by overriding title, income is diverted before it reaches the assessee, it is known as diversion of income. In case of the former, the income would be taxable in the hands of the person who applies it, whereas in the case of the latter, it is not taxable (i.e., even if the assessee were to collect the income he does so on behalf of the person to whom it is payable).

(3) Concept of revenue and capital receipts

Students should carefully study the various items of receipts included in the definition of income. Some of them like capital gains are not revenue receipts. However, since they have been included in the definition, they are chargeable as income under the Act. The Act contemplates a levy of tax on income and not on capital and hence it is very essential to distinguish between capital and revenue receipts.

Capital receipts cannot be taxed, unless they fall within the scope of the definition of "income" and so the distinction between capital and revenue receipts is material for tax purposes. Certain capital receipts which have been specifically included in the definition of income are compensation for modification or termination of services, income by way of capital gains etc.

It is not possible to lay down any single test as infallible or any single criterion as decisive, final and universal in application to determine whether a particular receipt is capital or revenue in nature. Hence, the capital or revenue nature of the receipt must be determined with reference to the facts and circumstances of each case.

Criteria for determining whether a receipt is capital or revenue in nature

The following are some of the important criteria which may be applied to distinguish between capital and revenue receipts.

Fixed capital or Circulating capital: A receipt referable to fixed capital would be a capital receipt whereas a receipt referable to circulating capital would be a

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revenue receipt. Tangible and intangible assets which the owner keeps in his possession for making profits are in the nature of fixed capital. The circulating capital is one which is turned over and yields income or loss in the process.

Income from transfer of capital asset or trading asset: Profits arising from the sale of a capital asset are chargeable to tax as capital gains under section 67 whereas profits arising from the sale of a trading asset being of revenue nature are taxable as income from business under section 26 provided that the sale is in the regular course of assessee's business or the transaction constitutes an adventure in the nature of trade.

Capital Receipts vis-a-vis Revenue Receipts: Tests to be applied

(1) Transaction entered into the course of business: Profits arising from transactions which are entered during the course of the business regularly carried on by the assessee, or are incidental to, or associated with the business of the assessee would be revenue receipts chargeable to tax.



A banker's or financier's dealings in foreign exchange or sale of shares and securities, a shipbreaker's purchase of ship in his own name, a share broker's purchase of shares on his own account would constitute transactions entered and yielding income in the ordinary course of their business. Whereas building and land would constitute capital assets in the hands of a trader in shares, the same would constitute stock-in-trade in the hands of a property dealer.

(2) Profit arising from sale of shares and securities: In the case of profit arising from the sale of shares and securities, the nature of the profit has to be ascertained from the motive, intention or purpose with which they were bought. If the shares were acquired as an investor or with a view to acquiring a controlling interest or for obtaining a managing or selling agency or a directorship, the profit or loss on their sale would be of a capital nature; but if the shares were acquired in the ordinary course of business as a dealer in shares, it would constitute his stock-in-trade. If the shares were acquired with speculative motive, the profit or loss (although of a revenue nature) would have to be dealt with separately from the profit or loss of other businesses.

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Securities held by Foreign Institutional Investor or Investment Fund *which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992 would be* ***treated as a capital asset. Even if*** *the nature of such security in the hands of the Foreign Portfolio Investor* ***or Investment Fund is stock-in-trade****, the same would be treated as a capital asset and the profit on transfer would be taxable as capital gains.*

(3) A single transaction - Can it constitute business? Even a single transaction may constitute a business or an adventure in the nature of trade even if it is outside the normal course of the assessee's business. Repetition of such transactions is not necessary. Thus, a bulk purchase followed by a bulk sale or a series of retail sales or bulk sale followed by a series of retail purchases would constitute an adventure in the nature of trade and consequently, the income arising therefrom would be taxable. Purchase of any article with no intention to resell it, but resold under changed circumstances would be a transaction of a capital nature and capital gains would arise. However, where an asset is purchased with the intention to resell it, the question whether the profit on sale is capital or revenue in nature depends upon

(i) the conduct of the assessee,

(ii) the nature and quantity of the article purchased,

(iii) the nature of the operations involved,

(iv) whether the venture is on capital or revenue account, and

(v) other related circumstances of the case.

(4) Liquidated damages: Receipt of liquidated damages directly and intimately linked with the procurement of a capital asset, which lead to delay in coming into existence of the profit-making apparatus, is a capital receipt. The amount received by the assessee towards compensation for sterilization of the profit earning source is not in the ordinary course of business. Hence, it is a capital receipt in the hands of the assessee.

(5) Compensation on termination of agency/service contract: Where an assessee receives compensation on termination of the agency business being the only source of income, the receipt is of capital nature, but taxable under section 26(2)(b).

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However, where the assessee has a number of agencies and one of them is terminated and compensation is received therefor, the receipt would be of a revenue nature since taking up an agency and exploiting the same for earning income is in the ordinary course of business. The loss of one agency would be made good by profit from another agency.

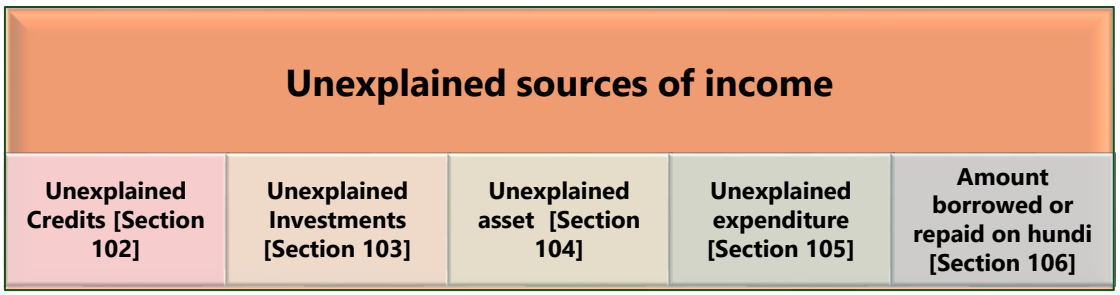
Compensation received from the employer or from any person for premature termination of the service contract is a capital receipt, but is taxable as profit in lieu of salary under section 18 or as income from other sources under section 92(2)(j), respectively.

Compensation received or receivable in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income.

(6) Gifts: Normally, gifts constitute a capital receipt in the hands of the recipient. However, certain gifts are brought within the purview of income-tax, for example, receipt of property without consideration is brought to tax under section 92(2)(m).

For example, any sum of money or value of property received without consideration or for inadequate consideration by any person, from any other person, other than a relative, is chargeable under the head "Income from Other Sources" *[For details, refer to Unit - 5 of Chapter 3: Income from Other Sources]*.

(4) Unexplained source of income



(i) Unexplained Credits [Section 102]

Where any sum is found credited in the books of an assessee maintained for any tax year and

- the assessee offers no explanation about the nature and source of such credit or

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- the explanation offered about the nature and source of such credit by the assessee is not satisfactory in the opinion of the Assessing Officer,

the sum so credited shall be charged as income of the assessee of that tax year.

Unexplained loan or borrowing - Where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by the assessee in whose books such sum is credited shall not be deemed to be satisfactory, unless -

- the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and
- such explanation in the opinion of the Assessing Officer has been found to be satisfactory.

Unexplained Share Capital/ Premium- Any explanation offered by a closely held company in respect of any sum credited as share application money, share capital, share premium or any such amount, by whatever name called, in the accounts of such company shall be deemed to be not satisfactory, unless

- the person, being a resident, in whose name such credit is recorded in the books of such company also explains about the nature and the source of such sum so credited and
- such explanation in the opinion of the Assessing Officer has been found to be satisfactory.

(ii) Unexplained Investments [Section 103]

Where in any tax year, the assessee has made investments which are not recorded in the books of account or the Assessing Officer finds that the amount of investment exceeds the amount recorded in the books of account and

- the assessee offers no explanation about the nature and the source of investments or such excess amount or
- the explanation offered about the nature and the source of investments or such excess amount by the assessee is not satisfactory in the opinion of the Assessing Officer,

then, the value of such investment or the excess amount shall be deemed to be the income of the assessee of that tax year.

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(iii) Unexplained asset [Section 104]

Where in any tax year, any asset has been found to be owned by or belonging to the assessee which is not recorded in the books of account if any, maintained by such assessee for any source of income, or the Assessing Officer finds that the amount expended in acquiring the asset exceeds the amount recorded in books of account and

- the assessee offers no explanation about the nature and source of acquisition of such asset or such excess amount
- the explanation offered about the nature and source of acquisition of such asset is not satisfactory in the opinion of the Assessing Officer,

then, the value of such asset or such excess amount shall be deemed to be the income of the assessee for such tax year.

Asset includes money, bullion, jewellery, virtual digital asset or other valuable article.



Example: *If the assessee is found to be the owner of say 300 gms of gold (market value of which is ₹ 42,50,000) during the tax year ending 31.3.2027 but he has recorded to have spent ₹ 21,50,000 in acquiring it, the Assessing Officer can add ₹ 21,00,000 (i.e., the difference of the market value of such gold and ₹ 21,50,000) as the income of the assessee, if the assessee offers no satisfactory explanation thereof.*

(iv) Unexplained expenditure [Section 105]

Where in any tax year, an assessee has incurred any expenditure and

- the assessee offers no explanation about the source of such expenditure or
- the explanation offered by the assessee is not satisfactory in the opinion of the Assessing Officer,

then, the amount of unexplained expenditure shall be deemed to be the income of the assessee for that tax year.

Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under this Act.

(v) Amount borrowed or repaid through negotiable instrument, hundi etc. [Section 106]

Where any amount (including interest) is borrowed or repaid through a negotiable instrument or on a *hundi* , other than through an account-payee cheque or through

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any mode specified by the Board, the amount (including interest) so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying for the tax year in which the amount was borrowed or repaid, as the case may be.

However, where any amount borrowed through a negotiable instrument or on a *hundi* has been deemed to be the income of any person, he will not be again liable to be assessed in respect of such amount on repayment of such amount. The amount repaid shall include interest paid on the amount borrowed.

The above income referred to in section 102, 103, 104, 105 and 106 shall be charged **@30% as per section 195**.



5.	*Ms. R, a Chartered Accountant, commenced her profession on 1st September, 2026. Her tax year for the first year would be –*	
	(a)	*1.4.2026 to 31.3.2027*
	(b)	*1.9.2026 to 31.3.2027*
	(c)	*1.9.2026 to 31.8.2027*
	(d)	*Calendar year 2026*

3.6 India [Section 2(52)]

The term 'India' means –

(i) the territory of India as per Article 1 of the Constitution,

(ii) its territorial waters, seabed and subsoil underlying such waters,

(iii) continental shelf,

(iv) exclusive economic zone or

(v) any other specified maritime zone and the air space above its territory and territorial waters.

Specified maritime zone means the maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

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3.7 Agricultural income [Section 2(5)]

Agricultural income definition is very wide and covers the income of not only the cultivators but also the land holders who might have rented out the lands. Agricultural income may be received in cash or in kind.

The term **"agricultural income"** means the following**:-**

(1) **Rent or Revenue from Agricultural Land**

Any **rent or revenue derived from land** which -

- is **situated in India**, and
- is **used for agricultural purposes**.

(2) **Income derived from Agricultural Land by**

(a) **Agricultural Operations** – Income derived from agricultural operation carried out on such land.

(b) **Agricultural Processing** – Income derived from the performance of any **process ordinarily employed** by a cultivator or receiver of rent in kind **to render the produce raised or received by him fit to be taken to the market** or

(c) **Sale of Agricultural Produce** – Income from **sale of agricultural produce raised or received by** a cultivator or receiver of rent in kind**,** in respect of which no process has been performed other than a process of the nature mentioned in point (b) above.

(3) **Income from Farm Buildings**

Income derived from a **building owned and occupied by the receiver of rent or revenue of such land**, or by the **cultivator or receiver of rent-in-kind**, provided the following conditions are satisfied:

Conditions:

- The building is on or in the immediate vicinity of such agricultural land, and
- The land is either:
  - assessed to land revenue in India, or
  - subject to a local rate collected by Government authorities, or
  - where not so assessed, not situated in urban areas specified under section 2(22)(iii)(A) or (B)); **and**

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- The building is **required as a dwelling house, storehouse, or other out-building** by the receiver of rent or revenue of such land, or by the cultivator or receiver of rent-in-kind because of his connection with the land.

(4) **Income from Nursery**

Any income derived from saplings or seedlings grown in a nursery.

Incomes Not Treated as Agricultural Income

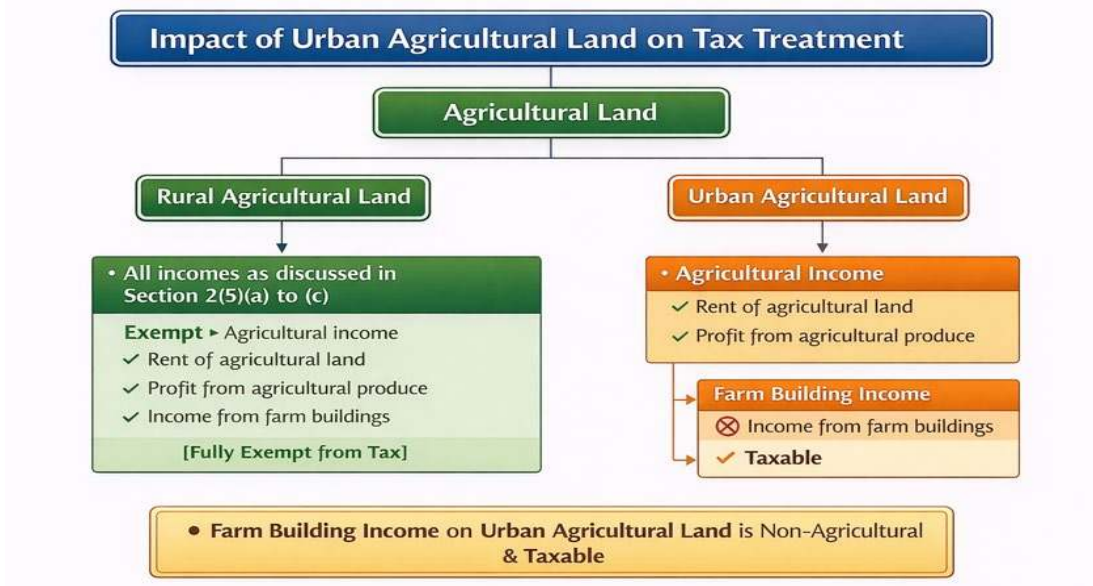
The term **"agricultural income" does not include**:

1. Income from buildings or land used for non-agricultural purposes, such as letting for residential use or for business or profession.
2. Income arising from transfer of urban agricultural land referred to in section 2(22)(iii)(A) or (B).

Limits defined under section 2(22)(iii)(A)/B are discussed in detail later on in the chapter – Income from a **building used in agricultural operations** will qualify as agricultural income only if the land is not situated in urban areas referred to in section 2(22)(iii)(A)/(B).

Therefore:

Situation	Treatment
Building on rural agricultural land	Agricultural income
Building on urban agricultural land	**Not agricultural income**



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Now let us take a critical look at the following aspects:

(1) Rent or revenue derived from land situated in India and used for agricultural purposes: The following three conditions have to be satisfied for income to be treated as agricultural income:

(a) Rent or revenue should be derived from land;

(b) land has to be situated in India (If agricultural land is situated in a foreign country, the entire income would be taxable); and

(c) land should be used for agricultural purposes.

The amount received in money or in kind, by one person from another for right to use land is termed as **Rent.** The rent can either be received by the owner of the land or by the original tenant from the sub-tenant.

Thus, the rent received by the original tenant from sub-tenant would also be agricultural income subject to the other conditions mentioned above.

It implies that ownership of land is not necessary

The scope of the term "**Revenue"** is much broader than rent. It includes income other than rent. For example, fees received for renewal for grant of land on lease would be revenue derived from land.

(2) Income derived from such land by

(a) Agriculture

The term "Agriculture" has not been defined in the Act. However, cultivation of a field involving human skill and labour on the land can be broadly termed as **agriculture**.

"Agriculture" means tilling of the land, sowing of the seeds and similar operations. It involves basic operations and subsequent operations.

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Basic Operations

- Those operations by agriculturists which are absolutely necessary for the purpose of effectively raising produce from the land are the basic operations.

Subsequent Operations

- Operations to be performed after the produce sprouts from the land (e.g., weeding, digging etc.) are subsequent operations. These subsequent operations would be agricultural operations only when taken in conjunction with and as a continuation of the basic operations.

Note: The term 'agriculture' cannot be extended to all activities which have some distant relation to land like dairy farming, breeding and rearing of live stock, butter and cheese making and poultry farming. This aspect is discussed in detail later on in this chapter.

(b) Process ordinarily employed to render the produce fit to be taken to the market: Sometimes, to make the agricultural produce a saleable commodity, it becomes necessary to perform some kind of process on the produce. The income from the process employed to render the produce fit to be taken to the market would be agricultural income. However, it must be a process ordinarily employed by the cultivator or receiver of rent in kind and the process must be applied to make the produce fit to be taken to the market.

The ordinary process employed to render the produce fit to be taken to market includes thrashing, winnowing, cleaning, drying, crushing etc.



The process ordinarily employed by the cultivator to obtain the rice from paddy is to first remove the hay from the basic grain, and thereafter to remove the chaff from the grain. The grain has to be properly filtered to remove stones etc. and finally the rice has to be packed in bags for sale in the market.

After such process, the rice can be taken to the market for sale. This process of making the rice ready for the market may involve manual operations or mechanical operations. All these operations constitute

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the process ordinarily employed to make the product fit for the market. The produce must retain its original character in spite of the processing unless there is no market for selling it in that condition.

However, if marketing process is performed on a produce which can be sold in its raw form, income derived therefrom is partly agricultural income and partly business income.

(c) **Sale of such agricultural produce in the market:** Any income from the sale of any produce by the cultivator or receiver of rent-in kind is agricultural income provided it is from the land situated in India and used for agricultural purposes. However, if the produce is subjected to any process other than process ordinarily employed to make the produce fit for market, the income arising on sale of such produce would be partly agricultural income and partly non-agricultural income.

Similarly, if other agricultural produce like tea, cotton, tobacco, sugarcane etc. are subjected to manufacturing process and the manufactured product is sold, the profit on such sale will consist of agricultural income as well as business income. That portion of the profit representing agricultural income will be exempted.

Apportionment of Income between business income and agricultural income

Rules 270 & 271 of Income-tax Rules, 2026 provide the basis of apportionment of income between agricultural income and business income.

(i) Rule 270: Determination of income, being partly from agricultural and partly from business

Where income is partially agricultural income and partially business income, the market value of any agricultural produce which has been raised by the assessee or received by him as rent in kind would be allowed as deduction, if

- such agricultural produce has been utilized as raw material in such business or

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- sale receipts of such agricultural produce are included in the accounts of the business.

No further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent in kind.

Determination of market value - There are two possibilities here:

(I) **Where agricultural produce is ordinarily sold in the market in its raw stage -** Where agricultural produce is ordinarily sold in the market either in its raw stage or after application of any ordinary process to make it fit to be taken to the market.

In such a case, the value calculated at the average price at which it has been so sold during the relevant tax year will be the market value.

(II) **Where produce is not ordinarily sold in the market –** Where the agricultural produce is not capable of being ordinarily sold in the market in its raw form or after application of any ordinary process. In such case the market value will be the total of the following -

- The expenses of cultivation;
- The land revenue or rent paid for the area in which it was grown; and
- Such amount as the Assessing Officer finds having regard to the circumstances in each case to represent a reasonable profit.

ILLUSTRATION 1

Mr. B grows sugarcane and uses the same for the purpose of manufacturing sugar in his factory. 30% of sugarcane produce is sold for ₹ 10 lakhs, and the cost of cultivation of such sugarcane is ₹ 5 lakhs. The cost of cultivation of the balance sugarcane (70%) is ₹ 14 lakhs and the market value of the same is ₹ 22 lakhs. After incurring ₹ 1.5 lakhs in the manufacturing process on the balance sugarcane, the sugar was sold for ₹ 25 lakhs. Compute B's business income and agricultural income.

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SOLUTION

Computation of Business Income and Agriculture Income of Mr. B

Particulars	Business Income	Agricultural Income	
	(₹)	(₹)	(₹)
Sale of Sugar			
Business income			
Sale Proceeds of sugar	25,00,000		
Less: Market value of sugarcane (70%)	22,00,000		
Less: Manufacturing exp.	1,50,000		
	1,50,000		
Agricultural income			
Market value of sugarcane (70%)		22,00,000	
Less: Cost of cultivation		14,00,000	
			8,00,000
Sale of sugarcane			
Agricultural Income			
Sale proceeds of sugarcane (30%)		10,00,000	
Less: Cost of cultivation		5,00,000	
			5,00,000
			13,00,000

(ii) Rule 271: Income from manufacture of rubber, coffee and tea

Certain activities involving the cultivation and production of agricultural produce of rubber, coffee and tea mostly result in composite income (i.e., partly agricultural and partly business).

In such cases, the entire income is first computed as business income, and thereafter only a prescribed percentage is treated as taxable business income, while the remaining portion is treated as agricultural income. Accordingly, income from manufacturing of rubber, coffee and tea shall be apportioned as agricultural income and business income in the following manner:

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Sl. No.	Nature of Income	Agricultural Income	Business Income
1	Income from sale of rubber products derived from rubber plant grown by the seller in India **[Refer Note Below].**	65%	35%
2	Income from sale of coffee - grown and cured by the seller in India - grown, cured, roasted and grounded by the seller in India with or without mixing chicory or other flavoring ingredients	 75% 60%	 25% 40%
3	Income from sale of tea grown and manufactured by the seller in India	60%	40%
Note - *Income from sale of centrifuged latex or cenex or latex-based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, remilled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed from field latex or coagulum obtained from rubber plants grown by the seller in India.*			

ILLUSTRATION 2

Mr. C manufactures latex from the rubber plants grown by him in India. These are then sold in the market for ₹ 30 lakhs. The cost of growing rubber plants is ₹ 10 lakhs and that of manufacturing latex is ₹ 8 lakhs. Compute his total income.

SOLUTION

The total income of Mr. C comprises of agricultural income and business income.

Total profits from the sale of latex = ₹ 30 lakhs – ₹ 10 lakhs – ₹ 8 lakhs
= ₹ 12 lakhs.

Agricultural income = 65% of ₹ 12 lakhs= ₹ 7.8 lakhs

Business income = 35% of ₹ 12 lakhs= ₹ 4.2 lakhs

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(3) Income from farm building: As we now know that the income from a building used in agricultural operations subject to other conditions discussed above will qualify as agricultural income if the building:



- is on or near (immediate vicinity of) the agricultural land, and
- the land must:
  - ➢ either be assessed to land revenue in India, or be subject to local tax collected by Government officers, or
  - ➢ if not so assessed, it should be in a rural area (i.e., not in areas specified in section 2(22)(iii)(A) or (B) or can be referred as urban area).

When is Agricultural Land treated as Situated in Urban Areas?

Agricultural land is considered as **urban** if it satisfies **any one** of the following conditions:

1. Land situated within Municipality / Cantonment [Section 2(22)(iii)(A)]

- ➢ The land is located **within the limits** of:
  - o a municipality (municipal corporation, town committee, etc.), or
  - o a cantonment board,
- ➢ AND the population of that area is **10,000 or more.**

2. Land near Municipality (Aerial Distance Rule) [Section 2(22)(iii)(B)]

Even if the land is outside municipal limits, it is still **urban** if it lies within the following distance:

Population of Municipality or cantonment board	Within distance, measured aerially, from local limits of any municipality or cantonment board not being more than
>10,000 and upto 1,00,000	2 km
>1,00,000 and upto 10,00,000	6 km
> 10,00,000	8 km

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Example:

	Area	Aerial Distance, from local limits of any municipality or cantonment board referred to in item a.	Population of Municipality or cantonment board	Whether Urban land or not?	Would income derived from farm building situated in this area be treated as agricultural income?
(i)	A	1 km	9,000	No	Yes
(ii)	B	1.5 kms	12,000	Yes	No
(iii)	C	2 kms	11,00,000	Yes	No
(iv)	D	3 kms	80,000	No	Yes
(v)	E	4 kms	3,00,000	Yes	No
(v)	F	5 kms	12,00,000	Yes	No
(vi)	G	6 kms	8,000	No	Yes
(vii)	H	7 kms	4,00,000	No	Yes
(viii)	I	8 kms	10,50,000	Yes	No
(ix)	J	9 kms	15,00,000	No	Yes

Would income arising from transfer of agricultural land situated in urban area be agricultural income?

No, as per section 2(5), the capital gains arising from the transfer of urban agricultural land would not be treated as agricultural income but will be taxable under section 67.

Example: Suppose A sells agricultural land situated in New Delhi for ₹ 10 lakhs and makes a surplus of ₹ 8 lakhs over its cost of acquisition. This surplus will not constitute agricultural income and will be taxable under section 67.

Indirect connection with land

We have seen above that agricultural income is exempt, whether it is received by the tiller or the landlord. However, non-agricultural income does not become

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agricultural merely on account of its indirect connection with the land. The following examples will illustrate the above point.

Example: A rural society carries on, as its principal business, the sale of butter on behalf of its member societies. The butter is manufactured by such member societies from cream purchased from farmers. The process of manufacturing butter is undertaken in a factory and is distinct from the agricultural operations carried on at the farms.



The butter produced through factory operations, which were distinct and separate from the agricultural activities carried on at the farm, could not be regarded as an agricultural product. Accordingly, the society was not entitled to exemption under Schedule II [Table Sl. No. 1] in respect of the income derived therefrom.

Example: X was the managing agent of a company. He was entitled for a commission at the rate of 10% p.a. on the annual net profits of the company. A part of the company's income was agricultural income. X claimed that since his remuneration was calculated with reference to income of the company, part of which was agricultural income, such part of the commission as was proportionate to the agricultural income was exempt from income tax.



Since X received remuneration under a contract for agency service calculated on the amount of profits earned by the company; such remuneration does not constitute agricultural income.

Example: Y owned 100 acres of agricultural land, a portion of which was used as pasture for cows. The cows were maintained primarily for obtaining manure and for other purposes connected with agricultural operations. Only the surplus milk remaining after meeting the personal requirements of the assessee was sold. The question arose whether the income derived from sale of such milk could be regarded as agricultural income.



Since the assessee was engaged in the business of producing and selling milk as a commercial activity, the income from sale of milk would not to be agricultural income.

Example: In regard to forest trees of spontaneous growth which grow on the soil unaided by any human skill and labour there is no cultivation of the soil at all. Even though operations in the nature of forestry operations performed by the assessee may have the effect of nursing and



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fostering the growth of such forest trees, it cannot constitute agricultural operations.

Income from the sale of such forest trees of spontaneous growth does not, therefore, constitute agricultural income.

Examples of Agricultural income and Non-agricultural income

For better understanding of the concept, certain examples of agricultural income and non-agricultural income are given below:

Agricultural income



- Income derived from saplings or seedlings grown in a nursery.
- Income from growing of flowers and creepers.
- Rent received from land used for grazing of cattle required for agricultural activities.
- Income from growing of bamboo.

Non-agricultural income



- Income from breeding of livestock.
- Income from poultry farming.
- Income from fisheries.
- Income from dairy farming.



7.	*Mr. X owns agricultural land situated 5 km aerially from the limits of a municipality having population of 3,50,000. A farm building situated on such land is used as a storehouse for agricultural produce. The income from such building would be –*	
	(a)	*Agricultural income, since the building is used for agricultural purposes*
	(b)	*Agricultural income, since the land is situated beyond 2 km from municipality*

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	(c)	*Non-agricultural income, since the land is treated as urban agricultural land*
	(d)	*Exempt only if the building is used as dwelling house*
8.	*Mr. B lets out agricultural land situated in India to a cultivator and receives rent in kind. The cultivator further sub-lets a portion of the land to another cultivator and receives rent. The rental income received by cultivator would be –*	
	(a)	*Non-agricultural income since he is not the owner*
	(b)	*Agricultural income, since ownership of land is not necessary*
	(c)	*Capital receipt*
	(d)	*Income from other sources*

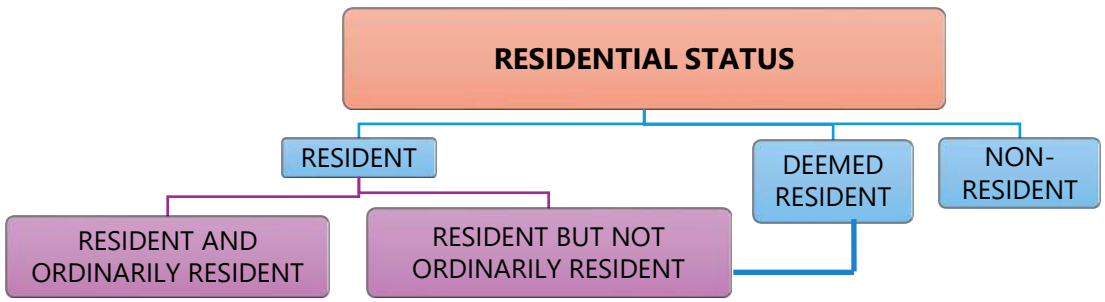
4. STEPS FOR COMPUTATION OF TOTAL INCOME AND TAX PAYABLE

Income-tax is levied on an assessee's total income. Such total income has to be computed as per the provisions contained in the Income-tax Act, 2025.

Let us go step by step to understand the procedure for computation of total income of an individual for the purpose of levy of income-tax –

Step 1 – Determination of residential status

The residential status of a person has to be determined to ascertain which income is to be included in computing the total income. The residential status as per the Income-tax Act, 2025 can be classified as under –



In the case of an individual, the duration for which he is present in India in the relevant tax year or relevant tax year and the earlier tax years determines his

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residential status. Based on the days spent by him in India, he may be (a) resident and ordinarily resident, (b) resident but not ordinarily resident, or (c) non-resident.

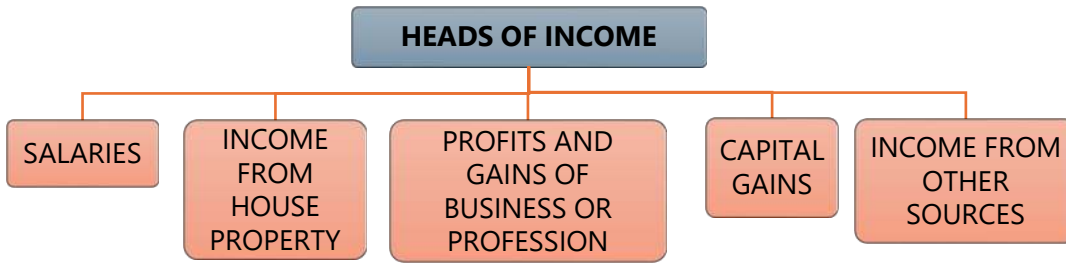
The residential status of a person determines the taxability of the income. For e.g., income earned and received outside India will not be taxable in the hands of a non-resident but will be taxable in case of a resident and ordinarily resident.

There is also a concept of deemed resident for which presence of individual in India is not required. A deemed resident is always a resident but not ordinarily resident in India. *Determination of residential status has been discussed in Chapter 2.*

Step 2 – Classification of income under different heads

A person may earn income from different sources. For example, a salaried person earns income by way of salary. He also gets interest from bank savings account/ fixed deposit. Apart from this, if he has invested in shares, he would be getting dividend and when he sells these shares, he may earn profit on such sale. If he owns a residential property which he has let out, he will earn rental income.

Under the Income-tax Act, 2025, for computation of total income, all income of a taxpayer are classified into five different heads of income. These are shown below –



There is a charging section under each head of income which defines the scope of income chargeable under that head. These heads of income exhaust all possible types of income that can accrue to or be received by the tax payer. Accordingly, as per section 13, income earned is classified as follows:

(i) Salary, pension etc. earned is taxable under the head **"Salaries".**

(ii) Rental income is taxable under the head **"Income from house property".**

(iii) Income derived from carrying on any business or profession is taxable under the head **"Profits and gains of business or profession"**.

(iv) Profit from sale of a capital asset (like land, building and shares) is taxable under the head **"Capital Gains".**

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(v) The fifth head of income is the residuary head. Income which is chargeable to tax under the Income-tax Act, 2025 but not taxable under the first four heads will be taxed under the head **"Income from other sources".**

The taxpayer has to classify the income earned under the relevant head of income.

Step 3 – Computation of income under each head of income

Income is to be computed as per the provisions governing a particular head of income.



There are certain incomes which are wholly exempt from income-tax e.g., agricultural income. These incomes have to be excluded and will not form part of total income.

Also, some incomes are partially exempt from income-tax e.g., House rent allowance. These incomes are excluded only to the extent of the limits specified in the Act. The balance income over and above the specified exemption limits would enter computation of total income and have to be classified under the relevant head of income.



There are deductions and allowances provided under each head of income. For example, while calculating income from house property for let out property, municipal taxes and interest on loan are allowed as deduction. Similarly, deductions and allowances are provided under each head of income. These deductions etc. have to be considered before arriving at the net income chargeable under each head.

These exemptions and deductions would be available to the individual depending upon the regime in which he pays tax.

Tax regime under section 202 is the default tax regime which provides for concessional rates of tax to individuals/HUFs/ AoPs/BoIs/Artificial juridical persons.

However, certain exemptions and deductions are not allowed under the default tax regime. Such assessees have an option to opt out of the said regime and pay tax under normal provisions of the Act. These tax regimes i.e., the default tax regime under section 202 and optional tax regime under the normal provisions of the Act are discussed in detail later on in this Chapter. *For detailed discussion on exemptions and deductions under each head, refer to Chapter 3: Heads of Income.*

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Disallowance of expenditure in relation to exempt income [Section 14]

- As per section 14, irrespective of anything to the contrary contained in the Act, expenditure incurred in relation to any exempt income is not allowed as a deduction while computing income under any of the five heads of income.
- The Assessing Officer is empowered to determine the amount of expenditure incurred in relation to such income which does not form part of total income in accordance with such method as may be prescribed.
- The method for determining expenditure in relation to exempt income for the purpose of disallowance of such expenditure under section 14 is prescribed by the CBDT in Rule 14.
- The provisions of section 14 regarding disallowance of expenses would apply even in a case where exempt income has not accrued or arisen or has not been received during the tax year and the expenditure has been incurred during the said tax year in relation to such exempt income.

Step 4 – Clubbing of income of spouse, minor child etc.

In case of individuals, income-tax is levied on a slab system on the total income. The tax system is progressive i.e., as the income increases, the applicable rate of tax increases. Some taxpayers in the higher income bracket have a tendency to divert some portion of their income to their spouse, minor child etc. to minimize their tax burden.

In order to prevent such tax avoidance, clubbing provisions have been incorporated in the Act, under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability. *For detailed discussion, refer to Chapter 4: Income of other persons included in total income of assessee.*

Step 5 – Set-off or carry forward and set-off of losses

An assessee may have different sources of income under the same head of income. He may have profit from one source and loss from the other.

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An assessee may have profit from his textile business and loss from his printing business. This loss can be set-off against the profits of textile business to arrive at the net income chargeable under the head "Profits and gains of business or profession".

Similarly, an assessee can have loss under one head of income, say, profits and gains of business or profession and profits under another heads of income, say, income from house property. There are provisions in the Income-tax Act, 2025 for allowing inter-head adjustment in certain cases.

However, there are also restrictions in certain cases, like business loss is not allowed to be set-off against salary income. Default tax regime under section 202 puts furthermore restrictions like loss from house property cannot be set off from income under any other head. Further, losses which cannot be set-off in the current year due to inadequacy of eligible profits can be carried forward for set-off in the subsequent years as per the provisions contained in the Act. Generally, brought forward losses under a particular head cannot be set-off against income under another head i.e., brought forward business loss cannot be set-off against income from house property of the current year. *For detailed discussion, refer to Chapter 5: Set-off or carry forward and set-off of losses.*

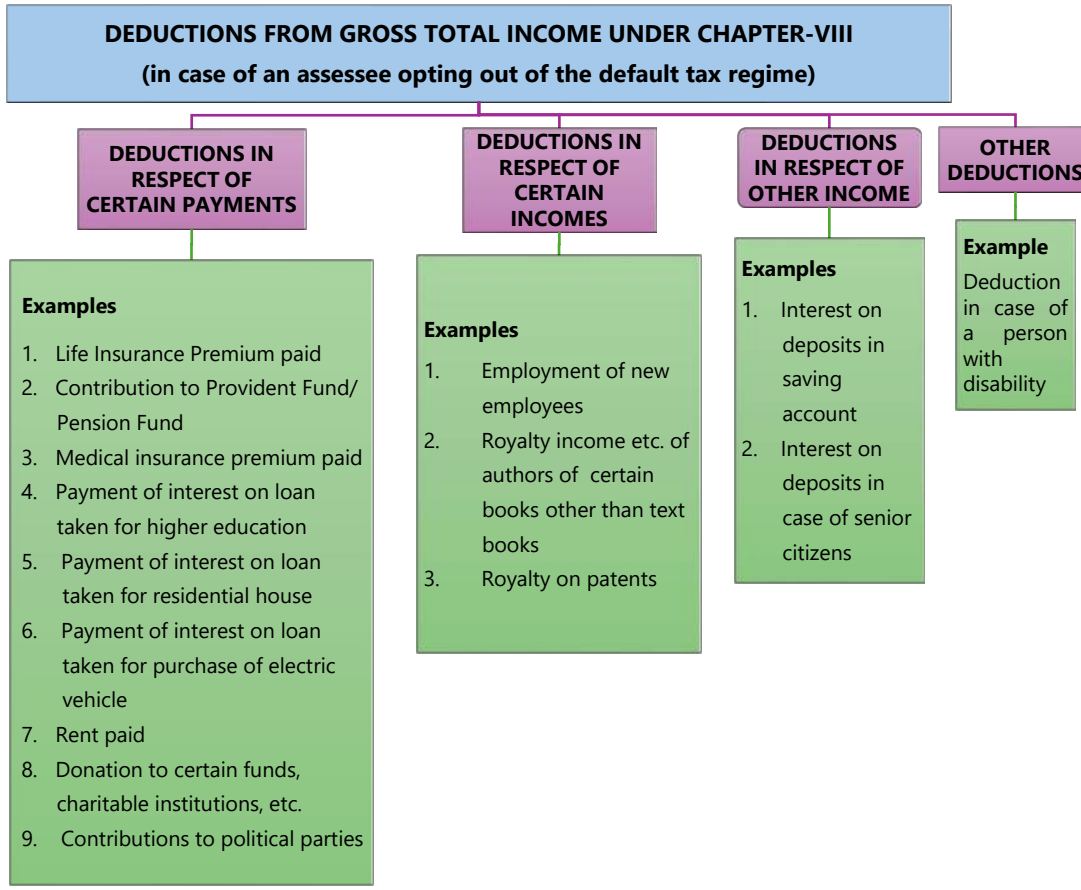
Step 6 – Computation of Gross Total Income

The final figures of income or loss under each head of income, after allowing the eligible deductions, allowances and other adjustments, are then aggregated, after giving effect to the provisions for clubbing of income and set-off and carry forward of losses, to arrive at the gross total income.

Step 7 – Deductions from Gross Total Income

Chapter VIII provides for certain deductions from Gross Total Income. These deductions would, generally, be allowable to the assessee who opts out of the default tax regime and pays tax under the optional tax regime as per normal provisions of the Act, subject to fulfillment of requisite conditions stipulated thereunder.

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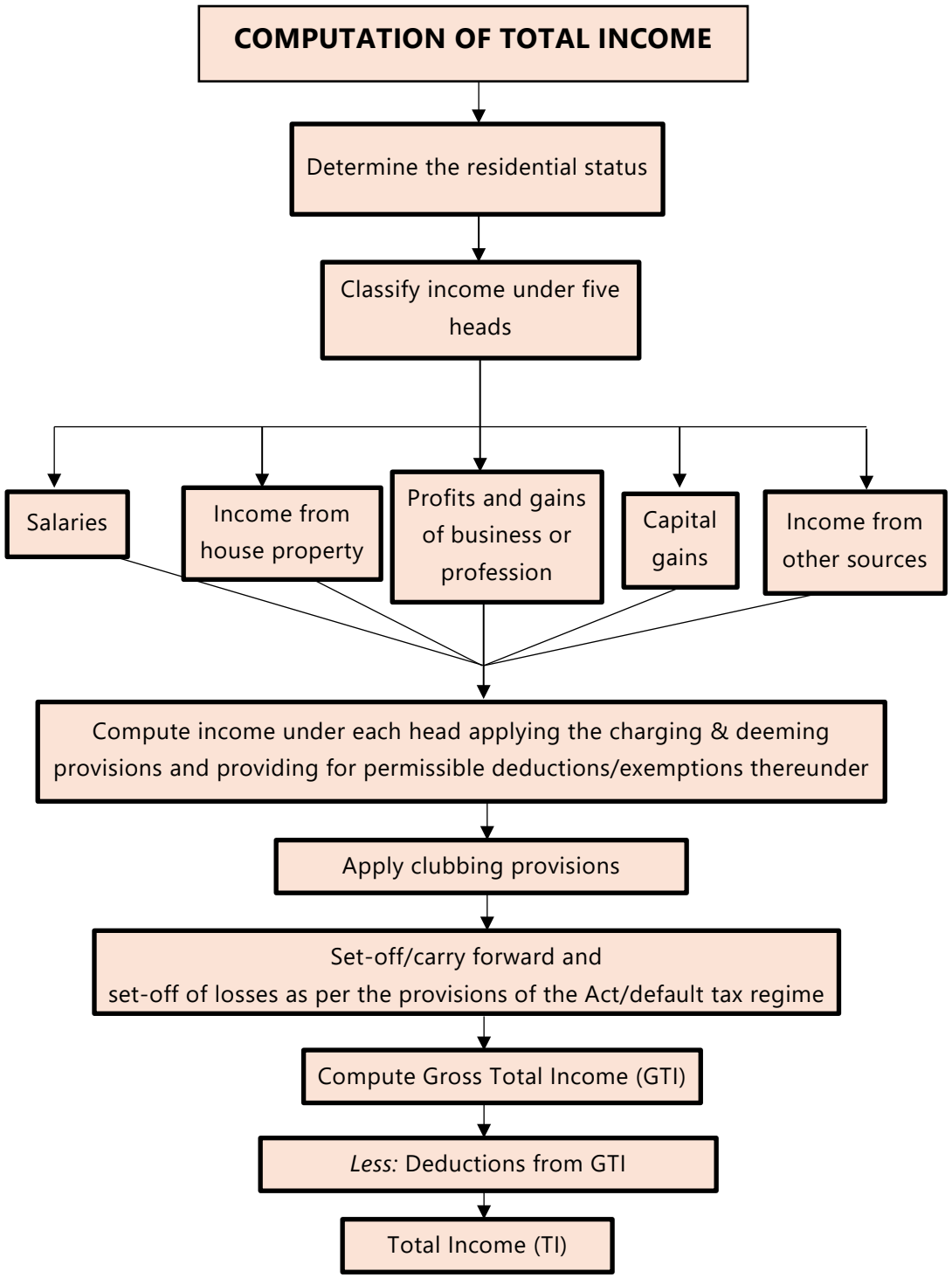


However, under the default tax regime under section 202, only select deductions are permissible. *For detailed discussion, refer to Chapter 6: Deductions from Gross Total Income.*

Step 8 – Computation of Total income

The income arrived at, after claiming the above deductions from the Gross Total Income is known as the Total Income. It should be rounded off to the nearest multiple of ₹ 10 as per section 516. The process of computation of total income is shown hereunder –

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Step 9 – Application of the rates of tax on the total income

Rates specified under the New Tax Regime under section 202(1)

New Tax Regime contained under section 202 provides for concessional rates of tax for individuals/HUF/AoPs/BoIs and artificial juridical persons. Under this regime certain exemptions/deductions are, however, not available like Leave Travel Concession, interest on housing loan on self-occupied property, deductions under Chapter VIII [other than section 124(1) and (2), 125(2) or section 146] etc.

Note - *Where the assessee does not wish to pay tax under the New Tax Regime because it is not beneficial for him/it, due to the surrender of certain exemptions or deductions, he/it can opt out of this regime and pay tax under the other provisions of the Act.*

Thus, New Tax Regime operates as the default tax regime. It implies that unless the assessee opts out of this regime, tax is payable in accordance with the provisions of the New Tax Regime.

Therefore, for the sake of simplicity and ease of reference, in the study material, ***"New Tax Regime" is referred as "Default tax regime" and the other provisions of the Act are referred as "Optional tax regime" or "Old Tax Regime".***

The basic exemption limit under section 202(1) is **₹ 4,00,000**. This means that no tax is payable by an assessee with total income of upto ₹ 4,00,000. The tax rates under section 202(1) is as follows -

S. No.	Total Income	Rate of tax
1.	Upto ₹ 4,00,000	Nil
2.	From ₹ 4,00,001 to ₹ 8,00,000	5%
3.	From ₹ 8,00,001 to ₹ 12,00,000	10%
4.	From ₹ 12,00,001 to ₹ 16,00,000	15%
5.	From ₹ 16,00,001 to ₹ 20,00,000	20%
6.	From ₹ 20,00,001 to ₹ 24,00,000	25%
7.	Above ₹ 24,00,000	30%

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Rates provided by the Annual Finance Act under the optional tax regime

Individuals/HUF/AoPs/BoIs and artificial juridical persons, who exercise the option to opt out of the default tax regime, have to pay tax as per normal provisions of the Act. Under the normal provisions of the Act, the rates of tax are provided by the Annual Finance Act of the year.

For individuals, HUF etc., the basic exemption limit is ₹ 2,50,000. This means that, as per the normal provisions of the Act, no tax is payable by individuals with total income of upto ₹ 2,50,000. Those individuals whose total income is more than ₹ 2,50,000 but less than or equal to ₹ 5,00,000 have to pay tax on their total income in excess of ₹ 2,50,000@5%. Total income between ₹ 5,00,000 and ₹ 10,00,000 attracts tax @20%. The highest rate is 30%, which is attracted in respect of income in excess of ₹ 10,00,000. The tax rates have to be applied on the total income to arrive at the income-tax liability.

However, resident individuals enjoy rebate under section 156 in both the tax regimes which are discussed later on, in this chapter.

For certain income (like Long Term Capital Gains, Lottery Income, Specified Short Term Capital Gains etc.), slab rates are not applicable under both the tax regimes. These incomes are taxable at special rates of taxation under both the tax regimes. These special rates are contained in the Income-tax Act, 2025 itself.

Step 10 – Rebate under section 156 / Surcharge



In order to provide tax relief to the individual taxpayers, section 156 provides a rebate from the tax payable by an assessee, being an individual resident in India, whose total income does not exceed **₹ 12,00,000** under the default tax regime under section 202(1) or **₹ 5,00,000** under the normal provisions of the Act if he opts out of the default tax regime.

Under the default tax regime, an individual whose total income exceeds **₹ 12 lakhs** marginally is also entitled to a rebate of the difference between tax on total income and the amount by which the total income exceeds ₹12 lakhs, when the former is greater than the latter. However, such a marginal relief is not available for an Individual taxpayer opting out of default tax regime and paying tax under normal provisions of the Income Tax Act.



Surcharge is an additional tax payable over and above the income-tax. Surcharge is levied as a percentage of income-tax, where total income exceeds ₹ 50 lakhs. The rates of

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surcharge applicable for different slabs of total income are discussed later on in this chapter.

Step 11 – Health and education cess on income-tax

The income-tax, as reduced by the rebate under section 156, if total income does not exceed ₹ 5 lakhs under normal provisions or ₹ 12 lakhs under default tax regime **or** as increased by the surcharge if total income exceed the specified limit, is to be further increased by an additional surcharge called **health and education cess on income-tax @4%** of income-tax *less* rebate u/s 156 or *plus* surcharge, if applicable.

Step 12 – Alternate Minimum Tax (AMT)

The Income-tax Act, 2025 contains certain profit-linked and investment linked deductions under normal provisions of the Act to promote investment in various sectors. These tax benefits help to reduce the tax liability of the taxpayers who exercise the option to opt out of the default tax regime under section 202 and become eligible to claim such deductions. In order to preserve the tax base *vis-a-vis* profit linked and investment linked deductions, the Income-tax Act, 2025 provides for levy of alternate minimum tax.

Section 206(2) provides for minimum tax to be paid by the taxpayers on their total income without providing profit linked and investment linked deductions. However, the taxpayer can claim the tax credit of the excess tax paid over the regular income-tax payable.

Individuals/HUF/AoPs/BoIs and artificial juridical persons paying tax under default tax regime under section 202(1), are not liable to alternate minimum tax under section 206(2).

For detailed discussion, refer to Chapter 9: Income-tax liability – Computation and Optimisation.

Step 13 – Examine under which tax regime to pay tax

Total income and tax liability of individuals/HUF/AoPs/BoIs and artificial juridical persons may be computed in accordance with both the default tax regime under section 202(1) and as per the regular provisions of the Act including provisions relating to AMT, if applicable. Then, such persons can determine which is more beneficial and accordingly decide whether or not to opt out of the default tax regime.

Individuals/HUF/AoPs/BoIs not having income from business or profession can choose whether or not to exercise the option of shifting out of the default tax

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regime in each tax year. They may choose to pay tax under default tax regime in one year and exercise the option to shift out of default tax regime in another year.

Step 14 – Advance tax and tax deducted/collected at source

- Although the tax liability of an assessee is determined only at the end of the year, tax is required to be paid in advance **in four installments on the basis of estimated income i.e., on or before 15th June, 15th September, 15th December and 15th March.**
- However, residents declaring **profits under presumptive taxation scheme** (where business or professional income is computed as a percentage of gross receipts/ turnover) can pay advance tax **in one installment on or before 15th March instead of four installments.**
- In certain cases, tax is required to be deducted or collected at source from the income by the payer at the rates specified in the Income-tax Act, 2025 or the Annual Finance Act. Such deduction or collection should be made either at the time of accrual or at the time of payment, as provided by the Act.



In case of salary income, the obligation of the employer to deduct tax at source arises only at the time of payment of salary to the employees.

However, in respect of other payments like, fees for professional services, fees for technical services, interest payable to residents, the person responsible for paying is liable to deduct tax at source at the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

Such tax deducted at source has to be remitted to the credit of the Central Government through any branch of the RBI, SBI or any authorized bank within the statutory due dates.

For detailed discussion, refer to Chapter 7: Tax Deduction or Collection at Source and Advance Tax.

Step 15 – Tax Payable/Tax Refundable

After adjusting the advance tax and tax deducted/ collected at source, the assessee would arrive at the amount of net tax payable or refundable. Such amount should be rounded off to the nearest multiple of ₹ 10 as per section 516.

The assessee has to pay the amount of tax payable (called self-assessment tax) on or before the due date of filing of the return. Similarly, if any refund is due, assessee will get the same after filing the return of income.

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The Income-tax Act, 2025 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information as to his total income and tax payable. The format for filing of returns by different assessees is notified by the CBDT. The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are required to be furnished in the return of income.

In short, a return of income is the declaration of income by the assessee in the prescribed format.

The Act has provided for due dates for filing return of income in case of different assessees.

- Companies and firms have to mandatorily file their return of income before the due date even if they do not have any taxable income.
- Other assessees are required to file a return of income subject to fulfilling of certain conditions.



9.	*Which of the following determines the scope of income taxable in India in the case of an individual?*	
	(a)	*Age of the individual*
	(b)	*Residential status*
	(c)	*Nature of employment*
	(d)	*Citizenship*
10.	*Expenditure incurred in relation to exempt income is –*	
	(a)	*Fully allowable as deduction*
	(b)	*Partially allowable at the option of the assessee*
	(c)	*Not allowable as deduction under section 14*
	(d)	*Allowed only under the default tax regime*

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5. RATES OF TAX, SURCHARGE & CESS

Income-tax is to be charged on every person at the rates specified for the year by the Annual Finance Act or the Income-tax Act, 2025 or both.

Income-tax

Surcharge is an additional tax payable over and above the income-tax. Surcharge is levied as a percentage of income-tax. Surcharge is presently being levied beyond a particular threshold of income for different persons. Also, higher rates of surcharge are provided for higher thresholds of income.

Surcharge

The amount of income-tax as increased by the union surcharge, if applicable, should be further increased by an additional surcharge called the "Health and Education cess (HEC) on income-tax", calculated at the rate of 4% of such income-tax and surcharge, if applicable. Health and education cess is leviable in the case of all assessees i.e. individuals, HUF, AOPs/BOIs, Artificial Juridical Persons, firms, local authorities, co-operative societies and companies.

Health and Education cess

HEC is leviable to fulfill the commitment of the Government to provide and finance quality health services and universalised quality basic education and secondary and higher education.

5.1 Individual/Hindu Undivided Family (HUF)/Association of Persons (AOP)/Body of Individuals (BOI)/Artificial Juridical Person

Income-tax

Individual/HUF/AoPs/BoIs and Artificial Juridical Persons can pay tax at concessional rates under the default tax regime under section 202(1). However, he/it has to forego certain exemptions and deductions under this regime. Alternatively, he/it can exercise the option to shift out of the default tax regime and pay tax under the optional tax regime as per the regular provisions of the Act at the tax rates specified by the Annual Finance Act of that year.

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Default tax regime under section 202

I. Concessional tax rates [Section 202(1)]

A person, being an Individual/ HUF/ AoPs (other than a co-operative society)/ BoIs or artificial judicial persons, other than those who exercise the option to opt out this regime under section 202(4), have to pay tax in respect of his/its total income computed in the manner specified under section 202(2) [other than income chargeable **to tax at special rates under Chapter XIII-A under sections 194 (Table SI No. 1, 4 and 5), 195, 196, 197, 198 etc.**] at the following concessional rates –

Total Income	Rate of Tax
Upto ₹ 4,00,000	NIL
From ₹ 4,00,001 to ₹ 8,00,000	5%
From ₹ 8,00,001 to ₹ 12,00,000	10%
From ₹ 12,00,001 to ₹ 16,00,000	15%
From ₹ 16,00,001 to ₹ 20,00,000	20%
From ₹ 20,00,001 to ₹ 24,00,000	25%
Above ₹ 24,00,000	30%

II. Computation of total income without deduction/exemptions or set-off of losses [Section 202(2)]:

(i) Certain deductions/exemptions not allowable: Section 202(2) provides that while computing total income, the following deductions and exemptions would not be allowed:

Section	Exemption/Deduction	
Sch III [Table SI No. 5, 6, 7]	**S. No.**	**Income**
	5	Daily Allowance to MPs/ MLAs/ Committee Members
	6	Any allowance received by MPs under Members of Parliament (Constituency Allowance) Rules, 1986

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	7	Any constituency allowance received by MLAs under any State Act.
Sch III [Table Sl No. 8]	Leave travel concession	
Sch III [Table Sl No. 11]	House rent allowance	
Sch III [Table Sl No. 12 &13]	Exemption in respect of special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose) Accordingly, travelling allowance, transfer allowance, daily allowance, conveyance allowance and transport allowance to an employee, who is blind or deaf and dumb or orthopaedically handicapped would be exempted even under default tax regime, to the extent and conditions specified, thereof.	
Section 19(1) [Table Sl No. 1]	Professional tax	
Sch III [Table Sl No. 17]	Exemption in respect of income of minor child included in the income of parent	
Section 22(1)(b)	Interest on loan in respect of self-occupied property	
Section 33(8)	Additional depreciation	
Section 45(3)(a) or (b) or (c)	Deduction in respect of contribution to - notified approved research association/ university/ college/ other institutions for scientific research or for research in social science or statistical research [Section 45(3)(a)] - approved Indian company for scientific research [Section 45(3)(b)] - An approved National laboratory/university/IIT/ specified person for scientific research undertaken under an approved programme [Section 45(3)(c)]	
Section 46	Investment linked tax incentives for specified businesses	
Deductions under Chapter VIII	Deductions under Chapter VIII [other than employer's contribution towards NPS under section 124(1) and 124(2), Central Government contribution towards Agnipath Scheme under section 125(2) and deduction in respect of employment of new employees under section 146].	

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(ii) Certain losses not allowed to be set-off: While computing total income, set-off of -

(a) any loss carried forward or depreciation from any earlier tax year, if such loss or depreciation is attributable to any of the deductions referred to in (i) above; or

(b) loss under the head house property with any other head of income

would **not** be allowed.

Such loss or depreciation would be deemed to have been already given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

(iii) Exemption or deduction for allowances or perquisite: While computing total income, any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law in force would **not** be allowed.

III. Time limit for exercising the option to shift out of the default tax regime [Section 202(4)]

(a) Person having income from business or profession: Person having income from business or profession has an option to shift out/ opt out of the default tax regime under this section and

- the option has to be exercised on or before the due date specified under section 263(1) for furnishing the return of income for such tax year and
- once such option is exercised, it would apply to subsequent tax years.
- such option once exercised may be withdrawn only once for a tax year other than the tax year for which it was exercised and
- after such withdrawal, the person shall never be eligible to exercise the option to shift out of the default tax regime. He may opt out only in case he ceases to have income from business or profession and then the option of shift out would be available.

(b) Person not having income from business or profession: Where person is **not** having income from business or profession, an option to

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shift out/opt out of the default tax regime has to be exercised along with the return of income to be furnished under section 263(1) for the tax year.

In effect, such person can choose whether or not to exercise the option of shifting out of the default tax regime in each tax year.

IV. AMT liability not attracted

Individual/HUF/AoP/BoI or Artificial Juridical person paying tax under default tax regime under section 202(1) is **not** liable to alternate minimum tax u/s 206(2). Such person would not be eligible to claim AMT credit also.

Note: *It may be noted that in case of Individual/HUF/AoP/BoI or Artificial Juridical person not having income from business or profession, the total income and tax liability (including provisions relating to AMT, if applicable under normal provisions) may be computed every year both as per the regular provisions of the Income-tax Act, 2025 and in accordance with the provisions of section 202(1), in order to determine which is more beneficial and accordingly such person may decide whether to pay tax under default tax regime under section 202(1) or exercise the option to shift out and pay tax under other provisions of the Act for that tax year.*

ILLUSTRATION 3

Mr. X has a total income of ₹ 25,00,000 for tax year 2026-27, comprising of income from house property and interest on fixed deposits. Compute his tax liability for tax year 2026-27 under the default tax regime under section 202(1).

SOLUTION

Computation of tax liability of Mr. X for tax year 2026-27

Tax liability:

First ₹ 4,00,000	- Nil	
Next ₹ 4,00,001 – ₹ 8,00,000	- @5% of ₹ 4,00,000	= ₹ 20,000
Next ₹ 8,00,001 – ₹ 12,00,000	- @10% of ₹ 4,00,000	= ₹ 40,000
Next ₹ 12,00,001 – ₹ 16,00,000	- @15% of ₹ 4,00,000	= ₹ 60,000
Next ₹ 16,00,001 – ₹ 20,00,000	- @20% of ₹ 4,00,000	= ₹ 80,000
Next ₹ 20,00,001 – ₹ 24,00,000	- @25% of ₹ 4,00,000	= ₹ 1,00,000
Balance i.e., ₹ 25,00,000 minus ₹ 24,00,000	- @30% of ₹ 1,00,000	= ₹ 30,000
		= ₹ 3,30,000
Add: Health and Education cess@4%		= ₹ 13,200
		= **₹ 3,43,200**

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Tax rates specified by the Annual Finance Act for optional tax regime

The slab rates for tax year 2026-27 applicable to an Individual/HUF/AOP/BOI/ Artificial Juridical Person, which has exercised the option of shifting out of the default tax regime, are as follows:

(i)	where the total income does not exceed ₹ 2,50,000	NIL
(ii)	where the total income exceeds ₹ 2,50,000 but does not exceed ₹ 5,00,000	5% of the amount by which the total income exceeds ₹ 2,50,000
(iii)	where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 10,00,000	₹ 12,500 plus 20% of the amount by which the total income exceeds ₹ 5,00,000
(iv)	where the total income exceeds ₹ 10,00,000	₹ 1,12,500 plus 30% of the amount by which the total income exceeds ₹ 10,00,000

For a senior citizen (being a resident individual who is of the age of 60 years or more but less than 80 years at any time during the tax year), the basic exemption limit is ₹ 3,00,000 and for a very senior citizen (being a resident individual who is of the age of 80 years or more at any time during the tax year), the basic exemption limit is ₹ 5,00,000. Therefore, the tax slabs for these assessees would be as follows –

For senior citizens (being resident individuals of the age of 60 years or more but less than 80 years at any time during the tax year)

(i)	where the total income does not exceed ₹ 3,00,000	NIL
(ii)	where the total income exceeds ₹ 3,00,000 but does not exceed ₹ 5,00,000	5% of the amount by which the total income exceeds ₹ 3,00,000
(iii)	where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 10,00,000	₹ 10,000 plus 20% of the amount by which the total income exceeds ₹ 5,00,000
(iv)	where the total income exceeds ₹ 10,00,000	₹ 1,10,000 plus 30% of the amount by which the total income exceeds ₹ 10,00,000

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For very senior citizen (being a resident individual of the age of 80 years or more at any time during the tax year)

(i)	where the total income does not exceed ₹ 5,00,000	NIL
(ii)	where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 10,00,000	20% of the amount by which the total income exceeds ₹ 5,00,000
(iii)	where the total income exceeds ₹ 10,00,000	₹ 1,00,000 plus 30% of the amount by which the total income exceeds ₹ 10,00,000

Clarification regarding attaining specified age of 60 years/ 80 years on 31st March itself, in case of senior/very senior citizens whose date of birth falls on 1st April *[Circular No. 28/2016, dated 27-07-2016]*

The CBDT has clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding date of his birthday. In particular, the question of attainment of age of eligibility for being considered a senior/very senior citizen would be decided on the basis of above criteria.

Therefore, a resident individual whose 60th birthday falls on 1st April, 2027, would be treated as having attained the age of 60 years in the tax year 2026-27 and would be eligible for higher basic exemption limit of ₹ 3 lakh while computing his tax liability for tax year 2026-27 under the optional tax regime as per the normal provisions of the Act. Likewise, a resident individual whose 80th birthday falls on 1st April, 2027, would be treated as having attained the age of 80 years in the tax year 2026-27, and would be eligible for higher basic exemption limit of ₹ 5 lakh in computing his tax liability for tax year 2026-27 under the optional tax regime as per the normal provisions of the Act.

Special Rates of Tax

In respect of certain types of income, as mentioned below, the Income-tax Act, 2025 has provided for specific rates. The special rates of tax have to be applied on the respective component of total income irrespective of the tax regime and the slab rates have to be applied on the balance of total income after adjusting the basic exemption limit.

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<table>
<tr><th>S. No.</th><th>Section</th><th>Income</th><th>Rate of Tax</th></tr>
<tr><td>(a)</td><td>197</td><td>Long term capital gains arising from transfer of capital asset</td><td>12.5%</td></tr>
<tr><td></td><td colspan="3">Note – In case of an individual or HUF, being a resident in India, the LTCG from transfer of any land or building or both acquired before 23.7.2024, the excess tax computed shall be ignored.
Excess tax = A (-) B
(A) Tax @12.5% on LTCG computed without indexation
(B) Tax @ 20% on LTCG computed with indexation</td></tr>
<tr><td>(b)</td><td>198</td><td>Long term capital gains on transfer of –
• Equity share in a company
• Unit of an equity-oriented fund
• Unit of business trust
Condition for availing the benefit of this concessional rate is that securities transaction tax (STT) should have been paid –
<table>
<tr><th>In case of</th><th>Time of payment of STT</th></tr>
<tr><td>Equity shares</td><td>both at the time of acquisition and transfer</td></tr>
<tr><td>Unit of equity oriented fund or unit of business trust</td><td>at the time of transfer</td></tr>
</table></td><td>12.5% on LTCG > ₹ 1.25 lakhs</td></tr>
<tr><td>(c)</td><td>196</td><td>Short-term capital gains on transfer of –
• Equity shares in a company
• Unit of an equity oriented fund
• Unit of business trust
The condition for availing the benefit of this concessional rate is that the</td><td>20%</td></tr>
</table>

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		transaction of sale of such equity share or unit should be chargeable to STT.	
(d)	194 [Table SI No. 1]	Winnings (other than winning from any online game) from • Lotteries; • Crossword puzzles; • Races including horse races; • Card games and other games of any sort; • Gambling or betting of any form or nature	30%
(e)	194 [Table SI No. 5]	Net winnings from online games	30%
(f)	194 [Table SI No. 4]	Income from transfer of any virtual digital asset	30%
(g)	195	Unexplained credits, investment, asset, expenditure, etc. deemed as income under sections 102 to 106 [See discussion below]	30%
Note – *For detailed discussion on taxability of capital gains, please refer Unit 4: Capital Gains of Chapter 3: Heads of Income.*			

Unexplained credits, investments, expenditure, asset etc. to attract tax@30% [Section 195]

(i) In order to control laundering of unaccounted money by availing the benefit of basic exemption limit, the unexplained money, investment, expenditure, etc. deemed as income under sections 102 to 106 would be taxed at the rate of 30% *plus* surcharge @25% of tax. Thus, the effective rate of tax (including surcharge@25% of tax and cess@4% of tax and surcharge) is 39%.

(ii) No deduction in respect of any allowance or expenditure or set-off of any loss shall be allowed to the assessee under any provision of the Income-tax Act, 2025 in computing such deemed income.

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ILLUSTRATION 4

Mr. X has a total income of ₹ 16,00,000 for tax year 2026-27, comprising of income from house property and interest on fixed deposits. Compute his tax liability for tax year 2026-27 assuming his age is –

(a) 45 years

(b) 63 years

(c) 82 years

Assume that Mr. X has exercised the option to shift out/ opt out of the default tax regime.

SOLUTION

(a) Computation of tax liability of Mr. X (aged 45 years)

Particulars	Amount in (₹)
First ₹ 2,50,000	Nil
Next ₹ 2,50,001 – ₹ 5,00,000 - @5% of ₹ 2,50,000	12,500
Next ₹ 5,00,001 – ₹ 10,00,000 - @20% of ₹ 5,00,000	1,00,000
Balance i.e., ₹ 16,00,000 minus ₹ 10,00,000 -@30% of ₹ 6,00,000	1,80,000
	2,92,500
Add: Health and Education cess@4%	11,700
	3,04,200

(b) Computation of tax liability of Mr. X (aged 63 years)

Particulars	Amount in (₹)
First ₹ 3,00,000	Nil
Next ₹ 3,00,001 – ₹ 5,00,000 @5% of ₹ 2,00,000	10,000
Next ₹ 5,00,001 – ₹ 10,00,000 @20% of ₹ 5,00,000	1,00,000
Balance i.e., ₹ 16,00,000 minus ₹ 10,00,000 @30% of ₹ 6,00,000	1,80,000
	2,90,000
Add: Health and Education cess@4%	11,600
	3,01,600

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(c) Computation of tax liability of Mr. X (aged 82 years)

Particulars	Amount in (₹)
First ₹ 5,00,000	Nil
Next ₹ 5,00,001 – ₹ 10,00,000 @ 20% of ₹ 5,00,000	1,00,000
Balance i.e., ₹ 16,00,000 minus ₹ 10,00,000 @ 30% of ₹ 6,00,000	1,80,000
	2,80,000
Add: Health and Education cess@4%	11,200
	2,91,200

Surcharge:

(A) In case the Individual/HUF/AoP[6]/BoI and Artificial Juridical Person pays tax under default tax regime under section 202(1)

Income-tax computed as per the provisions of section 202(1) and/ or section 196 or section 197 or section 198 would be increased by surcharge given under the following table:

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	Applicable rate of surcharge
(i)	Where the total income (including dividend or capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	**Example**	
			• Dividend ₹ 15 lakhs; • STCG u/s 196 ₹ 15 lakhs; • LTCG u/s 197 ₹ 25 lakhs; • LTCG u/s 198 ₹ 20 lakhs; and • Other income ₹ 25 lakhs	Surcharge would be levied@10% on income-tax computed on total income of ₹ 1 crore.

[6] (other than an AOP consisting of only companies as members)

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<table>
<tr><td rowspan="2">(ii)</td><td rowspan="2">Where total income (including dividend or capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 1 crore but ≤ ₹ 2 crore</td><td rowspan="2">15%</td><td colspan="2">Example</td></tr>
<tr><td>• Dividend ₹ 10 lakhs;
• STCG u/s 196 ₹ 35 lakhs;
• LTCG u/s 197 ₹ 50 lakhs;
• LTCG u/s 198 ₹ 35 lakhs; and
• Other income ₹ 55 lakhs</td><td>Surcharge would be levied@15% on income-tax computed on total income of ₹ 1.85 crores.</td></tr>
<tr><td rowspan="3">(iii)</td><td>Where total income (excluding dividend and capital gains chargeable to tax u/s 196, 197 and 198 > ₹ 2 crore</td><td>25%</td><td colspan="2">Example</td></tr>
<tr><td rowspan="2">The rate of surcharge on the income-tax payable on the portion of dividend and capital gains chargeable to tax u/s 196, 197 and 198</td><td rowspan="2">Not exceeding 15%</td><td rowspan="2">• Dividend ₹ 51 lakhs;
• STCG u/s 196 ₹ 44 lakh;
• LTCG u/s 197 ₹ 42 lakhs;
• LTCG u/s 198 ₹ 55 lakh; and
• Other income ₹ 6 crores</td><td>Surcharge@15% would be levied on income-tax on:
• Dividend income of ₹ 51 lakhs;
• STCG of ₹ 44 lakhs chargeable to tax u/s 196;
• LTCG of ₹ 42 lakhs chargeable to tax u/s 197; and
• LTCG of ₹ 55 lakhs chargeable to tax u/s 198.
Surcharge@25% would be leviable on income-tax computed on other income of ₹ 6 crores included in total income</td></tr>
</table>

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(iv)	Where total income (including dividend income and capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 2 crore in cases not covered under (iii) above	15%	**Example** • Dividend income ₹ 40 lakhs; • STCG u/s 196 ₹ 35 lakhs; • LTCG u/s 197 ₹ 42 lakhs; • LTCG u/s 198 ₹ 50 lakhs; and • Other income ₹ 1.10 crore	Surcharge would be levied@15% on income-tax computed on total income of ₹ 2.77 crore.

Marginal relief

The purpose of marginal relief is to ensure that the increase in amount of tax payable (including surcharge) due to increase in total income of an assessee beyond the specified limit should not exceed the amount of increase in total income.

Marginal relief is available in case of such persons paying tax under default tax regime u/s 202(1) referred to in above would be as follows:

<table>
<tr><th></th><th>Particulars</th><th>Marginal relief</th></tr>
<tr><td>(i)</td><td>Where the total income > ₹ 50 lakhs but ≤ ₹ 1 crore</td><td>Marginal relief = Total amount of income-tax (together with surcharge) computed on such total income (-) Wn, being the amount determined as per the following formula:
<table>
<tr><th colspan="2">Wn = Un + Vn</th></tr>
<tr><td>Wn</td><td>Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed</td></tr>
<tr><td>Un</td><td>Total amount payable as income-tax on ₹ 50 lakhs</td></tr>
<tr><td>Vn</td><td>Total income (–) ₹ 50 lakhs</td></tr>
</table></td></tr>
<tr><td>(ii)</td><td>Where the total income > ₹ 1 crore but ≤ ₹ 2 crores</td><td>Marginal relief = Total amount of income-tax (together with surcharge) computed on such total income (-) Wn, being the amount determined as per the following formula:</td></tr>
</table>

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<table>
<tr><td></td><td></td><td>
<table>
<tr><th colspan="2">Wn = Un + Vn</th></tr>
<tr><td>Wn</td><td>Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed</td></tr>
<tr><td>Un</td><td>Total amount payable as income-tax and surcharge, if applicable on ₹ 1 crore</td></tr>
<tr><td>Vn</td><td>Total income (–) ₹ 1 crore</td></tr>
</table>
</td></tr>
<tr><td>(iii)</td><td>Where the total income > ₹ 2 crores</td><td>Marginal relief = Total amount of income-tax (together with surcharge) computed on such total income (-) Wn, being the amount determined as per the following formula:
<table>
<tr><th colspan="2">Wn = Un + Vn</th></tr>
<tr><td>Wn</td><td>Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed</td></tr>
<tr><td>Un</td><td>Total amount payable as income-tax and surcharge, if applicable on ₹ 2 crores</td></tr>
<tr><td>Vn</td><td>Total income (–) ₹ 2 crores</td></tr>
</table>
</td></tr>
</table>

Note – It is presumed that the total income referred to above does not include dividend income, long term capital gains taxable under section 197 / 198 and short-term capital gains taxable under section 196.

In case the total income includes dividend income, long term capital gains taxable under section 197 / 198 or short-term capital gains taxable under section 196 surcharge on income-tax computed on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) above.

(B) In case the Individual/HUF/AoP[7]/BoI and Artificial Juridical Person exercises the option to shift out of the default tax regime

Income-tax computed in accordance with normal provisions of the Act or section 196 or section 197 or section 198 would be increased by surcharge given under the following table:

[7] (other than an AOP consisting of only companies as members)

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	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	Applicable rate of surcharge
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 196, 197 and 198 > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	**Example**	
			• Dividend ₹ 10 lakhs; • STCG u/s 196 ₹ 20 lakhs; • LTCG u/s 197 ₹ 15 lakhs; • LTCG u/s 198 ₹ 20 lakhs; and • Other income ₹ 25 lakhs	Surcharge would be levied@10% on income-tax computed on total income of ₹ 90 lakhs.
(ii)	Where total income (including dividend and capital gains chargeable to tax u/s 196, 197 and 198 > ₹ 1 crore but ≤ ₹ 2 crore	15%	**Example**	
			• Dividend ₹ 10 lakhs; • STCG u/s 196 ₹ 40 lakhs; • LTCG u/s 197 ₹ 55 lakhs; • LTCG u/s 198 ₹ 35 lakhs; and • Other income ₹ 50 lakhs	Surcharge would be levied@15% on income-tax computed on total income of ₹ 1.90 crores.
(iii)	Where total income (excluding dividend or capital gains chargeable to tax u/s 196, 197 and 198 > ₹ 2 crore but ≤ ₹ 5 crore	25%	**Example**	
			• Dividend ₹ 51 lakhs; • STCG u/s 196 ₹ 44 lakh; • LTCG u/s 197 ₹ 42 lakhs; • LTCG u/s 198 ₹ 55 lakh; and	Surcharge@15% would be levied on income-tax on: • Dividend income of ₹ 51 lakhs; • STCG of ₹ 44 lakhs
	The rate of surcharge on the income-tax	Not exceeding 15%		

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	payable on the portion of dividend or capital gains chargeable to tax u/s 196, 197 and 198		• Other income ₹ 3 crores	chargeable to tax u/s 196; • LTCG of ₹ 42 lakhs chargeable to tax u/s 197; and • LTCG of ₹ 55 lakhs chargeable to tax u/s 198. Surcharge@25% would be leviable on income-tax computed on other income of ₹ 3 crores included in total income
(iv)	Where total income (excluding dividend or capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 5 crore	37%	**Example**	
	Rate of surcharge on the income-tax payable on the portion of dividend and capital gains chargeable to tax u/s 196, 197 and 198	Not exceeding 15%	• Dividend ₹ 60 lakhs; • STCG u/s 196 ₹ 50 lakhs; • LTCG u/s 197 ₹ 42 lakhs; • LTCG u/s 198 ₹ 25 lakhs; and • Other income ₹ 6 crore	Surcharge@15% would be levied on income-tax on: • Dividend of ₹ 60 lakhs; • STCG of ₹ 50 lakhs chargeable to tax u/s 196; • LTCG of ₹ 42 lakhs chargeable to tax u/s 197; and • LTCG of ₹ 25 lakhs chargeable to tax u/s 198. Surcharge@37% would be leviable

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				on the income-tax computed on other income of ₹ 6 crores included in total income.
(v)	Where total income (including dividend or capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 2 crore in cases not covered under (iii) and (iv) above	15%	**Example** • Dividend ₹ 55 lakhs; • STCG u/s 196 ₹ 60 lakhs; • LTCG u/s 197 ₹ 42 lakhs; • LTCG u/s 198 ₹ 35 lakhs; and • Other income ₹ 1.10 crore	Surcharge would be levied@15% on income-tax computed on total income of ₹ 3.02 crore.

Marginal relief

Marginal relief under the optional tax regime (as per the normal provisions of the Act) would be as follows:

	Particulars	Marginal relief
(i)	Where the total income > ₹ 50 lakhs but ≤ ₹ 1 crore	Marginal relief = Total amount of income-tax (together with surcharge) computed on such total income (-) Wn, being the amount determined as per the following formula: **Wn = Un + Vn** Wn – Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed Un – Total amount payable as income-tax on ₹ 50 lakhs Vn – Total income (–) ₹ 50 lakhs
(ii)	Where the total income > ₹ 1 crore but ≤ ₹ 2 crores	Marginal relief = Total amount of income-tax (together with surcharge) computed on such total income (-) Wn, being the amount determined as per the following formula:

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<table>
<tr><td></td><td></td><td>
<table>
<tr><th colspan="2">Wn = Un + Vn</th></tr>
<tr><td>Wn</td><td>Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed</td></tr>
<tr><td>Un</td><td>Total amount payable as income-tax and surcharge, if applicable on ₹ 1 crore</td></tr>
<tr><td>Vn</td><td>Total income (–) ₹ 1 crore</td></tr>
</table>
</td></tr>
<tr><td>(iii)</td><td>Where the total income > ₹ 2 crores but ≤ ₹ 5 crores</td><td>Marginal relief = Total amount of income-tax (together with surcharge) computed on such total income (-) Wn, being the amount determined as per the following formula:
<table>
<tr><th colspan="2">Wn = Un + Vn</th></tr>
<tr><td>Wn</td><td>Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed</td></tr>
<tr><td>Un</td><td>Total amount payable as income-tax and surcharge, if applicable on ₹ 2 crores</td></tr>
<tr><td>Vn</td><td>Total income (–) ₹ 2 crores</td></tr>
</table>
</td></tr>
<tr><td>(iv)</td><td>Where the total income > ₹ 5 crores</td><td>Marginal relief = Total amount of income-tax (together with surcharge) computed on such total income (-) Wn, being the amount determined as per the following formula:
<table>
<tr><th colspan="2">Wn = Un + Vn</th></tr>
<tr><td>Wn</td><td>Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed</td></tr>
<tr><td>Un</td><td>Total amount payable as income-tax and surcharge, if applicable on ₹ 5 crores</td></tr>
<tr><td>Vn</td><td>Total income (–) ₹ 5 crores</td></tr>
</table>
</td></tr>
</table>

Note – It is presumed that the total income referred to above does not include dividend income, long term capital gains taxable under section 197/ 198 and short-term capital gains taxable under section 196.

In case the total income includes dividend income, long term capital gains taxable under section 197/198 or short-term capital gains taxable under section 196, surcharge on income-tax computed on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) and (iv) above.

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ILLUSTRATION 5

Compute the tax liability of Mr. A (aged 42), having total income of ₹51 lakhs for the Tax Year 2026-27. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. A has exercised the option to shift out of section 202(1).

SOLUTION

Computation of tax liability of Mr. A for the T.Y. 2026-27

Particular	Amount in (₹)
(A) Income tax (including surcharge) computed on total income of ₹ 51,00,000	
₹ 2,50,000 – ₹ 5,00,000 @5%	12,500
₹ 5,00,001 – ₹ 10,00,000 @20%	1,00,000
₹ 10,00,001 – ₹ 51,00,000 @30%	12,30,000
Total	13,42,500
Add: Surcharge @ 10%	1,34,250
	14,76,750
(B) Income tax plus surcharge computed in (A) cannot exceed Wn	
Wn = Un + Vn	
Un = Income tax computed on total income of ₹ 50 lakhs (₹ 12,500 *plus* ₹ 1,00,000 *plus* ₹ 12,00,000)	13,12,500
Vn = Total Income *Less* ₹ 50 lakhs	1,00,000
Wn = Un+ Vn	14,12,500
(C) Tax liability: lower of (A) and (B)	**14,12,500**
Add: Health and education cess @4%	56,500
Tax liability (including cess)	**14,69,000**
(D) Marginal Relief (A – B)	**64,250**

ILLUSTRATION 6

Compute the tax liability of Mr. B (aged 51) under the default tax regime, having total income of ₹ 1,01,00,000 for the Tax Year 2026-27. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit.

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SOLUTION

Computation of tax liability of Mr. B for the tax year 2026-27

Particular	Amount in (₹)
(A) Income tax (including surcharge) computed on total income of ₹ 1,01,00,000	
₹ 4,00,000 – ₹ 8,00,000@5%	20,000
₹ 8,00,001 – ₹ 12,00,000@10%	40,000
₹ 12,00,001 – ₹ 16,00,000@15%	60,000
₹ 16,00,001 – ₹ 20,00,000@20%	80,000
₹ 20,00,001 – ₹ 24,00,000@25%	1,00,000
₹ 24,00,001 – ₹ 1,01,00,000@30%	23,10,000
Total	**26,10,000**
Add: Surcharge@15%	3,91,500
Tax liability without marginal relief	**30,01,500**
(B) Income tax plus surcharge computed in (A) cannot exceed Wn	
Wn = Un + Vn	
Un = Income tax computed on total income of ₹ 1 crore	
(₹ 3,00,000 plus ₹ 22,80,000)	25,80,000
Add: Surcharge@10%	2,58,000
	28,38,000
Vn = Total Income *Less* ₹ 1 crore	1,00,000
Wn = Un + Vn	29,38,000
(C) Tax liability: lower of (A) & (B)	**29,38,000**
Add: Health and education cess @4%	1,17,520
Tax liability (including cess)	**30,55,520**
(D) Marginal relief (A - B)	**63,500**

ILLUSTRATION 7

Compute the tax liability of Mr. C (aged 58), having total income of ₹2,01,00,000 for the Tax Year 2026-27. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. C has exercised the option to shift out of section 202(1).

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SOLUTION

Computation of tax liability of Mr. C for the T.Y. 2026-27

Particulars	Amount in (₹)
(A) Income-tax (including surcharge) computed on total income of ₹ 2,01,00,000	
₹ 2,50,000 – ₹ 5,00,000 @ 5%	12,500
₹ 5,00,001 – ₹ 10,00,000 @ 20%	1,00,000
₹ 10,00,001 – ₹ 2,01,00,000@30%	57,30,000
Total	**58,42,500**
Add: Surcharge @ 25%	14,60,625
	73,03,125
(B) Income-tax plus surcharge computed in (A) cannot exceed Wn	
Wn = Un + Vn	
Un = Income-tax computed on total income of ₹ 2 crore	
(₹ 12,500 plus ₹ 1,00,000 plus ₹ 57,00,000)	58,12,500
Add: Surcharge@15%	8,71,875
	66,84,375
Vn = Total Income *Less* ₹ 2 crore	1,00,000
Wn = Un + Vn	67,84,375
(C) Tax liability (A) or (B), whichever is lower	**67,84,375**
Add: Health and education cess @4%	2,71,375
Tax liability (including cess)	**70,55,750**
(D) Marginal relief (A-B)	**₹ 5,18,750**

ILLUSTRATION 8

Compute the tax liability of Mr. D (aged 65) in a most beneficial manner. He is having total income of ₹5,01,00,000 for the Tax Year 2026-27. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit and is the same under both tax regimes.

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SOLUTION

Computation of tax liability of Mr. D under default tax regime for the tax year 2026-27

(A) Income-tax (including surcharge) computed on total income of ₹ 5,01,00,000

Particulars	Amount in (₹)
₹ 4,00,000 – ₹ 8,00,000@5%	20,000
₹ 8,00,001 – ₹ 12,00,000@10%	40,000
₹ 12,00,001 – ₹ 16,00,000@15%	60,000
₹ 16,00,001 – ₹ 20,00,000@20%	80,000
₹ 20,00,001 – ₹ 24,00,000@25%	1,00,000
₹ 24,00,001 – ₹ 5,01,00,000@30%	1,43,10,000
Total	**1,46,10,000**
Add: Surcharge@25%	36,52,500
	1,82,62,500
Add: Health and education cess @4%	7,30,500
Tax liability	**1,89,93,000**

Computation of tax liability of Mr. D under optional tax regime for the T.Y. 2026-27

Particulars	Amount in (₹)
(A) Income-tax (including surcharge) computed on total income of ₹ 5,01,00,000	
₹ 3,00,000 – ₹ 5,00,000 @ 5%	10,000
₹ 5,00,001 – ₹ 10,00,000 @ 20%	1,00,000
₹ 10,00,001 – ₹ 5,01,00,000@30%	1,47,30,000
Total	**1,48,40,000**
Add: Surcharge @ 37%	54,90,800
	2,03,30,800

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(B) Income-tax plus surcharge computed in (A) cannot exceed Wn	
Wn = Un + Vn	
Un = Income-tax computed on total income of ₹ 5 crore (₹ 10,000 plus ₹ 1,00,000 plus ₹ 1,47,00,000)	1,48,10,000
Add: Surcharge@25%	37,02,500
	1,85,12,500
Vn = Total Income *Less* ₹ 5 crore	1,00,000
Wn = Un + Vn	1,86,12,500
(C) Tax liability (A) or (B), whichever is lower	**1,86,12,500**
Add: Health and education cess@4%	7,44,500
Tax liability (including cess)	**1,93,57,000**
(D) Marginal Relief (A – B)	**17,18,300**

It is beneficial for Mr. D to pay tax under default tax regime under section 202(1), since his tax liability would be lower by ₹ 3,64,000 (₹ 1,93,57,000 - ₹ 1,89,93,000).

5.2 Firm/ LLP/ Local Authority

Income-tax

On the whole of the total income 30%

Special rates for capital gains under sections 196, 197 and 198 would be applicable to Firm/ LLP/ local authority also.

Surcharge

Where the total income exceeds ₹ 1 crore, surcharge is payable at the rate of 12% of income-tax computed as above and/ or sections 196, 197 and 198.

Marginal Relief

Marginal relief is available in case of such firms i.e., the total amount of income-tax (together with surcharge) computed on total income should not exceed the amount determined as per the following formula –

Wn = Un + Vn	
Wn	Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed
Un	Total amount payable as income-tax on ₹ 1 crore
Vn	Total income – ₹ 1 crore

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5.3 Co-operative Society

Income-tax rates as per the normal provisions of the Act

(i)	Where the total income does not exceed ₹ 10,000	10% of the total income
(ii)	Where the total income exceeds ₹ 10,000 but does not exceed ₹ 20,000	₹ 1,000 plus 20% of the amount by which the total income exceeds ₹ 10,000
(iii)	Where the total income exceeds ₹ 20,000	3,000 plus 30% of the amount by which the total income exceeds ₹ 20,000

Notes –

(1) **A co-operative society, resident in India**, can opt on or before the due date of return of income for concessional rate of tax i.e., @22% under section 203 subject to certain conditions specified thereunder.

(2) Special rates for capital gains under sections 196, 197 and 198 would be applicable to Co-operative society also.

(3) Sections relating to co-operative societies shall be dealt with in detail at the final level.

Surcharge

(a) In case of a co-operative society (other than a co-operative society opting for section 203), whose total income > ₹ 1 crore but ≤ ₹ 10 crore

Where the total income exceeds ₹ 1 crore but does not exceed ₹ 10 crore, surcharge is payable at the rate of 7% of income-tax computed in accordance with the slab rates given above and/ or section 196 or section 197 or section 198.

Marginal Relief

Marginal relief is available in case of such co-operative societies i.e., the total amount of income-tax (together with surcharge) computed on total income should not exceed the amount determined as per the following formula -

Wn = Un + Vn	
Wn	Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed
Un	Total amount payable as income-tax on ₹ 1 crore
Vn	Total income – ₹ 1 crore

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(b) In case of a co-operative society (other than a co-operative society opting for section 203), whose total income > ₹ 10 crore

Where the total income exceeds ₹ 10 crore, surcharge is payable at the rate of 12% of income-tax computed in accordance with the slab rates given above and/ or section 196 or 197 or 198.

Marginal Relief

Marginal relief is available in case of such co-operative societies i.e., the total amount of income-tax (together with surcharge) computed on total income should not exceed the amount determined as per the following formula –

Wn = Un + Vn	
Wn	Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed
Un	Total amount payable as income-tax and surcharge, if applicable on ₹ 10 crore
Vn	Total income – ₹ 10 crore

(c) In case of a co-operative society opting for section 203

Surcharge @10% of income-tax computed under section 203 would be leviable. Since there is no threshold limit for applicability of surcharge, consequently, there would be no marginal relief.

5.4 Domestic Company

Income-tax

If the total turnover or gross receipt in the **tax year 2024-25 ≤ ₹ 400 crore**	25% of the total income
For a domestic company exercising option u/s 200[8]	**22% of the total income** [Subject to certain conditions specified u/s 200 and 205]
In any other case	30% of the total income
Note - Special rates for capital gains under sections 196, 197 and 198 would be applicable to domestic company also.	

[8] Section 200 relating to companies shall be dealt with in detail at the final level.

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Surcharge

(a) In case of a domestic company (other than a domestic company opting for section 200), whose total income > ₹ 1 crore but ≤ ₹ 10 crore

Where the total income exceeds ₹ 1 crore but does not exceed ₹ 10 crore, surcharge is payable at the rate of 7% of income-tax computed in accordance with the rates given above and/ or sections 196, 197 and 198.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with surcharge) computed on total income should not exceed the amount determined as per the following formula -

Wn = Un + Vn	
Wn	Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed
Un	Total amount payable as income-tax on ₹ 1 crore
Vn	Total income (–) ₹ 1 crore

(b) In case of a domestic company (other than a domestic company opting for section 200), whose total income > ₹ 10 crore

Where the total income exceeds ₹ 10 crore, surcharge is payable at the rate of 12% of income-tax computed in accordance with the rates given above and/ or sections 196, 197 and 198.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with surcharge) computed on total income should not exceed the amount determined as per the following formula -

Wn = Un + Vn	
Wn	Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed
Un	Total amount payable as income-tax and surcharge, if applicable on ₹ 10 crore
Vn	Total income (–) amount of ₹ 10 crore

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(c) In case of a domestic company opting for section 200

Surcharge @10% of income-tax computed under section 200 would be leviable. Since there is no threshold limit for applicability of surcharge, consequently, there would be no marginal relief.

5.5 Foreign Company

Income-tax

Royalties and fees for rendering technical services (FTS) received from Government or an Indian concern in pursuance of an agreement, approved by the Central Government, made by the company with the Government or Indian concern between 1.4.1961 and 31.3.1976 (in case of royalties) and between 1.3.1964 and 31.3.1976 (in case of FTS)	50%
Other income	35%

Special rates for capital gains under sections 196, 197 and 198 would be applicable to foreign company also.

Surcharge

(a) In case of a foreign company, whose total income > ₹ 1 crore but ≤ ₹ 10 crore

Where the total income exceeds ₹ 1 crore but does not exceed ₹ 10 crore, surcharge is payable at the rate of 2% of income-tax computed in accordance with the rates given above.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with surcharge) computed on total income should not exceed the amount determined as per the following formula -

Wn = Un + Vn	
Wn	Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed
Un	Total amount payable as income-tax on ₹ 1 crore
Vn	Total income (–) ₹ 1 crore

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(b) In case of a foreign company, whose total income > ₹ 10 crore

Where the total income exceeds ₹ 10 crore, surcharge is payable at the rate of 5% of income-tax computed in accordance with the rates given above.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with surcharge) computed on total income should not exceed the amount determined as per the following formula -

Wn = Un + Vn	
Wn	Total amount beyond which the total amount payable as income-tax and surcharge thereon shall not exceed
Un	Total amount payable as income-tax and surcharge, if applicable on ₹ 10 crore
Vn	Total income (–) ₹ 10 crore



11.	*Mr. X, a resident individual, was born on 1st April, 1967. While computing tax liability for T.Y. 2026-27 under the optional tax regime, he claimed the benefit of higher basic exemption limit applicable to senior citizens. The Assessing Officer denied the claim on the ground that he actually completes 60 years only on 1st April, 2027. Which of the following is correct?*	
	(a)	*Mr. X is not a senior citizen during T.Y. 2026-27*
	(b)	*Mr. X will be treated as senior citizen only from T.Y. 2027-28*
	(c)	*Mr. X would be treated as having attained the age of 60 years on 31st March, 2027*
	(d)	*Higher basic exemption limit is available only under default tax regime*
12.	*Mr. K earned the following income during T.Y. 2026-27:* ♦ *Salary income: ₹ 18 lakhs* ♦ *STCG under section 196: ₹ 4 lakhs*	

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	♦ *Lottery winnings: ₹ 2 lakhs* *Which of the following incomes would be taxable at special rates irrespective of tax regime?*	
	(a)	*Salary income only*
	(b)	*Salary income and STCG only*
	(c)	*STCG under section 196 and lottery winnings*
	(d)	*Lottery winnings only*

6. REBATE FOR RESIDENT INDIVIDUALS [SECTION 156]

In order to provide tax relief to the individual taxpayers, section 156 provides a rebate from the tax payable by an assessee, being an **individual resident in India**.

I. Rebate to resident individual paying tax under default tax regime u/s 202(1)

Where the total income of a resident individual assessee for any tax year is chargeable to tax under section 202(1), then from income-tax (computed before allowing the deduction under this section) following deductions shall be allowed, if

(a) **total income does not exceed ₹ 12,00,000 -**

- 100% of the income-tax or

- ₹ 60,000,

whichever is less.

ILLUSTRATION 9

Mr. Raghav aged 26 years and a resident in India, has a total income of ₹ 10,50,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for tax year 2026-27 under default tax regime under section 202(1).

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SOLUTION

Computation of tax liability of Mr. Raghav for tax year 2026-27

Particulars	₹
Tax on total income of ₹ 10,50,000	
Tax@10% of ₹ 2,50,000 plus ₹ 20,000	45,000
Less: Rebate u/s 156 (Lower of tax payable or ₹ 60,000)	45,000
Tax Liability	Nil

(b) **total income exceeds ₹ 12,00,000** and the income-tax on such total income exceeds the amount by which the total income is in excess of ₹ 12,00,000

- an amount equal to the amount by which the income-tax on such total income
- is in excess of the amount by which the total income exceeds ₹ 12,00,000.

In simple terms, if the total income of the resident individual computed under section 202(1) exceeds ₹ 12,00,000 and income-tax payable on such total income exceeds the amount by which the total income is in excess of ₹ 12,00,000, the rebate would be as follows.

Step 1 – Total income (-) ₹ 12 lakhs **(A)**

Step 2 - Compute income-tax liability on total income **(B)**

Step 3 - If **B>A**, rebate under section 156 would be a **B – A.**

Note - *The deduction under section 156 should not exceed income-tax payable as per the rates provided in section 202(1). It implies that deduction against tax payable on income taxable at special rates such as LTCG taxable under section 197 or 198, STCG taxable under section 196 would not be available.*

ILLUSTRATION 10

Mr. Pawan aged 35 years and a resident in India, has a total income of ₹ 12,15,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for tax year 2026-27 under default tax regime under section 202(1)

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SOLUTION

Computation of tax liability of Mr. Pawan for tax year 2026-27

Particulars	₹	
Step 1: Total Income of ₹ 12,15,000 - ₹ 12,00,000	15,000	**(A)**
Step 2: Tax on total income of ₹ 12,15,000		
Tax@15% of ₹ 15,000 + ₹ 60,000	62,250	**(B)**
Step 3: Since B>A, rebate u/s 156 would be B-A		
[₹ 62,250 - ₹ 15,000]	47,250	
	15,000	
Add: HEC@4%	600	
Tax Liability	**15,600**	

II. Rebate to a resident individual paying tax under optional tax regime (normal provisions of the Act)

An individual resident in India, is entitled to a deduction of

- 100% of income-tax payable or
- ₹ 12500,

whichever is less,

from the income-tax (computed before allowing the deduction under this section) chargeable on the total income for any tax year **if such total income does not exceed ₹ 5,00,000.**

Note - *Rebate is, however, not available in respect of tax payable on long-term capital gains taxable u/s 198 under the optional tax regime. It implies that rebate would be available against tax payable on LTCG u/s 197 or on STCG u/s 196.*

ILLUSTRATION 11

Mr. Piyush, aged 35 years and a resident in India, has a total income of ₹ 4,15,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for tax year 2026-27 if he exercises the option to shift out of the default tax regime.

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SOLUTION

Computation of tax liability of Mr. Piyush for tax year 2026-27

Particulars	₹
Tax on total income of ₹ 4,15,000	
Tax@5%of ₹ 1,65,000	8,250
Less: Rebate u/s 156 (Lower of tax payable or ₹ 12,500)	8,250
Tax Liability	Nil



Rebate under section 156 is allowed from income-tax computed **before adding** Health and education cess on income-tax.

7. PARTIAL INTEGRATION OF AGRICULTURAL INCOME WITH NON-AGRICULTURAL INCOME

Agricultural income is exempt subject to conditions mentioned in the definition given under section 2(5). However, a method has been laid down to levy tax on agricultural income in an indirect way. This concept is known as **partial integration of agricultural income with non-agricultural income.** It is applicable to individuals, HUF, AOPs, BOIs and artificial juridical persons. Two conditions which need to be satisfied for partial integration are:

1. The net agricultural income should exceed ₹ 5,000 p.a., and
2. Non-agricultural income should exceed the maximum amount not chargeable to tax.

Tax Regime	Basic Exemption Limit
Default Tax Regime u/s 202(1)	₹ 4,00,000
Optional Tax Regime	
- for resident individuals of the age of 80 years or more at any time during the tax year	₹ 5,00,000

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- for resident individuals of the age of 60 years or more but less than 80 years at any time during the tax year	₹ 3,00,000
- for all others	₹ 2,50,000

It may be noted that aggregation provisions do not apply to company, LLP, firm, co-operative society and local authority. The object of aggregating the net agricultural income with non-agricultural income is to tax the non-agricultural income at higher rates.

Tax calculation in such cases is as follows:

Income-tax shall be computed as per the following formula:

Zn = Xn – Yn	
Zn	Income-tax chargeable
Xn	Amount of income-tax determined in respect of the Aggregate Income (AIn) as if such AIn were the total income [**Note -** Tax shall be computed as per the rates specified under default tax regime u/s 202(1) or optional tax regime, as the case may be]
Yn	Amount of income-tax determined in respect of the net agricultural income increased by applicable basic exemption limit, as if the net agricultural income as so increased were the total income
Aggregate Income (AIn)	Total income + Net agricultural income.

The sum **(Zn)** so arrived at shall be –

- increased by surcharge, if applicable,
- reduced by the rebate, if any, available u/s 156.

Thereafter, it would be increased by health and education cess @4%.

The above concept can be clearly understood with the help of the following illustration:

ILLUSTRATION 12

Mr. X, a resident, has provided the following particulars of his income for the tax year 2026-27.

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i. Income from salary (computed) - ₹ 15,80,000

ii. Income from house property (computed) - ₹ 2,50,000

iii. Agricultural income from a land in Jaipur - ₹ 4,80,000

iv. Expenses incurred for earning agricultural income - ₹ 1,70,000

Compute his tax liability for tax year 2026-27 assuming his age is -

(a) 45 years

(b) 70 years

SOLUTION

(a) Computation of tax liability (age 45 years)

Computation of total income of Mr. X for the tax year 2026-27 under default tax regime under section 202(1)

For the purpose of partial integration of taxes, Mr. X has satisfied both the conditions i.e.

1. Net agricultural income exceeds ₹ 5,000 p.a., and
2. Non-agricultural income exceeds the basic exemption limit under default regime i.e., ₹ 4,00,000.

His tax liability is computed in the following manner:

Particulars	₹	₹
Income from salary		15,80,000
Income from house property		2,50,000
Net agricultural income [₹ 4,80,000 – ₹ 1,70,000]	3,10,000	
Less: Exempt under schedule II (Table SI No. 1)	(3,10,000)	-
Gross Total Income		**18,30,000**
Less: Deductions under Chapter VIII		-
Total Income		**18,30,000**
Income-tax [Refer Note Below]		2,19,500
Add: Health and Education Cess @4%		8,780
Tax Liability		**2,28,280**

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Note -

Income tax	**Zn = Xn – Yn** **₹ 2,19,500 = ₹ 2,35,000 – ₹ 15,500**
Xn	Tax on Aggregate Income (AIn) i.e., Total Income + Net agricultural income AIn = ₹ 21,40,000 (₹ 18,30,000 + ₹ 3,10,000) Tax on ₹ 21,40,000 = ₹ 2,35,000 (i.e., 5% of ₹ 4,00,000 *plus* 10% of ₹ 4,00,000 *plus* 15% of ₹ 4,00,000 *plus* 20% of ₹ 4,00,000 *plus* 25% of ₹ 1,40,000)
Yn	Tax on (net agricultural income + basic exemption limit) = ₹ 7,10,000 (₹ 3,10,000, net agriculture income + ₹ 4,00,000, Basic Exemption Limit) Tax on ₹ 7,10,000 = ₹ 15,500 (i.e. 5% of ₹ 3,10,000)

Computation of total income of Mr. X for the tax year 2026-27 under normal provisions of the Act

For the purpose of partial integration of taxes, Mr. X has satisfied both the conditions i.e.,

1. Net agricultural income exceeds ₹ 5,000 p.a., and
2. Non-agricultural income exceeds the basic exemption limit under normal provisions i.e., ₹ 2,50,000.

His tax liability is computed in the following manner:

Particulars	**₹**	**₹**
Income from salary		15,80,000
Income from house property		2,50,000
Net agricultural income [₹ 4,80,000 – ₹ 1,70,000]	3,10,000	
Less: Exempt under schedule II (Table Sl No. 1)	(3,10,000)	-
Gross Total Income		**18,30,000**
Less: Deductions under Chapter VIII		-
Total Income		**18,30,000**
Income-tax [Refer Note Below]		4,30,000
Add: Health and Education Cess @4%		17,200
Tax Liability		**4,47,200**

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Note -

Income tax	**Zn = Xn – Yn** **₹ 4,30,000 = ₹ 4,54,500 – ₹ 24,500**
Xn	Tax on Aggregate Income (AIn) i.e., Total Income + Net agricultural income AIn = ₹ 21,40,000 (₹ 18,30,000 + ₹ 3,10,000) Tax on ₹ 21,40,000 = ₹ 4,54,500 (i.e., 5% of ₹ 2,00,000 *plus* 20% of ₹ 5,00,000 *plus* 30% of ₹ 11,40,000)
Yn	Tax on (net agricultural income + basic exemption limit) = ₹ 5,60,000 (₹ 3,10,000, net agriculture income + ₹ 2,50,000, Basic Exemption Limit) Tax on ₹ 5,60,000 = ₹ 24,500 (i.e. 5% of ₹ 2,50,000 *plus* 20% of ₹ 60,000)

(b) Computation of tax liability (age 70 years)

Computation of total income of Mr. X for the tax year 2026-27 under default tax regime under section 202(1)

Tax liability of Mr. X would be same under default tax regime whether he is of age of 45 years or 70 years i.e., ₹ 2,28,280.

Computation of total income of Mr. X for the tax year 2026-27 under normal provisions of the Act

His tax liability is computed in the following manner:

Particulars	Amount (₹)
Income-tax [Refer Note Below]	4,20,000
Add: Health and Education Cess @4%	16,800
Tax Liability	**4,36,800**

Note -

Income tax	**Zn = Xn – Yn** **₹ 4,20,000 = ₹ 4,52,000 – ₹ 32,000**
Xn	Tax on Aggregate Income (AIn) i.e., Total Income + Net agricultural income AIn = ₹ 21,40,000 (₹ 18,30,000 + ₹ 3,10,000)

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	Tax on ₹ 21,40,000 = ₹ 4,52,000 (i.e., 5% of ₹ 2,00,000 *plus* 20% of ₹ 5,00,000 *plus* 30% of ₹ 11,40,000)
Yn	Tax on (net agricultural income + basic exemption limit) = ₹ 6,10,000 (₹ 3,10,000, net agriculture income + ₹ 3,00,000, Basic Exemption Limit) Tax on ₹ 6,10,000 = ₹ 32,000 (i.e. 5% of ₹ 2,00,000 *plus* 20% of ₹ 1,10,000)



13.	*Mr. A, aged 45 years, has non-agricultural income of ₹ 3,90,000 and net agricultural income of ₹ 80,000 for T.Y. 2026-27 under the default tax regime under section 202(1). Which of the following is correct regarding applicability of partial integration?*	
	(a)	*Partial integration is applicable since agricultural income exceeds ₹ 5,000*
	(b)	*Partial integration is not applicable since non-agricultural income does not exceed the basic exemption limit*
	(c)	*Partial integration is compulsory for every assessee having agricultural income*
	(d)	*Agricultural income becomes fully taxable*
14.	*XYZ Pvt. Ltd. has agricultural income of 15 lakhs and business income of 80 lakhs. Which of the following is correct?*	
	(a)	*Partial integration provisions apply since agricultural income exceeds ₹ 5,000*
	(b)	*Agricultural income becomes taxable at slab rates*
	(c)	*Partial integration provisions do not apply to companies*
	(d)	*Agricultural income is treated as capital gains*

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LET US RECAPITULATE

Income-tax is the most significant direct tax. **Entry 82 of the Union List** i.e., List I of Seventh Schedule to Article 246 of the Constitution of India has given the power to Parliament to make laws on taxes on income other than agricultural income.

Components of income-tax law

- **Income-tax Act, 2025** – governs the levy of income-tax in India.
- **Income-tax Rules, 2026** – formulated for proper administration of the Act.
- **Annual Finance Act** – Amendments in the Income-tax Act, 2025 are effected every year through the Annual Finance Act.
- **Circulars** – issued by CBDT to clarify the meaning and scope of certain provisions of the Act.
- **Notifications** – issued to give effect to the provisions of the Act/ make or amend Rules.
- **Court decisions** – interprets the various provisions of income-tax law.

Income-tax is a **TAX** levied on the **TOTAL INCOME** of the **TAX YEAR** of every **PERSON**.

(1) Total Income: Total income has to be computed as per the provisions contained in the Income-tax Act, 2025. The following steps has to be followed for computing the total income of an assessee:

Step 1 – Determination of residential status

Step 2 – Classification of income under different heads

Step 3 – Computation of income under each head after providing for permissible deductions/ exemptions.

In this step, it is necessary to consider whether the individual is paying tax under the default tax regime or exercising the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act. Certain deductions which are allowable under the normal provisions of the Act are not permissible under the default tax regime.

Step 4 – Clubbing of income of spouse, minor child etc.

Step 5 – Set-off or carry forward and set-off of losses

Step 6 – Computation of Gross Total Income

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Step 7 – Providing Deductions from Gross Total Income

Step 8 – Computation of Total income

Step 9 - Application of the rates of tax on the total income

For default tax regime, concessional tax rates are provided under section 202(1). For optional tax regime, the tax rates are provided in the Annual Finance Act. The special rates u/s 196, 197, 198, 194 (Table SI No. 1,4,5), 195 etc. would apply under both tax regimes.

Step 10 – Add Surcharge, if applicable/ Deduct Rebate under section 156, if applicable.

Step 11 – Add Health and education cess on income-tax

Step 12 – Compute Alternate Minimum Tax (AMT), if applicable [only under the optional tax regime]

Step 13 - Examine whether to pay tax under default tax regime under section 202(1) or pay tax under optional tax regime as per the regular provisions of the Act, by comparing the tax liability under both regimes.

Step 14 – Deduct Advance tax and tax deducted/ collected at source

Step 15 – The resultant figure would be Tax Payable/Tax Refundable

(2) Person: A person includes an individual, Hindu Undivided Family (HUF), Association of Persons (AOP), Body of Individuals (BOI), a firm, a company etc.

(3) Concept of tax year : Tax year is twelve months period of the financial year commencing on the 1st April. Income earned during the tax year is taxable after that tax year.

Business or profession newly set up during the financial year: In case of a newly set-up business, the tax year would be the period beginning with

- the date of setting up of the business or profession or
- the date on which the source of income newly came into existence,

and ending on 31st March.

Exceptions to the rule that income is charged to income-tax after the end of that tax year:

The income of an assessee for a tax year is charged to income-tax after the end of that tax year. However, in the following cases, this rule does not apply and the income is taxed in the tax year in which it is earned.

(i) Shipping business of non-resident [Section 316]

(ii) Persons leaving India [Section 317]

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(iii) AOP/BOI/Artificial Juridical Person formed for a particular event or purpose [Section 318]

(iv) Persons likely to transfer property to avoid tax [Section 319]

(v) Discontinued business [Section 320]

Rate of tax for Unexplained Sources of Income: The following incomes are chargeable to tax @ 39% [i.e., 30% *plus* surcharge @25% *plus* cess @4%] as specified under section 195:

(i) Unexplained Credits [Section 102]

(ii) Unexplained Investments [Section 103]

(iii) Unexplained Asset [Section 104]

(iv) Unexplained Expenditure [Section 105]

(v) Amount borrowed or repaid through negotiable instrument, hundi etc. [Section 106]

(4) Tax liability: Tax has to be computed by applying the rates of tax mentioned in the Annual Finance Act and the rate specified under the Income-tax Act, 2025, as the case may be.

If an Individual/ Hindu Undivided Family (HUF)/ Association of Persons (AOP)/ Body of Individuals (BOI)/ Artificial Juridical Person is paying tax under default tax regime, concessional tax rates are specified under section 202(1). However, if he/it exercises the option to shift out of the default tax regime, tax rates provided by the Annual Finance Act of that year would apply.

Persons	Rate of taxes	
	Total income (in ₹)	**Rate of Tax**
Individual/HUF/ AOP/BOI/ Artificial Juridical Person (Under default tax regime)	Upto ₹ 4,00,000	Nil
	₹ 4,00,001 to ₹ 8,00,000	5%
	₹ 8,00,001 to ₹ 12,00,000	10%
	₹ 12,00,001 to ₹ 16,00,000	15%
	₹ 16,00,001 to ₹ 20,00,000	20%
	₹ 20,00,001 to ₹ 24,00,000	25%
	Above ₹ 24,00,000	30%

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Individual (Under the optional tax regime)

Total income (in ₹)	Rate of Tax
(i) Upto ₹ 2,50,000 (below 60 years) (ii) Upto ₹ 3,00,000 (60 years or above but less than 80 years and resident in India) (iii) Upto ₹ 5,00,000 (above 80 years and resident in India)	Nil
₹ 2,50,001/ ₹ 3,00,001, as the case may be, to ₹ 5,00,000 [in cases (i) and (ii) above, respectively]	5%
₹ 5,00,001 to ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

HUF/AOP/BOI/ Artificial Juridical Person (under the optional tax regime)

Total income (in ₹)	Rate of Tax
Upto ₹ 2,50,000	Nil
₹ 2,50,001 to ₹ 5,00,000	5%
₹ 5,00,001 to ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

Firm/LLP/local authority

30%

Co-operative Society (not opting for the provisions of section 203)

Total income (in ₹)	Rate of Tax
Upto ₹ 10,000	10%
₹ 10,001 to ₹ 20,000	20%
Above ₹ 20,000	30%

Company (not opting for the provisions of section 200)

Domestic Company		Foreign Company
Total turnover or gross receipts in the tax year 2024-25 ≤ ₹ 400 crore	Other domestic companies	
25%	30%	35%

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Surcharge

Under the default tax regime **Individual/ HUF/ AOP (other than an AOP consisting of only companies as members)/ BOI/ Artificial juridical person**		
(i)	Where the total income (including dividend or capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 50 lakh but ≤ ₹ 1 crore	10%
(ii)	Where the total income (including dividend or capital gains chargeable to tax u/s 196, 197 and 198)> ₹ 1 crore but is ≤ ₹ 2 crore	15%
(iii)	- Where the total income (excluding dividend or capital gains chargeable to tax u/s 196, 197 and 198)> ₹ 2 crore - Rate of surcharge on the income-tax payable on the portion of dividend or capital gains chargeable to tax u/s 196, 197 and 198	25% Not exceeding 15%
(iv)	Where the total income (including dividend or capital gains chargeable to tax u/s 196, 197 and 198) >₹ 2 crore in cases not covered in (iii) above	15%
Under the optional tax regime as per the normal provisions of the Act **Individual/ HUF/ AOP (other than an AOP consisting of only companies as members)/ BOI/ Artificial juridical person**		
(i)	Where the total income (including dividend or capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 50 lakh but is ≤ ₹ 1 crore	10%
(ii)	Where the total income (including dividend or capital gains chargeable to tax u/s 196, 197 and 198)> ₹ 1 crore but is ≤ ₹ 2 crore	15%
(iii)	- Where the total income (excluding dividend or capital gains chargeable to tax u/s 196, 197 and 198)> ₹ 2 crore but is ≤ ₹ 5 crore - Rate of surcharge on the income-tax payable on the portion of dividend or capital gains chargeable to tax u/s 196, 197 and 198	25% Not exceeding 15%

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(iv)	- Where the total income (excluding dividend or capital gains chargeable to tax u/s 196, 197 and 198)> ₹ 5 crore - Rate of surcharge on the income-tax payable on the portion of dividend income or capital gains chargeable to tax u/s 196, 197 and 198	37% Not exceeding 15%
(v)	Where the total income (including dividend or capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 2 crore in cases not covered in (iii) and (iv) above	15%
In case of an AOP of only companies as members		
(i)	Where the total income > ₹ 50 lakh but < ₹ 1 crore	10%
(ii)	Where the total income > ₹ 1 crore	15%
Firm/Limited Liability Partnership/Local Authorities		
Where the total income > ₹ 1 crore		12%
Co-operative societies (other than a co-operative society opting for section 203)		
Total income > ₹ 1 crore but ≤ ₹ 10 crore		7%
Total income is > ₹ 10 crore		12%
Domestic company (other than a domestic company opting for section 200)		
Total income > ₹ 1 crore but ≤ ₹ 10 crore		7%
Total income is > ₹ 10 crore		12%
Foreign company		
Total income > ₹ 1 crore but ≤ ₹ 10 crore		2%
Total income is > ₹ 10 crore		5%

Rebate under section 156:

I. Rebate under default tax regime u/e 202(1)

If the total income of the resident individual

(i) ≤ ₹ 12,00,000 – 100% of income-tax or ₹ 60,000, whichever is lower

(ii) > ₹ 12,00,000 and income-tax payable on such total income exceeds the amount by which the total income is in excess of ₹ 12,00,000 - total income as reduced by the total income exceeding ₹ 12,00,000.

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II. Rebate under optional tax regime

If the total income of the resident individual ≤ ₹ 5,00,000 - 100% of income-tax or ₹ 12,500, whichever is lower.

Note – After deducting rebate u/s 156 add "Health and Education cess" on Income-tax @ 4%.

Agricultural income is exempt under Schedule II (Table Sl No. 1).

However, agricultural income has to be aggregated with non-agricultural income for determining the rate at which non-agricultural income would be subject to tax, in case of individuals, HUF, AOPs & BOIs etc., where the –

- agricultural income exceeds ₹ 5,000 p.a. and
- non-agricultural income exceeds basic exemption limit.

In such case, tax would be Zn = Xn -Yn.

Xn: Tax on Aggregate Income (AIn) i.e., Total Income + Net agricultural income

Yn: Tax on net agricultural income plus basic exemption limit

On the amount derived as Zn *Deduct* Rebate u/s 156 if TI does not exceed the specified limit *add* Surcharge, if TI exceed the specified limit, as the case may be. Thereafter, *add* Health and Education Cess@4%.

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TEST YOUR KNOWLEDGE

1. *Who is an "Assessee"? Explain*
2. *State any four instances where the income of the tax year is assessable in the tax year itself instead of the chargeable to tax after the end of that tax year.*
3. *Whether the income derived from saplings or seedlings grown in a nursery is taxable under the Income-tax Act, 2025? Examine.*
4. *What are the two schools of Hindu law and where are they prevalent? Explain. Also, mention the difference between the two schools of Hindu Law.*
5. *What is the difference between an Association of Persons and Body of Individuals?*
6. *Mr. Sumit, a resident Indian, earns income of ₹ 15 lakhs from sale of rubber manufactured from latex obtained from rubber plants grown by him in India and ₹ 20 lakhs from sale of rubber manufactured from latex obtained from rubber plants grown by him in Malaysia during the tax year 2026-27. What would be his business income, assuming he has no other business?*
7. *Mr. Raja, a resident Indian, earns income of ₹ 10 lakhs from sale of coffee grown and cured in India during the tax year 2026-27. His friend, Mr. Shyam, a resident Indian, earns income of ₹ 20 lakhs from sale of coffee grown, cured, roasted and grounded by him in India during the tax year 2026-27. What would be the business income chargeable to tax in India of Mr. Raja and Mr. Shyam?*
8. *The Mr. Suresh Jain's father HUF in Assam comprises of Mr. Suresh Jain, his wife Mrs. Sapna Jain, his son Mr. Sarthak Jain, his daughter-in-law Mrs. Preeti Jain, his daughter Miss Seema Jain and his unmarried brother Mr. Pritam Jain. Which of the members of the HUF are eligible for coparcenary rights?*
9. *Compute the tax liability under default tax regime of Mr. Kashyap (aged 35), having total income of ₹ 51,25,000 for the Tax Year 2026-27. Assume that his total income comprises of salary income, income from house property and interest on fixed deposit.*
10. *Mr. Agarwal, aged 40 years and a resident in India, has a total income of ₹ 6,50,00,000, comprising long term capital gain taxable under section 197 of*

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₹ 55,00,000, short term capital gain taxable under section 196 of ₹ 65,00,000 and other income of ₹ 5,30,00,000. Compute his tax liability for tax year 2026-27 under the default tax regime and optional tax regime as per the normal provisions of the Act assuming that the total income and its components are the same in both tax regimes.

11. *Mr. Sharma aged 62 years and a resident in India, has a total income of ₹ 2,30,00,000, comprising long term capital gain taxable under section 197 of ₹ 52,00,000, short term capital gain taxable under section 196 of ₹ 64,00,000 and other income of ₹ 1,14,00,000. Compute his tax liability for tax year 2026-27 under the default tax regime and optional tax regime as per the normal provisions of the Act assuming that the total income and its components are the same in both tax regimes.*

ANSWERS

1. As per section 2(11), assessee means a person by whom any tax or any other sum of money is payable under the Income-tax Act, 2025.

In addition, the term includes –

- Every person in respect of whom any proceeding under the Act has been taken for the assessment of –
  - ➢ his income; or of the loss sustained by him or refund due to him
  - ➢ the income of any other person in respect of which he is assessable; or loss sustained by such other person or refund due to such other person.
- Every person who is deemed to be an assessee under the Act;
- Every person who is deemed to be an assessee in default under the Act.

2. The income of an assessee for a tax year assessed after the end of that tax year. However, in a few cases, the income is assessed in the year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

(i) **Shipping business of non-resident:** Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made

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for payment thereof. 7.5% of the amount paid or payable (including demurrage charge, handling charge or any other charge of similar nature) to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.

(ii) **Persons leaving India:** Where it appears to the Assessing Officer that any individual may leave India during the current tax year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period beginning from the first day of that current tax year upto up to the probable date of his departure from India is chargeable to tax in that current tax year.

(iii) **AOP/BOI/Artificial Juridical Person formed for a particular event or purpose:** If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or immediately after such year , the total income of such AOP/BOI for the period beginning from first day of that tax year upto the date of dissolution shall be chargeable to tax in that tax year.

(iv) **Persons likely to transfer property to avoid tax:** During the current tax year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period beginning from first day of that current tax year upto the date, when the Assessing Officer commences proceedings under this section is chargeable to tax in the current tax.

(v) **Discontinued business:** Where any business or profession is discontinued in any tax year, the income of the period beginning from first day of that current tax year upto to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that tax year.

3. As per section 2(5)(d), income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income and exempt from tax.

4. The two schools of Hindu law are Dayabhaga school, prevalent in West Bengal and Assam, and Mitakshara school, prevalent in rest of India.

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Under the Dayabhaga school of Hindu Law, nobody acquires the right, share in the property by birth as long as the head of family is living. Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Hence, the father and his brothers would be the coparceners of the HUF.

Under the Mitakshara school of Hindu Law, one acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus, every child born in the family acquires a right/share in the family property.

5. In order to constitute an Association of Persons (AOP), persons must join for a common purpose or action and their object must be to produce income; it is not enough that the persons receive the income jointly.

Body of Individuals refers to a group of individuals who join together for a common purpose or common income-producing activity.

The difference between an AOP and BOI is that in case of a BOI, only individuals can be the members, whereas in case of AOP, any person can be its member i.e. entities like company, firm etc. can be the member of AOP but not of BOI.

In case of an AOP, members voluntarily come together with a common will for a common intention or purpose, whereas in case of BOI, such common will may or may not be present.

6. Since Mr. Sumit is a resident, his global income would be taxable in India. Income of ₹ 20 lakhs from sale of rubber manufactured from latex obtained from rubber plants grown by him in Malaysia would be his business income since it is from rubber plants grown **outside India**. 35% income from sale of rubber manufactured from latex obtained from rubber plants grown by him in India would be taxable as business income and balance 65% would be exempt as agricultural income.

Business income = 35% of ₹ 15 lakhs + ₹ 20 lakhs = ₹ 25.25 lakhs

7. In case of income derived from the sale of coffee grown and cured by the seller in India, 25% income on such sale is taxable as business income. In case of income derived from the sale of coffee grown, cured, roasted and

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grounded by the seller in India, 40% income on such sale is taxable as business income.

Business income of Mr. Raja = 25% of ₹ 10 lakhs = ₹ 2.5 lakhs

Business income of Mr. Shyam = 40% of ₹ 20 lakhs = ₹ 8 lakhs

8. Dayabhaga school of Hindu law is prevalent in Assam. In Dayabhaga school of Hindu law, nobody acquires the right, share in the property by birth as long as the head of family is living.

Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property.

Hence, Mr. Suresh Jain and his brother, Mr. Pritam Jain would be the coparceners of the Jain HUF and are eligible for coparcenary rights.

9. Computation of tax liability of Mr. Kashyap for the tax year 2026-27 under default tax regime

(A) Tax payable including surcharge on total income of ₹ 51,25,000

₹ 4,00,000 – ₹ 8,00,000 @5%	₹ 20,000	
₹ 8,00,001 – ₹ 12,00,000 @10%	₹ 40,000	
₹ 12,00,001 – ₹ 16,00,000 @15%	₹ 60,000	
₹ 16,00,001 – ₹ 20,00,000 @20%	₹ 80,000	
₹ 20,00,001 – ₹ 24,00,000 @25%	₹ 1,00,000	
₹ 24,00,001 – ₹ 51,25,000 @30%	₹ 8,17,500	
Total	₹ 11,17,500	
Add: Surcharge @ 10%	₹ 1,11,750	₹ 12,29,250

(B) Income-tax plus surcharge computed in (A) cannot exceed Wn

Wn = Un + Vn

Un = Tax Payable on total income of ₹ 50 lakhs (₹ 3,00,000 plus ₹ 7,80,000)	₹ 10,80,000
Vn = Total Income *Less* ₹ 50 lakhs	₹ 1,25,000
Wn = Un + Vn	₹ 12,05,000

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(C)	**Tax payable: lower of (A) and (B)**	₹ 12,05,000
	Add: Health and education cess @4%	₹ 48,200
	Tax liability	**₹ 12,53,200**
(D)	Marginal Relief **(A – B)**	₹ 24,250

10. Computation of tax liability of Mr. Agarwal for the tax year 2026-27 under default tax regime

Particulars		₹
Tax on total income of ₹ 6,50,00,000		
Tax@12.50% of ₹ 55,00,000		6,87,500
Tax@20% of ₹ 65,00,000		13,00,000
Tax on other income of ₹ 5,30,00,000		
₹ 4,00,001 – ₹ 8,00,000 @5%	20,000	
₹ 8,00,001 – ₹ 12,00,000 @10%	40,000	
₹ 12,00,001 – ₹ 16,00,000 @15%	60,000	
₹ 16,00,001 – ₹ 20,00,000 @20%	80,000	
₹ 20,00,001 – ₹ 24,00,000 @25%	1,00,000	
₹ 24,00,001 – ₹ 5,30,00,000 @30%	1,51,80,000	1,54,80,000
		1,74,67,500
Add: Surcharge @15% on ₹ 19,87,500	2,98,125	
@25% on ₹ 1,54,80,000	38,70,000	41,68,125
		2,16,35,625
Add: Health and education cess @4%		8,65,425
Tax Liability		**2,25,01,050**

Computation of tax liability of Mr. Agarwal for the tax year 2026-27 under normal provisions of the Act

Particulars		₹
Tax on total income of ₹ 6,50,00,000		
Tax@12.50% of ₹ 55,00,000		6,87,500
Tax@20% of ₹ 65,00,000		13,00,000
Tax on other income of ₹ 5,30,00,000		
₹ 2,50,000 – ₹ 5,00,000 @5%	12,500	

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₹ 5,00,000 – ₹ 10,00,000 @20%	1,00,000	
₹ 10,00,000 – ₹ 5,30,00,000 @30%	1,56,00,000	1,57,12,500
		1,77,00,000
Add: Surcharge @15% on ₹ 19,87,500	2,98,125	
@37% on ₹ 1,57,12,500	58,13,625	61,11,750
		2,38,11,750
Add: Health and education cess @4%		9,52,470
Tax Liability		**2,47,64,220**

11. Computation of tax liability of Mr. Sharma for the tax year 2026-27 under default tax regime

Particulars		₹
Tax on total income of ₹ 2,30,00,000		
Tax@12.5% of ₹ 52,00,000		6,50,000
Tax@20% of ₹ 64,00,000		12,80,000
Tax on other income of ₹ 1,14,00,000		
₹ 4,00,001 – ₹ 8,00,000 @5%	20,000	
₹ 8,00,001 – ₹ 12,00,000 @10%	40,000	
₹ 12,00,001 – ₹ 16,00,000 @15%	60,000	
₹ 16,00,001 – ₹ 20,00,000 @20%	80,000	
₹ 20,00,001 – ₹ 24,00,000 @25%	1,00,000	
₹ 24,00,001 – ₹ 1,14,00,000 @30%	27,00,000	30,00,000
		49,30,000
Add: Surcharge @15%		7,39,500
		56,69,500
Add: Health and education cess @4%		2,26,780
Tax Liability		**58,96,280**

Computation of tax liability of Mr. Sharma for the T.Y.2026-27 under normal provisions of the Act

Particulars	₹
Tax on total income of ₹ 2,30,00,000	
Tax@12.5% of ₹ 52,00,000	6,50,000

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Tax@20% of ₹ 64,00,000		12,80,000
Tax on other income of ₹ 1,14,00,000		
₹ 3,00,000 – ₹ 5,00,000 @5%	10,000	
₹ 5,00,000 – ₹ 10,00,000 @20%	1,00,000	
₹ 10,00,000 – ₹ 1,14,00,000 @30%	31,20,000	32,30,000
		51,60,000
Add: Surcharge @15%		7,74,000
		59,34,000
Add: Health and education cess @4%		2,37,360
Tax Liability		**61,71,360**



Q. NO.	ANSWERS	
1	(b)	No tax shall be levied or collected except by authority of law
2	(a)	Only (i)
3	(c)	Daughters are also coparceners with effect from 6th September, 2005
4	(c)	Foreign company
5	(b)	1.9.2026 to 31.3.2027
6	(c)	Non-agricultural income, since the land is treated as urban agricultural land
7	(b)	Agricultural income, since ownership of land is not necessary
8	(b)	Residential status
9	(c)	Not allowable as deduction under section 14
10	(c)	Mr. X would be treated as having attained the age of 60 years on 31st March, 2027
11	(c)	STCG under section 196 and lottery winnings
12	(b)	Partial integration is not applicable since non-agricultural income does not exceed the basic exemption limit.
13	(c)	Partial integration provisions do not apply to companies

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CHAPTER 2

RESIDENTIAL STATUS AND SCOPE OF TOTAL INCOME



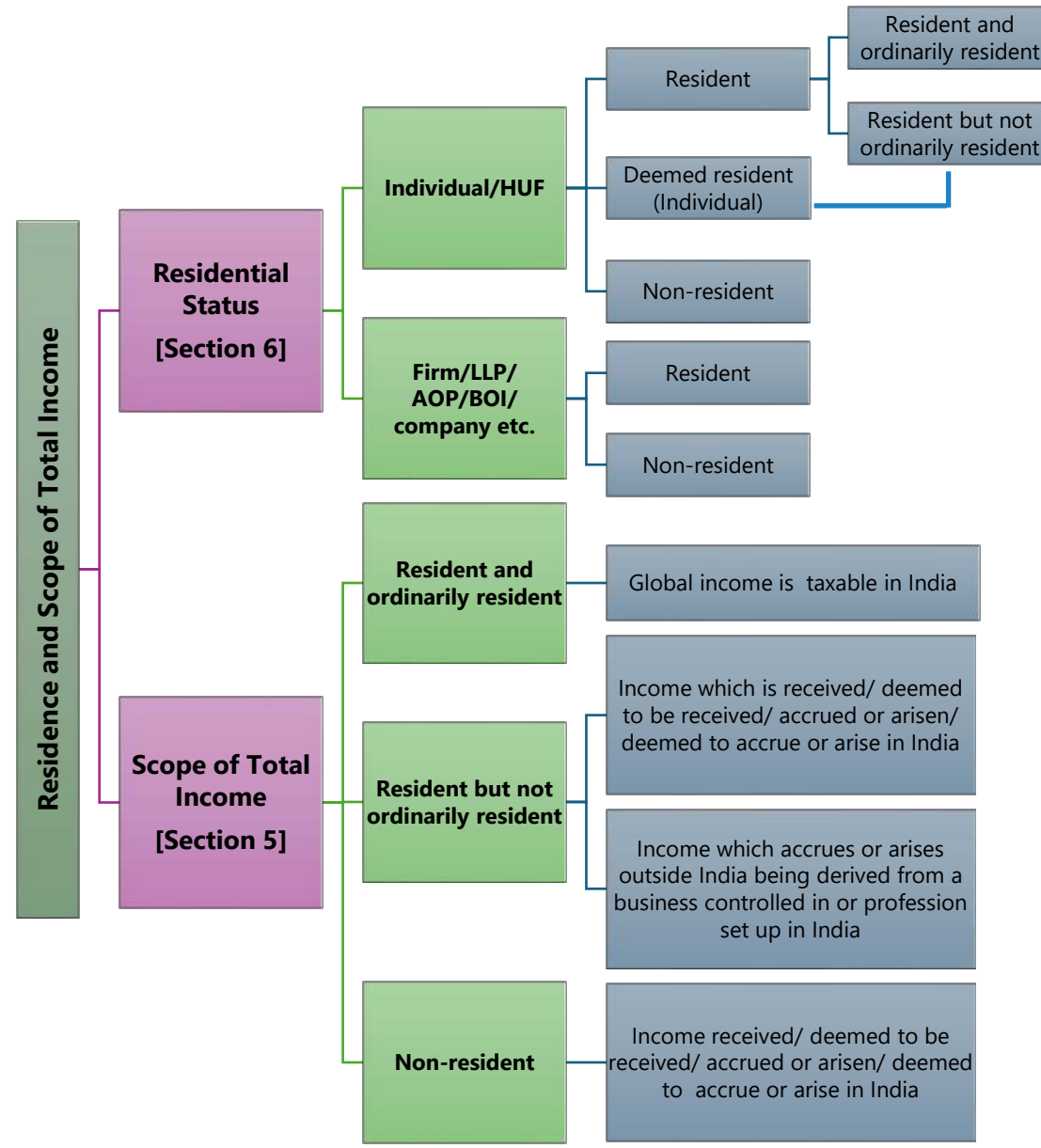
LEARNING OUTCOMES

After studying this chapter, you would be able to-

- **appreciate** the provisions for determining the residential status of different persons;
- **apply** the relevant provisions to determine the residential status of different persons;
- **examine** the scope of income of a person based on his residential status;
- **apply** the relevant provisions to determine the total income of a person based on his residential status.

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CHAPTER OVERVIEW



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1. STRUCTURED SECTIONAL LEARNING

Section	Particulars
2(66)	Meaning of Liable to Tax
2(78)	Meaning of Person of Indian origin
2(108)	Meaning of total income
5	Scope of Total Income
6	Residence in India
7(1)	Income deemed to be received
9	Income deemed to accrue or arise in India

2. INTRODUCTION

Income-tax shall be charged on the total income of every person for the tax year. Total income means the total amount of income referred to in section 5, computed in the manner as laid down in the Act.

For computing total income, all income of an assessee is classified under five heads of income as discussed in Chapter 1. Income computed under each head is aggregated and this aggregated amount is known as Gross Total Income. Certain deductions are allowed from the Gross Total Income. The income arrived at after claiming these deductions is known as Total Income.

Total income of an assessee cannot be computed without first determining his residential status. The incidence of tax under the Act depends upon the residential status of the assessee. For all purposes of income-tax, taxpayers (individuals and HUF) are classified into three broad categories on the basis of their residential status viz.

(1) Resident and ordinarily resident

(2) Resident but not ordinarily resident

(3) Non-resident

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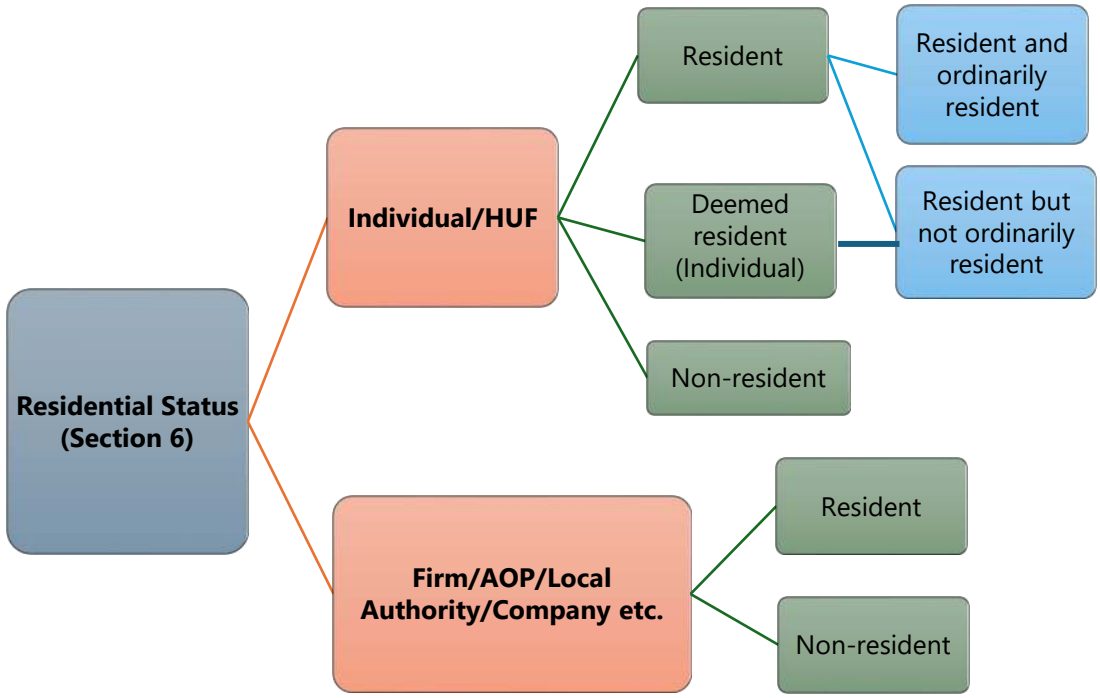
Taxpayers (other than individuals and HUF) are classified into two broad categories on the basis of their residential status viz.

(1) Resident

(2) Non-resident

3. RESIDENTIAL STATUS [SECTION 6]

The residential status of an assessee must be ascertained with reference to each tax year. A person who is resident and ordinarily resident in one tax year may become non-resident or resident but not ordinarily resident in another tax year or vice versa.



The residential status of a person in a tax year is determined as per the provisions of section 6. Let's discuss the residential status of an individual first.

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Residential Status of Individual

An individual can become a resident in India either on the basis of the number of days of stay in India or by being treated as a deemed resident under section 6(7).

How do I become a resident of India for tax purposes?

You will be considered a resident if you are in India for 182 days or more in a tax year. **[First Basic Condition]**

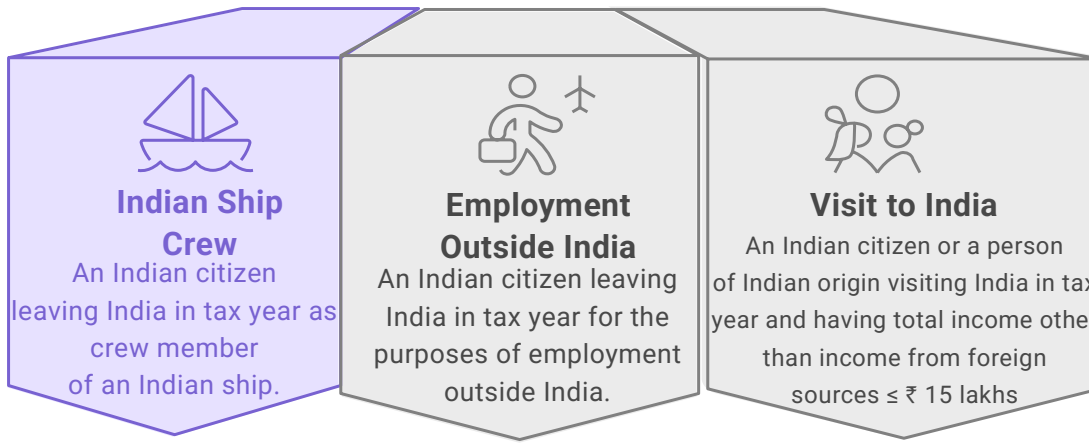
What if I am not in India for that long?

You can also be a resident if you are in India for 60 days or more during the tax year and have been in India for 365 days or more in the 4 years preceding that tax year. **[Second Basic Condition]**





Second basic condition of staying 60 days or more in tax year and 365 days or more in 4 years preceding the tax year is not applicable in case of



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If an Indian citizen or a person of Indian origin visiting India in tax year → has total income other than income from foreign sources > ₹ 15 lakhs → the second basic condition would modify and 60 days or more in the tax year would change to 120 days or more in tax year



Mr. Sushant is an Indian citizen, left India for the first time during the tax year 2026-27 for the purpose of employment. He was in India during the tax year for 181 days. He would be a non-resident in India during the tax year 2026-27 since he stayed in India for less than 182 days. The second basic condition of 60 days or more would not be applicable to him since he is an Indian citizen leaving India for employment purpose.



Suppose in the above example, Mr. Sushant is not an Indian citizen but a person of Indian origin. In such case, he would be a resident in India since the exception is applicable to an Indian citizen only and he satisfies the second basic condition.



What is income from foreign sources?

Income from foreign sources means the income, which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India. It means income derived from a business controlled in or a profession set up in India is excluded from income from foreign sources. In other words, for the purpose of computing total income other than income from foreign sources, income derived from a business controlled in or a profession set up in India is to be included.

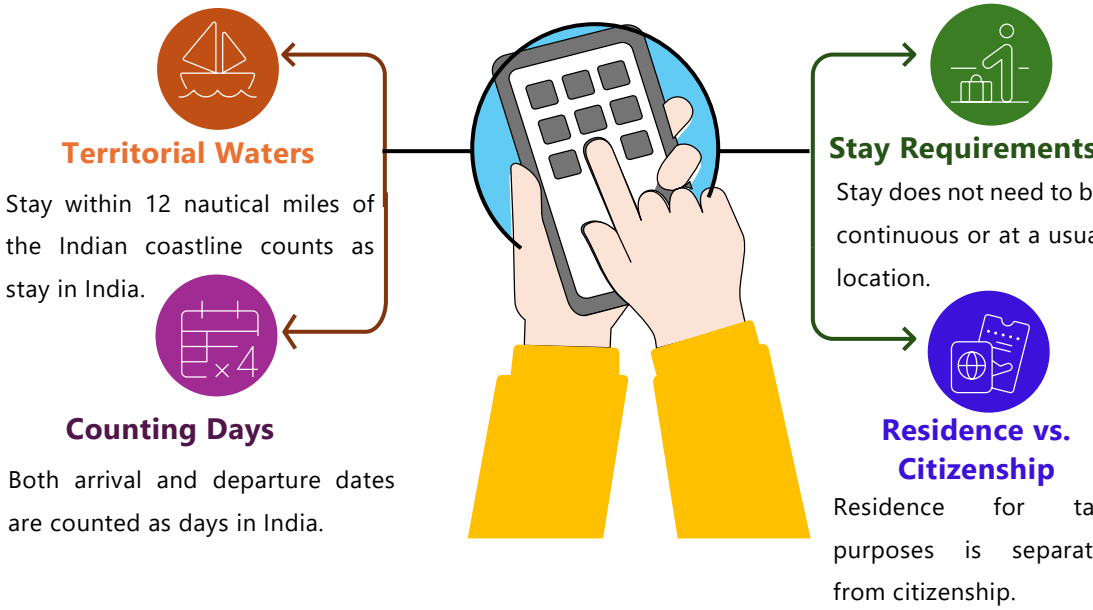


Who is a person of Indian Origin?

Person of Indian origin means an individual who or either of his parents or any of his grandparents, was born in undivided India.

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Important Points



EXAMPLE

Mr. Rakesh is a person of Indian origin, residing in Canada. During the tax year 2026-27, he visited India on several occasions and his period of stay, in total, amounted to 129 days and his stayed in India for 400 days for 4 years preceding tax year 2026-27. His total income other than income from foreign sources is ₹ 10 lakhs during the tax year 2026-27. He would be non-resident since he stayed in India for less than 182 days in tax year 2026-27.

EXAMPLE

Suppose in the above example, Mr. Rakesh's total income other than income from foreign sources is ₹ 17 lakhs during the tax year 2026-27. He would be a resident in India since he satisfies the modified second basic condition of stay in India for 120 days or more during the tax year 2026-27 and 365 days or more for 4 years preceding tax year 2026-27.

Determination of period of stay in India for an Indian citizen, being a crew member

In the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the total number of days in India, in respect of that voyage, shall be determined in the prescribed manner and subject to the prescribed conditions.

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Rule 8 prescribes that, for the purposes of section 6(6), in case of an individual, being a citizen of India and a member of the crew of a foreign bound ship, the period or periods of stay in India, in respect of an eligible voyage, shall not include the following period:

Period to be excluded

Period beginning on		Period ending on
the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage	**and**	the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage.

Meaning of Eligible voyage - A voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where –

(i) for the voyage having originated from any port in India, has as its destination any port outside India; and

(ii) for the voyage having originated from any port outside India, has as its destination any port in India.

ILLUSTRATION 1

Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6th June, 2026. From the following details for the tax year 2026-27, determine the residential status of Mr. Anand for tax year 2026-27, assuming that his stay in India in the last 4 tax years (preceding tax year 2026-27) is 400 days:

Particulars	***Date***
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	*6th June, 2026*
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	*9th December, 2026*

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SOLUTION

In this case, since Mr. Anand is an Indian citizen and leaving India during tax year 2026-27 as a member of the crew of the Indian ship, he would be resident in India if he stayed in India for 182 days or more.

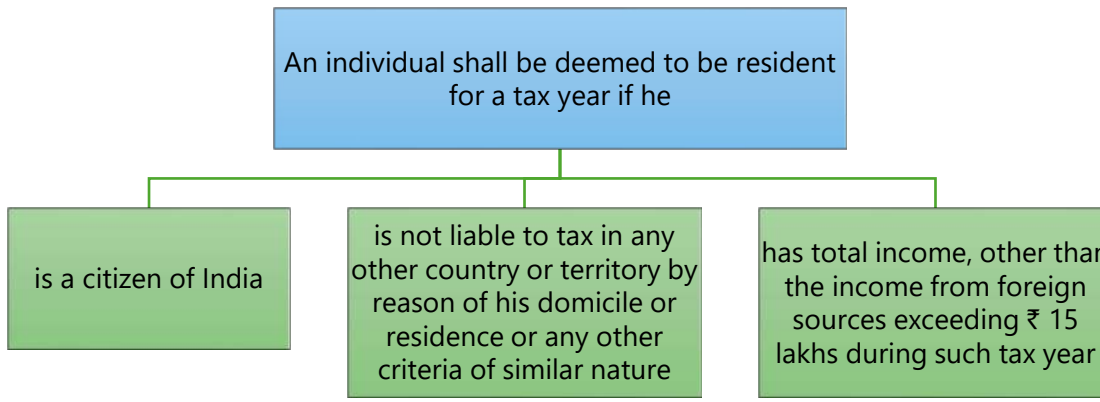
The voyage is undertaken by an Indian ship engaged in the carriage of passengers in international traffic, originating from a port in India (i.e., the Chennai port) and having its destination at a port outside India (i.e., the Singapore port). Hence, the voyage is an eligible voyage for the purposes of section 6(6).

Therefore, the period beginning on 6th June, 2026 and ending on 9th December, 2026, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Anand, an Indian citizen who is a member of the crew of the foreign bound ship, has to be excluded for computing the period of his stay in India. Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from the period of his stay in India. Consequently, Mr. Anand's period of stay in India during the tax year 2026-27 would be 178 days [i.e., 365 days – 187 days]. Since his period of stay in India during the tax year 2026-27 is less than 182 days, he is a non-resident for tax year 2026-27.



Can an individual be a resident in India even if he did not stay in India for one day in tax year?

Yes, the concept of deemed resident is provided under section 6(7).



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However, this provision will not apply in case of an individual who is a resident in India for a tax year as per section 6(2) to 6(6).

Meaning of "liable to tax" – Liable to tax, in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force. It also includes a person who has subsequently been exempted from such liability under the law of that country.

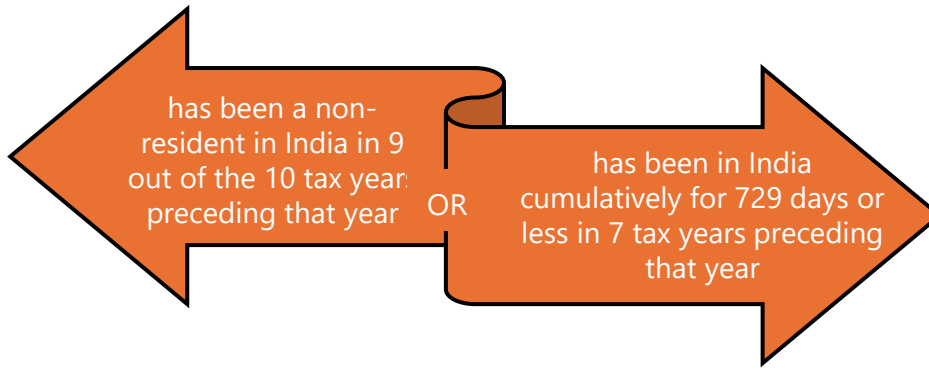
Important Points

- *Only Indian citizen can be deemed resident. An individual who is not an Indian citizen, but a person of Indian Origin cannot be deemed resident u/s 6(7).*
- *Stay in India is not necessary for being a deemed resident u/s 6(7).*

Resident and ordinarily resident/Resident but not ordinarily resident

Only individuals and HUF can be "resident but not ordinarily resident" in India. All other classes of assessees can be either a resident or non-resident. A person is not-ordinarily resident in India in any tax year, if he satisfies any one of the conditions specified u/s 6(13).

(1) An individual is not-ordinarily resident in India if he



In other words, an individual is resident and ordinarily resident in India if he

(a) has been a resident in India in at least 2 out of the 10 tax years preceding that year and

(b) has been in India cumulatively for 730 days or more in 7 tax years preceding that year.

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(2) An individual who is an Indian citizen or a person of Indian origin (who, being outside India, comes on a visit to India in any tax year) having total income, other than the income from foreign sources exceeding ₹ 15 lakhs during the tax year, who has been in India for 120 days or more but less than 182 days during that tax year, or

(3) An individual who is an Indian citizen and who is deemed to be resident in India under section 6(7). It means a deemed resident u/s 6(7) is always not ordinarily resident in India.



1.	*Mr. A, an Indian citizen, left India for the first time on 20th September, 2026 for employment in Canada. During the T.Y. 2026-27, he stayed in India for 172 days. Determine his residential status.*	
	(a)	*Resident and ordinarily resident*
	(b)	*Resident but not ordinarily resident*
	(c)	*Non-resident*
	(d)	*Deemed resident*
2.	*Ms. Kavya, an Indian citizen, came on a visit to India during T.Y. 2026-27 and stayed in India for 130 days. Her total Indian income exceeded ₹ 15 lakh during the T.Y. 2026-27. She had stayed in India for 400 days during the four years preceding the tax year 2026-27. Her residential status would be:*	
	(a)	*Resident and ordinarily resident*
	(b)	*Resident but not ordinarily resident*
	(c)	*Non-resident*
	(d)	*Deemed resident*
3.	*Mrs. Neha was in India for 190 days during T.Y. 2026-27 and for 800 days during the seven years preceding tax year 2026-27. She was non-resident in 8 out of 10 tax years preceding T.Y. 2026-27. Her residential status is:*	
	(a)	*Resident and ordinarily resident*

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	(b)	*Resident but not ordinarily resident*
	(c)	*Non-resident*
	(d)	*Deemed resident*
4.	*Mr. K, an Indian citizen, is staying in Country Y. He is not liable to tax in Country Y due to domicile rules. His Indian income exceeded ₹ 15 lakhs during T.Y. 2026-27. He stayed in India for only 40 days during the year. His residential status would be:*	
	(a)	*Resident and ordinarily resident*
	(b)	*Resident but not ordinarily resident*
	(c)	*Non-resident*
	(d)	*Deemed resident but not ordinarily resident*

ILLUSTRATION 2

Brett Lee, an Australian cricket player visits India for 100 days in every financial year. This has been his practice for the past 10 financial years.

(a) Find out his residential status for the tax year 2026-27.

(b) Would your answer change if the above facts relate to Srinath, an Indian citizen who resides in Australia and represents the Australian cricket team?

(c) What would be your answer if Srinath had visited India for 120 days instead of 100 days every year, including tax year 2026-27?

SOLUTION

(a) Determination of Residential Status of Mr. Brett Lee for the tax year 2026-27-

Period of stay during tax year 2026-27 = 100 days

Calculation of period of stay for 4 years preceding tax year 2026-27 = 400 days (100 x 4)

Mr. Brett Lee has been in India cumulatively for more than 60 days during tax year 2026-27 and cumulatively for more than 365 days in the 4 years preceding tax year 2026-27. Therefore, since he satisfies one of the basic conditions under section 6(2), he is a resident for the tax year 2026-27.

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Computation of period of stay for 7 years preceding tax year 2026-27 = 700 days (100 x 7)

Since his cumulative period of stay in India during the 7 years preceding tax year 2026-27 is less than 729 days, he is a not-ordinarily resident during the tax year 2026-27.

Therefore, Mr. Brett Lee is a resident but not ordinarily resident during the tax year 2026-27.

(b) If the above facts relate to Mr. Srinath, an Indian citizen, who residing in Australia, comes on a visit to India, he would be treated as non-resident in India, irrespective of his total income other than income from foreign sources, since he stayed in India in the tax year 2026-27 for less than 120 days.

(c) In this case, if Srinath's total income other than income from foreign sources exceeds ₹ 15 lakh, he would be treated as resident but not ordinarily resident in India for tax year 2026-27, since his stay in India is 120 days in tax year 2026-27 and 480 days (i.e., 120 days x 4 years) in the 4 years preceding tax year 2026-27.

If his total income other than income from foreign sources does not exceed ₹ 15 lakh, he would be treated as non-resident in India for tax year 2026-27, since his stay in India is less than 182 days in the tax year 2026-27.

ILLUSTRATION 3

Mr. B, a Canadian citizen, comes to India for the first time during the T.Y. 2022-23. During the tax years 2022-23, 2023-24, 2024-25, 2025-26 and 2026-27, he was in India for 55 days, 60 days, 90 days, 150 days and 70 days, respectively. Determine his residential status for the tax year 2026-27.

SOLUTION

During the tax year 2026-27, Mr. B was in India for 70 days and for 4 years preceding the tax year 2026-27, he was in India for 355 days (i.e. 55+ 60+ 90+ 150 days).

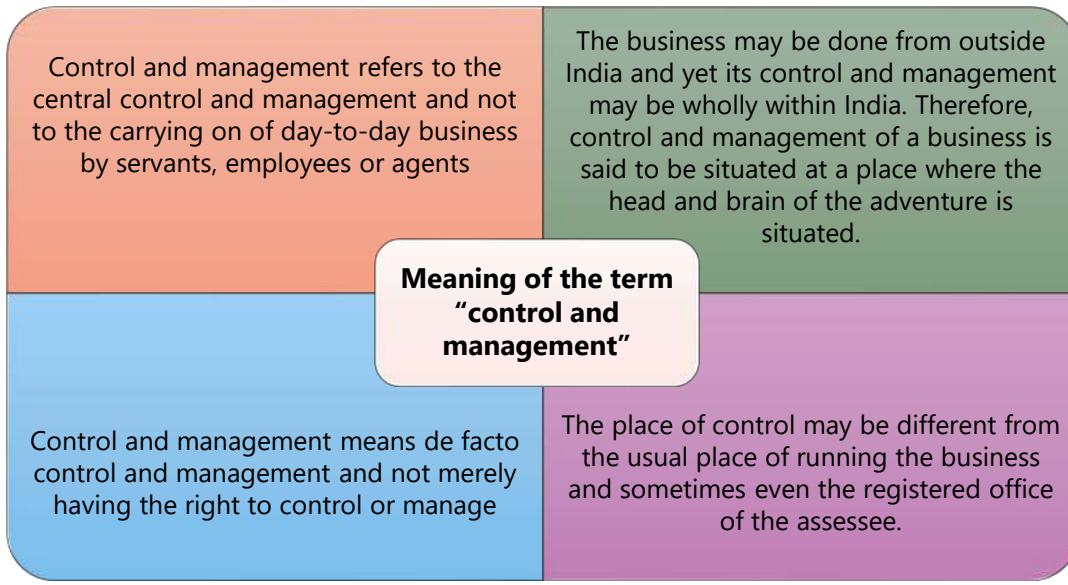
Thus, he does not satisfy the basic condition under section 6(2). Therefore, he is a non-resident for the tax year 2026-27.

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Residential Status of HUF

Resident: A HUF would be resident in India in a tax year if the control and management of its affairs is situated wholly or partly in India.

Non-resident: If the control and management of the affairs is situated wholly outside India, it would become a non-resident.



Resident and ordinarily resident/ Resident but not ordinarily resident

A HUF would be resident but not ordinarily resident in a tax year if the Karta satisfies any of the following conditions -

- Karta is a non-resident in India in 9 out of 10 tax years preceding that year or
- Karta in India cumulatively for 729 days or less in 7 tax years preceding that year.

*In other words, a HUF would be resident and ordinarily resident in a tax year if the Karta satisfies **both** the following additional conditions -*

- *Karta is resident in India at least 2 years out of 10 tax years preceding that year and*
- *Karta in India cumulatively for 730 days or more in 7 tax years preceding that year.*

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ILLUSTRATION 4

The business of a HUF is transacted from Australia and all the policy decisions are taken there. Mr. E, the Karta of the HUF, who was born in Kolkata, visits India during the tax year 2026-27 after 15 years. He comes to India on 1.4.2026 and leaves for Australia on 1.12.2026. Determine the residential status of Mr. E and the HUF for tax year 2026-27.

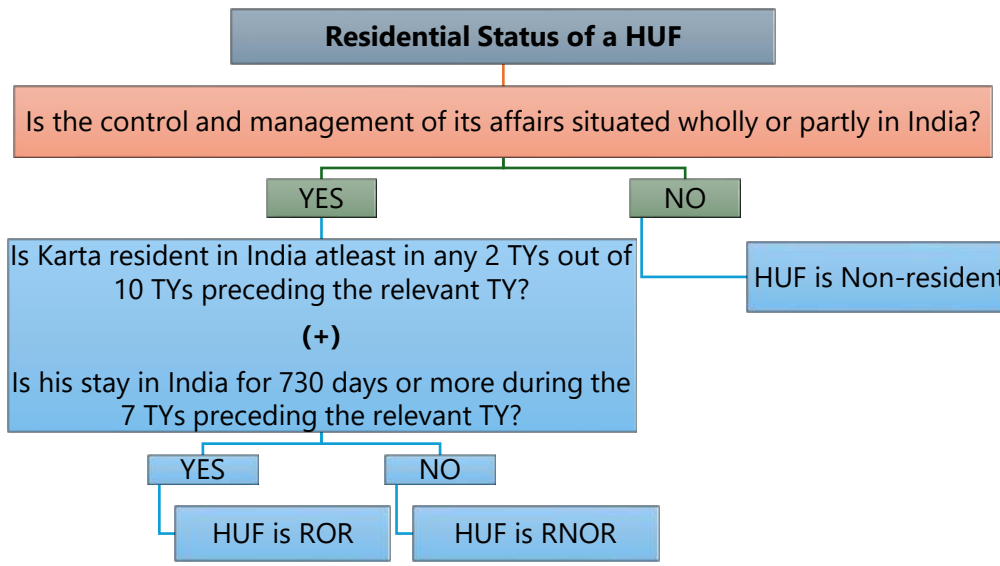
SOLUTION

(a) During the tax year 2026-27, Mr. E has stayed in India for 245 days (i.e. 30+31+30+31+31+30+31+30+1 days). Therefore, he is a resident. However, since he has come to India after 15 years, he does not satisfy the condition for being ordinarily resident.

Therefore, the residential status of Mr. E for the tax year 2026-27 is resident but not ordinarily resident.

(b) Since the business of the HUF is transacted from Australia and policy decisions are taken there, it is assumed that the control and management is in Australia i.e., the control and management is wholly outside India. Therefore, the HUF is a non-resident for the tax year 2026-27.

Note – *If the control and management is in India, even partially, then, the HUF would be resident in India. In such a case, the residential status of HUF would be resident but not ordinarily resident, since the Karta's stay in India is for less than 730 days in the 7 tax years preceding tax year 2026-27.*



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Residential Status of firm, AoP and BoI

Resident: A firm, AoP and BoI would be resident in India if the control and management of its affairs is situated wholly or partly in India.

Non-resident: Where the control and management of the affairs is situated wholly outside India, the firm, AoP and BoI would become a non-resident.

Note: *The residential status of the partners/ members is immaterial while determining the residential status of a Firm/AOP/BOI.*

Residential Status of Company

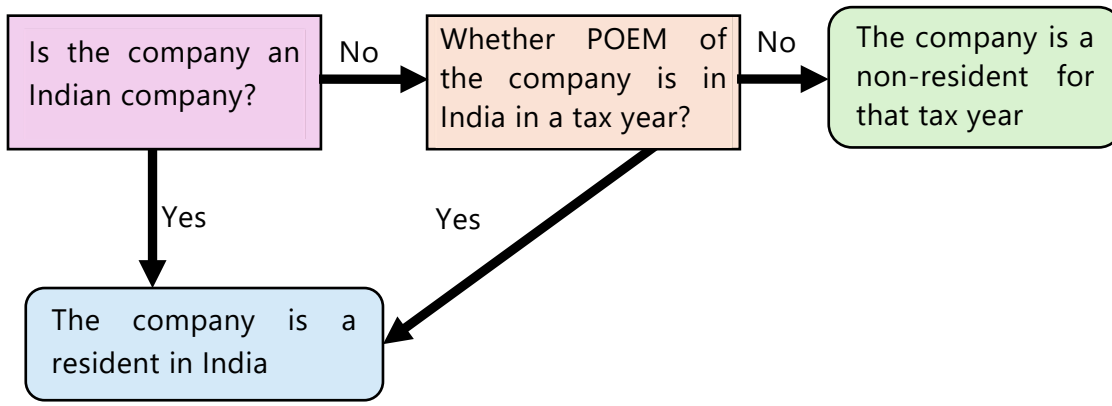
A company would be resident in India in any tax year, if-

(i) it is an Indian company; or

(ii) its place of effective management, in that year, is in India.

"Place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of the business of the company as a whole are, in substance made.

Determination of residential status of a company



Note – *The guidelines issued by the CBDT for determination of POEM of a foreign company and transition mechanism for a company which is incorporated outside India, which has not been assessed to tax in India earlier and has become resident in India for the first time due to application of POEM, has been provided in section 220. The same will be dealt with at the Final level.*

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Residential Status of local authority and artificial juridical person

Resident: Local authorities and artificial juridical persons would be resident in India if the control and management of its affairs is situated wholly or partly in India.

Non-resident: Where the control and management of the affairs is situated wholly outside India, they would become non-residents.



5.	*The control and management of the affairs of a HUF was situated wholly outside India during T.Y. 2026-27. The Karta had been non-resident in 9 out of 10 years preceding tax year 2026-27. Determine the residential status of the HUF.*	
	(a)	*Resident and ordinarily resident*
	(b)	*Resident but not ordinarily resident*
	(c)	*Non-resident*
	(d)	*Deemed resident*
6.	*The affairs of a HUF were controlled partly from Delhi and partly from Dubai during T.Y. 2026-27. The Karta satisfied both additional conditions for being ordinarily resident in India. The residential status of the HUF is:*	
	(a)	*Resident and ordinarily resident*
	(b)	*Resident but not ordinarily resident*
	(c)	*Non-resident*
	(d)	*Deemed resident*
7.	*An Indian company carried on its business entirely from London during T.Y. 2026-27. Determine its residential status.*	
	(a)	*Resident*
	(b)	*Non-resident*
	(c)	*Resident but not ordinarily resident*
	(d)	*Deemed resident*

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4. SCOPE OF TOTAL INCOME

Section 5 provides the scope of total income in terms of the residential status of the assessee because the incidence of tax on any person depends upon his residential status in India. The scope of total income of an assessee depends upon the following three important considerations:

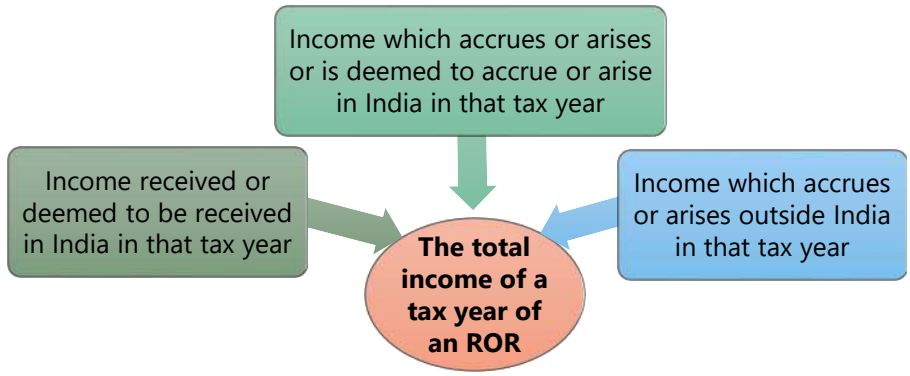
(i) the residential status of the assessee;

(ii) the place of accrual or receipt of income, whether actual or deemed; and

(iii) the point of time at which the income had accrued to or was received by or on behalf of the assessee.

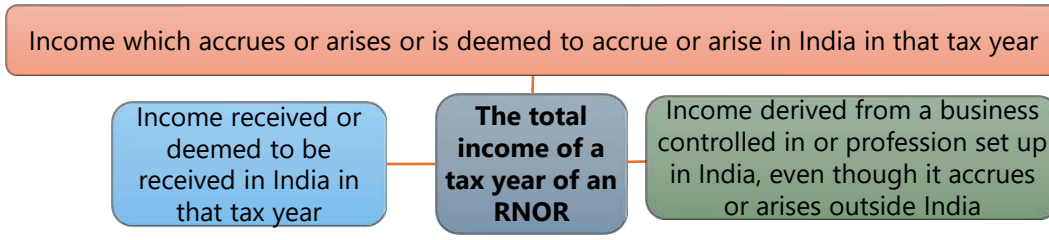
The ambit of total income of the three classes of assessees would be as follows:

(1) Resident and ordinarily resident (ROR)



In simpler terms, an ROR has to pay tax on the total income accrued or deemed to accrue, received or deemed to be received in or outside India in the tax year.

(2) Resident but not ordinarily resident (RNOR)



Note – All other income accruing or arising outside India which is not received or deemed to be received or deemed to accrue or arise in India would not be included in his total income.

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(3) Non-resident

Income received or deemed to be received in India in that tax year

+

Income which accrues or arises or is deemed to accrue or arise in India in that tax year

=

The total income of a tax year of an non-resident

Note: All assessees, whether resident or not, are chargeable to tax in respect of their income accrued, arisen, received or deemed to accrue, arise or to be received in India whereas a resident alone (resident and ordinarily resident in the case of individuals and HUF) is chargeable to tax in respect of income which accrues or arises outside India.



Clarification regarding liability to income-tax in India of a non-resident seafarer receiving remuneration in NRE (Non-Resident External) account maintained with an Indian Bank [Circular No.13/2017, dated 11.04.2017 and Circular No.17/2017, dated 26.04.2017]

Income by way of salary, received by non-resident seafarers, for services rendered outside India on a foreign going ship (with Indian flag or foreign flag) and received into the NRE bank account maintained with an Indian bank shall not be included in the total income.

Residential Status and Scope of Total Income: Whether the following incomes are to be included in Total Income?

Scope of total Income	Resident and Ordinarily Resident (ROR)	Resident but not Ordinarily Resident (RNOR)	Non-Resident
Income received or deemed to be received in India in tax year	Yes	Yes	Yes

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Income accruing or arising or deeming to accrue or arise in India in tax year	Yes	Yes	Yes
Income accruing or arising outside India in tax year	Yes, even if such income is not received or brought into India in tax year	Yes, but only if such income is derived from a business controlled in or profession set up in India; Otherwise, No.	No

ILLUSTRATION 5

From the following particulars of income furnished by Mr. Anirudh pertaining to the year ended 31.3.2027, compute the total income for tax year 2026-27, if he is:

(i) Resident and ordinary resident;

(ii) Resident but not ordinarily resident;

(iii) Non-resident

	Particulars	***₹***
(a)	*Short term capital gains on sale of shares of an Indian Company, received in Germany*	*15,000*
(b)	*Dividend from a Japanese Company, received in Japan*	*10,000*
(c)	*Rent from property in London deposited in a bank in London, later on remitted to India through approved banking channels (Computed)*	*52,500*
(d)	*Dividend from RP Ltd., an Indian Company*	*6,000*
(e)	*Agricultural income from land in Gujarat*	*25,000*

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SOLUTION

Computation of total income of Mr. Anirudh for tax year 2026-27

Particulars	Resident & ordinarily resident ₹	Resident but not ordinarily resident ₹	Non-Resident ₹
1) Short term capital gains on sale of shares of an Indian company, received in Germany	15,000	15,000	15,000
2) Dividend from a Japanese company, received in Japan	10,000	-	-
3) Rent from property in London deposited in a bank in London (Computed)	52,500	-	-
4) Dividend from RP Ltd., an Indian Company	6,000	6,000	6,000
5) Agricultural income from land in Gujarat [Agricultural income is exempt]	-	-	-
Total Income	**83,500**	**21,000**	**21,000**

Meaning of Income 'accruing' and 'due'

Accrue refers to the right to receive income, whereas due refers to the right to enforce payment of the same. In other words, when the right to receive income becomes vested in the assessee, it is said to accrue or arise. For e.g. salary for work done in December will accrue throughout the month, day to day, but will become due on the salary bill being passed on 31st December or 1st January.

Similarly, on Government securities, interest payable on specified dates arise during the period of holding, day to day, but will become due for payment on the specified dates.



Interest on Government securities is usually payable on specified dates, say on 1st January and 1st July. In all such cases, the interest would be said to accrue from 1st July to 31st December and on 1st January, it will fall due for payment.

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It must be noted that income which has been taxed on accrual basis cannot be assessed again on receipt basis, as it will amount to double taxation.

An item of income accruing or arising outside India shall not be deemed to be received in India merely because it is taken into account in a balance sheet prepared in India.

Further, once an item of income is included in the assessee's total income on the basis that it has accrued or arisen or is deemed to accrue or arise to such person, it cannot again be included in the person's total income on the basis that it is received or deemed to be received by that person in India.

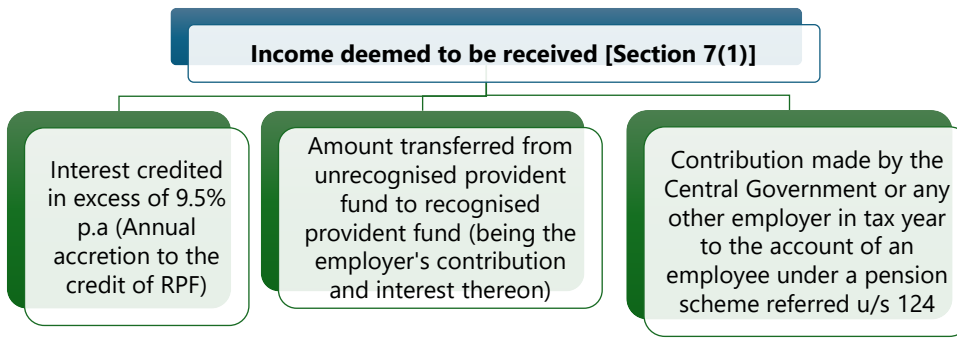
Meaning of "Income deemed to be received"

All assessees are liable to tax in respect of the income received or deemed to be received by them in India during the tax year irrespective of -

(i) their residential status, and

(ii) the place of its accrual.

Income is to be included in the total income of the assessee immediately on its actual or deemed receipt. The receipt of income refers to only the first occasion when the recipient gets the money under his control. Therefore, when once an amount is received as income, remittance or transmission of that amount from one place or person to another does not constitute receipt of income in the hands of the subsequent recipient or at the place of subsequent receipt.



Income deemed to accrue or arise in India [Section 9]

The income referred to in section 9(2) to 9(8) shall be deemed to accrue or arise in India even though they may actually **accrue or arise outside India.**

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The categories of income which are deemed to accrue or arise in India are:

(1) Any income accruing or arising to an assessee in any place outside India whether directly or indirectly, through or from

- any asset or source of income in India,
- any property in India,
- any business connection in India, or
- the transfer of a capital asset situated in India

would be deemed to accrue or arise in India. **[Section 9(2)]**

Income from property, asset or source of income in India

Any income which arises from any property (movable, immovable, tangible and intangible property) would be deemed to accrue or arise in India.



1. Hire charges or rent paid outside India for the use of the machinery or buildings situated in India,

2. Deposits with an Indian company for which interest is received outside India etc.

3. Mr. X, resident in New York, USA, has a house property situated in India which has been given on rent by him. Rent receivable/ received by Mr. X would be taxable in India whether such rent is received by him in India or outside India as the house property is situated in India.

Income through or from transfer of a capital asset situated in India

Capital gains arising through or from the transfer of a capital asset situated in India would be deemed to accrue or arise in India in all cases irrespective of the fact whether

(i) the capital asset is movable or immovable, tangible or intangible;

(ii) the place of registration of the document of transfer etc., is in India or outside; and

(iii) the place of payment of the consideration for the transfer is within India or outside.

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Income from business connection in India

Business connection in India shall include any business carried out in India in the case of which all or part of operation are carried out in India. Further, if the entire operations of the business are not carried out in India, only the income which is reasonably attributable to operations carried out in India shall be deemed to accrue or arise in India **[Section 9(9)(a) read with section 9(9)(f)].**

The following business activity or operations of a non-resident shall not be regarded as business carried out in India and therefore, shall not be deemed to accrue or arise in India **[Section 9(9)(c)]:**

(i) Purchase of goods in India for the purpose of export out of India

(ii) Collection of news and views in India for transmission out of India, if the non-resident is engaged in the business of running a news agency or of publishing newspapers, magazines or journals

(iii) Display of uncut and unassorted diamonds in any special zone notified by the Central Government, if the non-resident is a foreign company engaged in the business of mining of diamonds

(iv) Shooting of any cinematograph films in India, if the non-resident is -

(a) an individual, who is not a citizen of India or

(b) a firm which does not have any partner who is a citizen of India or who is resident in India; or

(c) a company which does not have any shareholder who is a citizen of India or who is resident in India.



8.	*A non-resident transferred shares of an Indian company in Singapore and received consideration in Dubai. The capital gains arising from such transfer shall be:*	
	(a)	*not taxable in India since transfer took place outside India*
	(b)	*taxable in India since the capital asset is situated in India*

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	(c)	*exempt because consideration was received outside India*
	(d)	*taxable only in Singapore*
9.	*Mr. John, a non-resident foreign citizen, came to India for shooting a documentary film. He has no Indian citizenship. The income earned from such shooting activity shall:*	
	(a)	*be taxable in India*
	(b)	*not be deemed to accrue in India*
	(c)	*be taxable only if payment is received in India*
	(d)	*be exempt only for documentaries*

(2) Income under the head "Salaries" [Section 9(3)]

Income falling under the head "Salaries", is deemed to accrue or arise in India in the following cases:

(a) Salary earned in India and any income payable for

(i) services rendered in India and

(ii) for rest period or leave period which is preceded and succeeded by services rendered in India, and forms part of the service contract of employment.

Shall be regarded as income earned in India.

(b) Salary payable by the Government to a citizen of India for services rendered outside India.

However, allowances and perquisites paid or allowed outside India by the Government to an Indian citizen for services rendered outside India is exempt [Schedule III (Table: Sl. No. 9)].



Exemption under Schedule III (Table: Sl. No. 9) would be available to an assessee irrespective of the regime under which he pays tax.

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ILLUSTRATION 6

Mr. David, an Indian citizen aged 40 years, a Government employee serving in the Ministry of External Affairs, left India for the first time on 31.03.2026 due to his transfer to High Commission of Canada. He did not visit India any time during the tax year 2026-27. He has received the following income for the tax year 2026-27:

S. No.	Particulars	₹
(i)	Salary (Computed)	5,00,000
(ii)	Foreign Allowance [not included in (i) above]	4,00,000
(iii)	Interest on fixed deposit from bank in India	1,00,000
(iv)	Income from agriculture in Nepal	2,00,000
(v)	Income from house property in Nepal	2,50,000

Compute his Gross Total Income for tax year 2026-27.

SOLUTION

As per section 6(21), Mr. David is a non-resident for the tax year 2026-27, since he was not present in India at any time during the tax year 2026-27.

As per section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

(i) Income received or deemed to be received in India; and

(ii) Income accruing or arising or deemed to accrue or arise in India.

In view of the above provisions, income from agriculture in Nepal and income from house property in Nepal would not be chargeable to tax in the hands of David, assuming that the same were received in Nepal. Income from 'Salaries' payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India as per section 9(3)(b). Hence, such income is taxable in the hands of Mr. David, even though he is a non-resident.

However, allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under Schedule III (Table: Sl. No. 9). Hence, foreign allowance of ₹ 4,00,000 is exempt under Schedule III in the hands of Mr. David.

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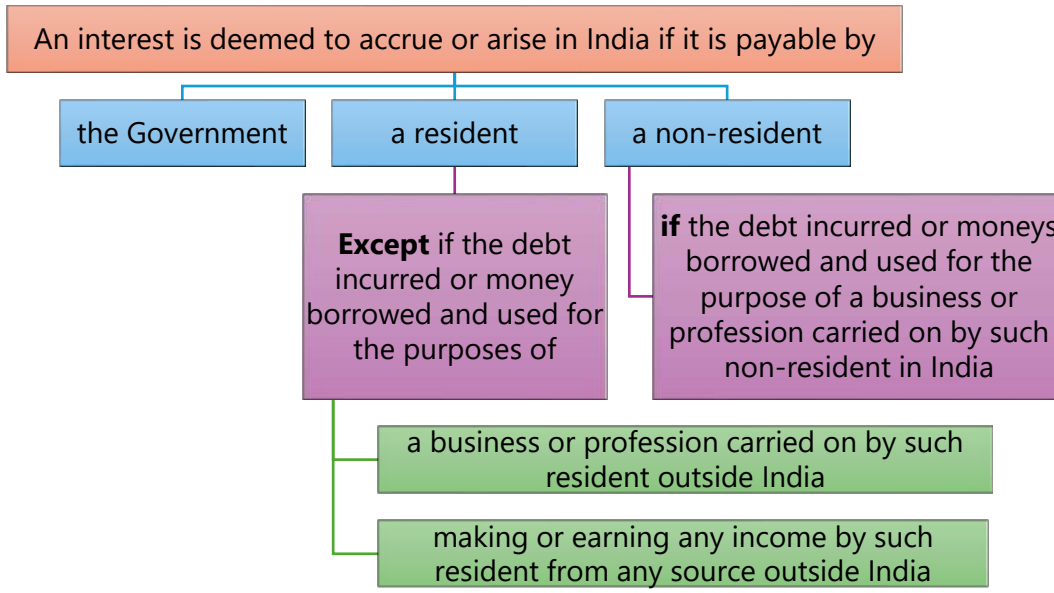
Gross Total Income of Mr. David for tax year 2026-27

Particulars	₹
Salaries (computed)	5,00,000
Income from other sources (Interest on fixed deposit in India)	1,00,000
Gross Total Income	**6,00,000**

(3) Dividend paid by an Indian company outside India [Section 9(4)]

Dividends paid by an Indian company outside India is deemed to accrue or arise in India and would be taxable in the hands of shareholders.

(4) Interest [Section 9(5)]



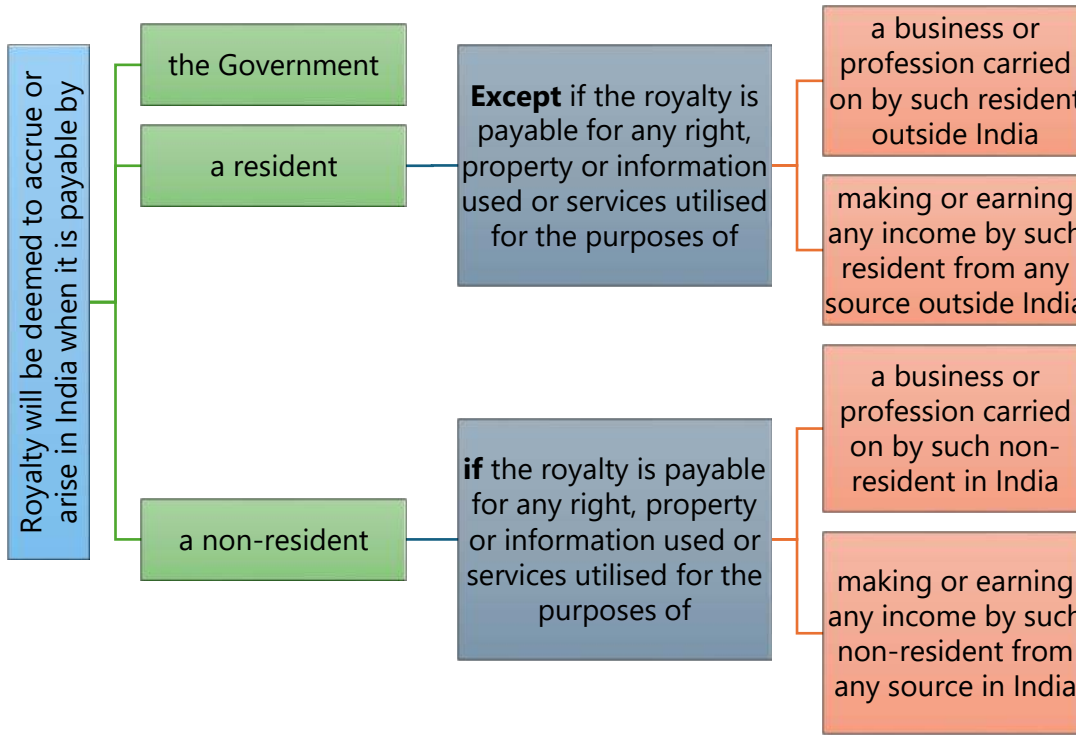


If a non-resident 'A' borrows money from a non-resident 'B' and invests the same in shares of an Indian company, interest payable by 'A' to 'B' will not be deemed to accrue or arise in India.

However, if Mr. 'A' invests the money in his business in India, interest payable by 'A' to 'B' will be deemed to accrue or arise in India.

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(5) Royalty [Section 9(6)]



Important points:

(1) Meaning of Royalty: The term 'royalty' means consideration (including any lumpsum consideration but excluding any consideration which would be the income of the recipient chargeable under the head 'Capital gains') for:

(i) the transfer or grant of all or any rights (including the granting of licence) in respect of a patent, **invention**, model, design, secret formula or process or trade mark or similar property;



(ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or **trade mark** or similar property;



(iii) the use of any **patent**, invention, model, design, secret formula or process or trade mark or similar property;



(iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill;

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(v) the use or right to use any industrial, commercial or scientific equipment[1];

(vi) the transfer or grant of all or any rights (including the granting of licence) in respect of any copyright, literary, artistic or scientific work including

- films or video tapes for use in connection with television or
- tapes for use in connection with radio broadcasting.

(vii) the rendering of any service in connection with the activities listed above.

The definition of 'royalty' for this purpose is wide enough to cover both industrial royalties as well as copyright royalties. The definition specially excludes income which should be chargeable to tax under the head 'capital gains'.

(2) Consideration for use or right to use computer software is royalty

The transfer or grant of all or any rights in respect of any right, property or information includes transfer or grant of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

(3) Consideration in respect of any right, property or information – Is it royalty?

Royalty includes consideration in respect of any right, property or information, whether or not,

(a) the possession or control of such right, property or information is with the payer;

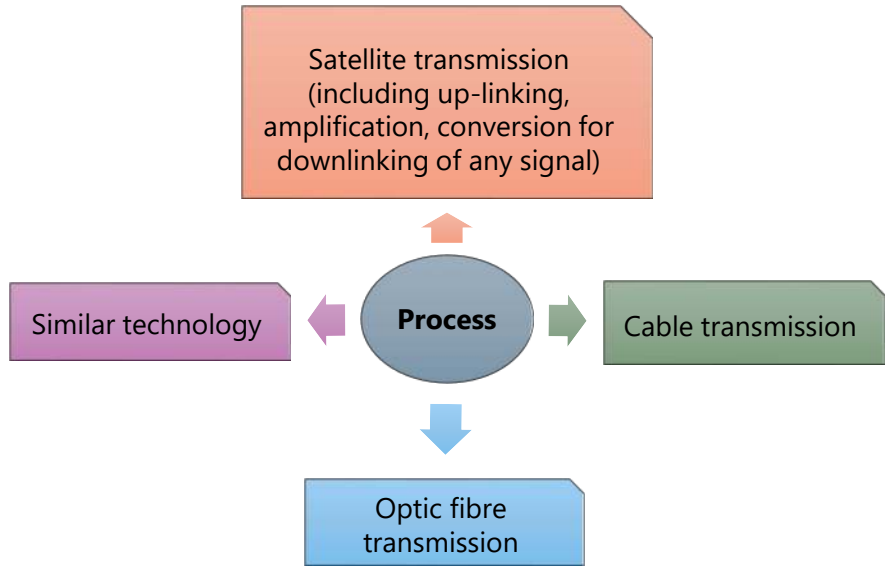
(b) such right, property or information is used directly by the payer;

(c) the location of such right, property or information is in India.

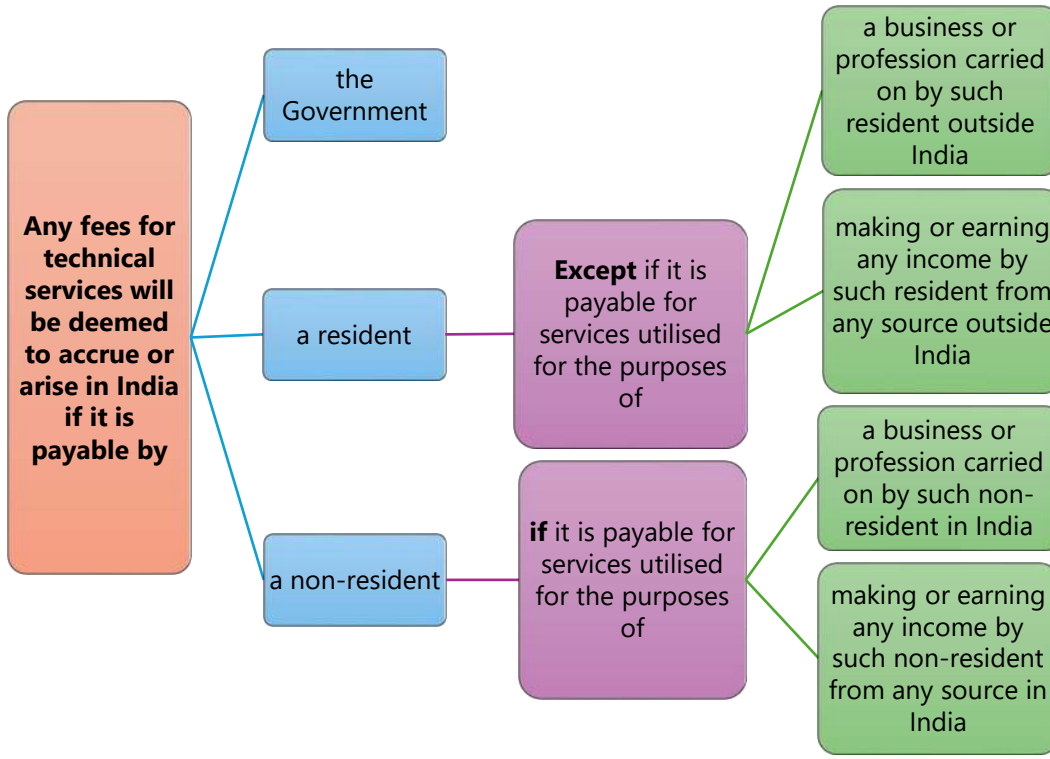
[1]Except the amounts referred to in section 61(2) (Table: Sl. No. 5) containing presumptive tax provisions relating to non-resident engaged in the business of providing services or facilities for prospecting, extraction or production of mineral oils, which will be dealt with at the final level.

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(4) Meaning of Process



(6) Fees for technical services [Section 9(7)]



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Meaning of Fees for technical services: It means any consideration (including any lumpsum consideration) for the rendering of any

- managerial,
- technical or
- consultancy services (including providing the services of technical or other personnel).

However, it does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head 'Salaries'.

Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fees for technical services to be taxed irrespective of territorial nexus [Section 9(11)]

Income by way of interest, royalty or fees for technical services which is deemed to accrue or arise in India by virtue of section 9(5), 9(6) and 9(7), shall be included in the total income of the non-resident, whether or not –

(i) the non-resident has a residence or place of business or business connection in India; or

(ii) the non-resident has rendered services in India.

In effect, the income by way of fees for technical services, interest or royalty, from services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India.

ILLUSTRATION 7

Miss Vivitha paid a sum of 5000 USD to Mr. Kulasekhara, a management consultant practising in Colombo, specializing in project financing. The payment was made in Colombo. Mr. Kulasekhara is a non-resident. The consultancy is related to a project in India with possible Ceylonese collaboration. Is this payment chargeable to tax in India in the hands of Mr. Kulasekhara, since the services were used in India?

SOLUTION

A non-resident is chargeable to tax in respect of income received outside India only if such income accrues or arises or is deemed to accrue or arise to him in India.

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The income deemed to accrue or arise in India under section 9 comprises, *inter alia*, income by way of fees for technical services, which includes any consideration for rendering of any managerial, technical or consultancy services. Therefore, payment to a management consultant relating to project financing is covered within the scope of "fees for technical services".

The section 9(11) clarifies that income by way of, *inter alia*, fees for technical services, from services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India or whether or not the non-resident has a residence or place of business or business connection in India.

In the instant case, since the services were utilized in India, the payment received by Mr. Kulasekhara, a non-resident, in Colombo is chargeable to tax in his hands in India, as it is deemed to accrue or arise in India.

(7) Any sum paid by a resident Indian to a non-corporate non-resident or foreign company or to a resident but not ordinarily resident in India [Section 9(8)]

Income arising outside India, being any sum paid without consideration, by an Indian resident person to a non-corporate non-resident or foreign company or to a RNOR would be deemed to accrue or arise in India if the same is chargeable to tax under section 92(2)(m).

You may refer to Unit 5 of Chapter 3 where chargeability of any sum of money received is discussed in detail.



10.	*Mr. A, a non-resident, borrowed funds from another non-resident Mr. B and invested the amount in shares of an Indian company. Interest paid by Mr. A to Mr. B would be:*	
	(a)	*deemed to accrue in India*
	(b)	*taxable in India as royalty*
	(c)	*not deemed to accrue or arise in India*
	(d)	*taxable only if paid in India*

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11.	*Mr. K, a non-resident management consultant, rendered consultancy services from Singapore for a project executed in India. The payment was received outside India. Such income shall be:*	
	(a)	*exempt in India*
	(b)	*taxable in India since services were utilized in India*
	(c)	*taxable only in Singapore*
	(d)	*taxable only if he has business connection in India*

ILLUSTRATION 8

Compute the gross total income in the hands of an individual aged 35 years, being a resident and ordinarily resident, resident but not ordinarily resident, and non-resident for the tax year 2026-27.

Particulars	***Amount (₹)***
Interest on UK Development Bonds, 50% of interest received in India	*10,000*
Income from a business in Chennai (50% is received in India)	*20,000*
Short term capital gains on sale of shares of an Indian company, received in London	*20,000*
Dividend from British company received in London	*5,000*
Long term capital gains on sale of plant at Germany, 50% of gains are received in India	*40,000*
Income earned from business in Germany which is controlled in Delhi (₹ 40,000 is received in India)	*70,000*
Profits from a business in Delhi but managed entirely from London	*15,000*
Income from house property in London deposited in a Bank at London, brought to India (Computed)	*50,000*
Interest on debentures in an Indian company, received in London	*12,000*
Fees for technical services rendered in India but received in London	*8,000*
Profits from a business in Mumbai, managed from London	*26,000*
Income from property situated in Nepal received there (Computed)	*16,000*
Past foreign untaxed income brought to India during the tax year	*5,000*

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Income from agricultural land in Nepal, received there and then brought to India	*18,000*
Income from profession in Kenya which was set up in India, received there but spent in India	*5,000*
Interest on savings bank deposit in State Bank of India	*12,000*
Income from a business in Russia, controlled in Russia	*20,000*
Dividend from Reliance Petroleum Limited, an Indian Company	*5,000*

SOLUTION

Computation of gross total income for the tax year 2026-27

Particulars	Resident and ordinarily resident ₹	Resident but not ordinarily resident ₹	Non-resident ₹
Interest on UK Development Bonds, 50% of interest received in India	10,000	5,000	5,000
Income from a business in Chennai (50% is received in India)	20,000	20,000	20,000
Short term capital gains on sale of shares of an Indian company, received in London	20,000	20,000	20,000
Dividend from British company received in London	5,000	-	-
Long term Capital gains on sale of plant at Germany, 50% of gains are received in India	40,000	20,000	20,000
Income earned from business in Germany which is controlled in Delhi, out of which ₹ 40,000 is received in India	70,000	70,000	40,000
Profits from a business in Delhi but managed entirely from London	15,000	15,000	15,000
Income from house property in London deposited in a Bank at London, later on remitted to India	50,000	-	-

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Interest on debentures in an Indian company, received in London	12,000	12,000	12,000
Fees for technical services rendered in India but received in London	8,000	8,000	8,000
Profits from a business in Mumbai, managed from London	26,000	26,000	26,000
Income from property situated in Nepal and received there	16,000	-	-
Past foreign untaxed income brought to India during the tax year	-	-	-
Income from agricultural land in Nepal, received there and then brought to India	18,000	-	-
Income from profession in Kenya which was set up in India, received there but spent in India	5,000	5,000	-
Interest on savings bank deposit in State Bank of India	12,000	12,000	12,000
Income from a business in Russia, controlled in Russia	20,000	-	-
Dividend from Reliance Petroleum Limited, an Indian Company	5,000	5,000	5,000
Gross Total Income	**3,52,000**	**2,18,000**	**1,83,000**

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LET US RECAPITULATE

(I) Residential status of an individual

(1)		(2)	(3)	(4)	(5)	(6)
Section		**6(2)**	**6(3)**	**6(4)**	**6(5)**	**6(7)**
Main conditions		**All individuals [Other than (3), (4) and (5)] [Either (a) or (b) should be satisfied for being a resident]**	**Indian citizen leaving India in relevant tax year for employment outside India or as member of crew of Indian ship**	**Indian citizen or PIO residing outside India visiting India during the relevant tax year and having total income other than income from foreign sources ≤ ₹ 15 lakh**	**Indian citizen or PIO residing outside India visiting India during the relevant tax year and having total income other than income from foreign sources > ₹ 15 lakh**	**Deemed resident – Indian citizen whose total income other than income from foreign sources > ₹ 15 lakh, who is not liable to tax in any other country**
(a)	≥**182 days** in the relevant tax year	√	√	√	√	x
(b)	≥ **60 days** during the relevant tax year + ≥ **365 days in 4** years preceding such tax year	(OR) √	x	X	≥ **120 days** in the relevant tax year + ≥ **365 days** in 4 years preceding such tax year	x
Additional conditions		Section 6(13)			Section 6(13)	Section 6(13)
(i)	≥ **730 days** in in 7 years preceding such tax year	If both (i) and (ii) are satisfied, ROR. If either (i) or (ii) are satisfied or neither (i) nor (ii) are satisfied, RNOR.			By default RNOR, if individual becomes resident due to the fulfillment of modified second condition above	By default RNOR
(ii)	Resident for ≥ **2 years** out of the 10 years preceding such tax year					

Notes -

(1) Section 6(7) would not apply in case of an individual who is resident in India for a tax year under section 6(2) to 6(6).

(2) A person is said to be of Indian origin if he or either of his parents or either of his grandparents was born in undivided India

(3) "Income from foreign sources" means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

(II)	**HUF [ROR/RNOR/non-resident]** A HUF would be **resident in India** if the **control and management** of its affairs is situated **wholly or partly in India**. If the **control and management** of the affairs is situated **wholly outside India**, it would become a **non-resident**. If the HUF is resident, then the satisfaction or otherwise of additional conditions by Karta would determine whether the HUF is **ROR** or **RNOR.** If Karta satisfies both the additional conditions [(i) & (ii)] in (I) above, then, the HUF would be ROR. Otherwise, the HUF would be RNOR.
(III)	**Firms, AoPs and BoIs [Resident/Non-resident]** (i) A firm, AoP or BoI would be **resident in India,** if the **control and management** of its affairs is situated **wholly or partly in India**. (ii) If the **control and management** of the affairs is situated **wholly outside India,** they would become a **non-resident**.
(IV)	**Companies [Resident/Non-resident]** (i) A company would be **resident in India** in any tax year, if it is an Indian company or its place of effective management (POEM) in that year, is in India. (ii) If the company is not an Indian Company and its POEM is also not in India in that year, it would become a non-resident for that year.

Section 5 [Scope of Total Income]

Resident and Ordinarily Resident	Resident but not Ordinarily Resident	Non-Resident
Income received/ deemed to be received/accrued or arisen/deemed to accrue or arise in or outside India In short, the global income is taxable.	Income which is received/ deemed to be received/ accrued or arisen/ deemed to accrue or arise in India; **AND** Income which accrues or arises outside India being derived from a business controlled in or profession set up in India.	Income received/ deemed to be received/accrued or arisen/deemed to accrue or arise in India.

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TEST YOUR KNOWLEDGE

1. *Mr. Ram, an Indian citizen, left India on 22.09.2026 for the first time to work as an officer of a company in Germany. Determine the residential status of Ram for the tax year 2026-27.*

2. *Mr. Dey, residing in US since 1990, visits India for 30 days every year. He came back to India on 1.4.2025 for permanent settlement. What will be his residential status for tax year 2026-27?*

3. *Mr. Ramesh & Mr. Suresh are brothers, and they earned the following incomes during the tax year 2026-27. Mr. Ramesh settled in Canada in the year 1996 and Mr. Suresh settled in Delhi. Compute the gross total income for the tax year 2026-27.*

Sr. No.	Particulars	Mr. Ramesh (₹)	Mr. Suresh (₹)
1.	Interest on Canada Development Bonds (only 50% of interest received in India)	35,000	40,000
2.	Dividend from British company, received in London	28,000	20,000
3.	Profits from a business in Nagpur, but managed directly from London	1,00,000	1,40,000
4.	Short term capital gain on sale of shares of an Indian company, received in India	60,000	90,000
5.	Income from a business in Chennai	80,000	70,000
6.	Fees for technical services rendered in India, but received in Canada	1,00,000	-
7.	Interest on savings bank deposit in UCO Bank, Delhi	7,000	12,000
8.	Rent received in respect of house property at Bhopal (Computed)	70,000	42,000
10.	Life insurance premium paid	-	30,000

4. *Examine the correctness or otherwise of the statement - "Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fees for technical services is to be taxed irrespective of territorial nexus".*

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5. *Examine with reasons whether the following transactions attract income-tax in India in the hands of recipients:*

   (i) Salary payable by Central Government to Mr. John, a citizen of India of ₹ 7,00,000 (Computed) for the services rendered outside India considering that he pays tax as per the provisions of section 202(1).

   (ii) Interest on moneys borrowed from outside India ₹ 5,00,000 by a non-resident for the purpose of business within India say, at Mumbai.

   (iii) Royalty paid by a resident to a non-resident in respect of a business carried on outside India.

   (iv) Legal charges of ₹ 5,00,000 paid in Delhi to a lawyer of United Kingdom who visited India to represent a case at the Delhi High Court.

6. *From the following particulars of income furnished by Mr. Ashutosh, aged 65 years, pertaining to year ended 31.03.2027, compute the gross total income for the tax year 2026-27, if he is*

   (a) Resident and ordinarily resident

   (b) Non-resident

	Particulars	***Amount (₹)***
(i)	*Capital gain on sale of land in Jaipur to Mr. Ramesh, a non-resident, outside India. The consideration is also received outside India in foreign currency*	*1,50,000*
(ii)	*Rent from property in Delhi, let out to a branch of a foreign company. The rent agreement is entered outside India. Monthly rent is also received outside India*	*1,20,000*
(iii)	*Agricultural income from a land situated in Nepal, received in Nepal*	*55,000*
(iv)	*Interest on savings bank deposit in UCO Bank, Delhi*	*18,000*
(v)	*Income earned from business in London which is controlled from Delhi (₹ 35,000 is received in India)*	*60,000*
(vi)	*Gift received from his daughter on his birthday*	*55,000*
(vii)	*Past foreign taxed income brought to India*	*37,000*

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(viii)	*Fees for technical services rendered to Shine, Ltd., a foreign company, for business outside India and received also outside India*	*12,000*

7. *Mr. Dhanush, an Indian citizen aged 35 years, worked in ABC Ltd. in Mumbai. He got a job offer from XYZ Inc., USA on 01.06.2025. He left India for the first time on 31.07.2025 and joined XYZ Inc. on 08.08.2025. During the tax year 2026-27, Mr. Dhanush visited India from 25.05.2026 to 22.09.2026. He has earned the following income for the tax year 2026-27*

Particulars	***₹***
Salary from XYZ Inc., USA received in USA	*7,00,000*
Dividend from Indian companies	*5,50,000*
Agricultural income from land situated in Punjab	*55,000*
Rent received/receivable from house property in Lucknow	*4,00,000*
Profits from a profession in USA, which was set up in India, received there	*6,00,000*

Determine the residential status of Mr. Dhanush and compute his total income for the tax year 2026-27.

ANSWERS

1. Under section 6(2), an individual shall be resident in India in a tax year if he satisfies any one of the following conditions -

(i) He has been in India for a total period of 182 days or more in the relevant tax year, or

(ii) He has been in India cumulatively for 60 days or more in the relevant tax year and has been in India cumulatively for 365 days or more in the 4 years preceding the relevant tax year

As per section 6(3), in the case of Indian citizens leaving India for employment outside India, the second condition would not be applicable.

During the tax year 2026-27, Mr. Ram, an Indian citizen, was in India for 175 days only (i.e., 30+31+30+31+31+22 days). Thereafter, he left India for employment purposes.

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Since he does not satisfy the minimum criteria of 182 days stay in India during the relevant tax year, he is a non-resident for the tax year 2026-27.

2. Mr. Dey is a resident in tax year 2026-27 since he has stayed in India for a period of 365 days (more than 182 days) during the tax year 2026-27.

As per section 6(13), a person will be "Not ordinarily Resident" in India in any tax year, if such person, *inter alia*:

(a) has been a non-resident in India in 9 out of 10 tax years preceding the relevant tax year; or

(b) has been in India cumulatively for 729 days or less in 7 tax years preceding the relevant tax year.

If he does not satisfy either of these conditions, he would be a resident and ordinarily resident.

For the tax year 2026-27, his status would be "Resident but not ordinarily resident" since he was non-resident in 9 out of 10 tax years preceding the tax year 2026-27. He was resident only in the year 2025-26. Prior to that, he was non-resident in all the years since his stay in India was only for 30 days each year.

He can be resident but not ordinarily resident also due to the fact that he has stayed in India only for 545 days [365 days in year 2025-26 + (30 days x 6 years)] in 7 tax years preceding the tax year 2026-27, which is less than 730 days.

3. **Computation of gross total income of Mr. Ramesh & Mr. Suresh for the tax year 2026-27**

S. No.	Particulars	Mr. Ramesh (Non-Resident) (₹)	Mr. Suresh (Resident) (₹)
1.	Interest on Canada Development Bond **(See Note 2)**	17,500	40,000
2.	Dividend from British Company received in London **(See Note 3)**	-	20,000

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3.	Profits from a business in Nagpur but managed directly from London **(See Note 2)**	1,00,000	1,40,000
4.	Short term capital gain on sale of shares of an Indian company received in India **(See Note 2)**	60,000	90,000
5.	Income from a business in Chennai **(See Note 2)**	80,000	70,000
6.	Fees for technical services rendered in India, but received in Canada **(See Note 2)**	1,00,000	-
7.	Interest on savings bank deposit in UCO Bank, Delhi **(See Note 2)**	7,000	12,000
8.	Income from house property at Bhopal (Computed) **(See Note 4)**	70,000	42,000
	Gross Total income	**4,34,500**	**4,14,000**

Notes:

1. Mr. Ramesh is a non-resident since he has been living in Canada since 1996. Mr. Suresh is settled in Delhi, and thus assumed as a resident and ordinarily resident.

2. In case of a resident and ordinarily resident, his global income is taxable as per section 5(1). However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax:

   (i) Income received or deemed to be received in India; and

   (ii) Income accruing or arising or deemed to accrue or arise in India.

   Therefore, fees for technical services rendered in India would be taxable in the hands of Mr. Ramesh, even though he is a non-resident.

   The income referred to in Sl. No. 3,4,5 and 7 are taxable in the hands of both Mr. Ramesh and Mr. Suresh since they accrue or arise/ deemed to accrue or arise in India.

   Interest on Canada Development Bond would be fully taxable in the hands of Mr. Suresh, whereas only 50%, which is received in India, is taxable in the hands of Mr. Ramesh.

3. Dividend received from British company in London by Mr. Ramesh, a non-resident, is not taxable since it is accrued and received outside

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India. However, such dividend received by Mr. Suresh is taxable, since he is a resident and ordinarily resident.

4. The income from house property in India would be taxable in the hands of both Mr. Ramesh and Mr. Suresh, since the accrual and receipt of the same are in India.

4. This statement is correct.

As per section 9(11), income by way of interest, royalty or fees for technical services which is deemed to accrue or arise in India by virtue of sub-section (5), (6) and (7) of section 9, shall be included in his total income, whether or not -

(i) non-resident has a residence or place of business or business connection in India; or

(ii) the non-resident has rendered services in India.

In effect, the income by way of fees for technical services, interest or royalty from services utilised in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India and irrespective of whether the non-resident has a residence or place of business or business connection in India.

5. Taxability of receipts

	Taxable/ Not Taxable	Amount liable to tax (₹)	Reason
(i)	Taxable	7,00,000	As per section 9(3)(b), salaries payable by the Government to a citizen of India for service rendered outside India shall be deemed to accrue or arise in India. Therefore, salary paid by Central Government to Mr. John for services rendered outside India would be deemed to accrue or arise in India since he is a citizen of India.
(ii)	Taxable	5,00,000	As per section 9(5)(a)(iii), interest payable by a non-resident on moneys borrowed and used for the purposes of business carried on by such person in India shall

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			be deemed to accrue or arise in India in the hands of the recipient.
(iii)	Not Taxable	-	Royalty paid by a resident to a non-resident in respect of a business carried outside India would not be taxable in the hands of the non-resident provided the same is not received in India. This has been provided as an exception to deemed accrual mentioned in section 9(6)(a)(ii).
(iv)	Taxable	5,00,000	In case of a non-resident, any income which accrues or arises in India or which is deemed to accrue or arise in India or which is received in India or is deemed to be received in India is taxable in India. Therefore, legal charges paid in India to a non-resident lawyer of UK, who visited India to represent a case at the Delhi High Court would be taxable in India.

6. Computation of gross total income of Mr. Ashutosh for the tax year 2026-27

Particulars	Resident and ordinarily resident (₹)	Non-resident (₹)
Capital gain on sale of land in Jaipur to Mr. Ramesh, a non-resident, outside India and received outside India	1,50,000	1,50,000
Rent from property in Delhi, received outside India [₹ 1,20,000 – 30% of ₹ 1,20,000 under section 22(a)]	84,000	84,000
Agricultural income from a land situated in Nepal, received in Nepal	55,000	-
Interest on savings bank deposit in UCO Bank, Delhi	18,000	18,000
Income earned from business in London which is controlled from Delhi	60,000	35,000

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Gift received from daughter (Not taxable, since daughter is a relative)	-	-
Past foreign taxed income brought to India (Not taxable)	-	-
Fees for technical services rendered to Shine, Ltd., a foreign company, for business outside India and received also outside India	12,000	-
Gross Total Income	**3,79,000**	**2,87,000**

Note –

In case of a resident and ordinarily resident, global income is taxable as per section 5(1). However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax:

(i) Income received or deemed to be received in India; and

(ii) Income accruing or arising or deemed to accrue or arise in India.

Therefore, agricultural income from a land situated in Nepal, income earned from business in London which is controlled from Delhi, received outside India and fees for technical services from a non-resident for business outside India is not taxable in case of non-resident.

7. As per section 6(4), an Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India would be resident in India if he or she stays in India for a period of 182 days or more during the relevant tax year in case such person has total income, other than the income from foreign sources, not exceeding ₹ 15 lakhs.

However, as per section 6(5), if such person has total income, other than the income from foreign sources, exceeding ₹ 15 lakhs, he would also be a resident if he has been in India for at least 120 days during the relevant tax year and has been in India in the 4 years preceding the relevant tax year for a total period of 365 days or more. In such a case, he would be resident but not ordinarily resident in India.

Income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

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In this case, total income, other than the income from foreign sources, of Mr. Dhanush for tax year 2026-27 would be

Particulars		Amount (₹)
Salary from XYZ Inc., USA received in USA (Not included in total income, since it is income from foreign source)		-
Dividend from Indian companies (Included in total income, since it is deemed to accrue or arise in India)		5,50,000
Agricultural income from land situated in Punjab [Exempt under Schedule II (Table Sl. No. 1)]		-
Rent received/receivable from house property in Lucknow (Included in total income, since it is deemed to accrue or arise in India)	4,00,000	
Less: 30% of ₹ 4 lakhs	1,20,000	2,80,000
Profits from a profession in USA, which was set up in India, received there		6,00,000
Total income, other than the income from foreign sources		**14,30,000**

Since, Mr. Dhanush is an Indian citizen who comes on a visit to India only for 121 days in the tax year 2026-27 and his total income, other than income from foreign sources does not exceed ₹ 15 lakhs, he would be non-resident for the tax year 2026-27.

A non-resident is chargeable to tax in respect of income received or deemed to receive in India and income which accrues or arises or is deemed to accrue or arise to him in India. Accordingly, his total income would be as follow –

Particulars	Amount (₹)
Salary from XYZ Inc., USA received in USA (Not taxable, since it neither accrues or arises in India nor is it received in India)	-
Dividend from Indian companies (Taxable, since it is deemed to accrue or arise in India)	5,50,000
Agricultural income from land situated in Punjab [Exempt under Schedule II (Table Sl. No. 1)]	-

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Rent received/receivable from house property in Lucknow (Taxable, since it is deemed to accrue or arise in India)	4,00,000	
Less: 30% of ₹ 4 lakhs	1,20,000	2,80,000
Profits from a profession in USA, which was set up in India, received there		-
Gross Total Income/ Total income		**8,30,000**



Q. No.	ANSWERS	
1.	(c)	Non-resident
2.	(b)	Resident but not ordinarily resident
3.	(a)	Resident and ordinarily resident
4.	(d)	Deemed resident but not ordinarily resident
5	(c)	Non-resident
6	(a)	Resident and ordinarily resident
7	(a)	resident
8	(b)	Taxable in India since the capital asset is situated in India
9.	(b)	Not be deemed to accrue in India
10.	(c)	Not deemed to accrue or arise in India
11	(b)	Taxable in India since services were utilized in India

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CHAPTER 3

HEADS OF INCOME



UNIT – 1 : SALARIES

LEARNING OUTCOMES

After studying this unit, you would be able to -

- **ascertain** the point of time when salary income is chargeable to tax;
- **comprehend** the meaning of salary, profits in lieu of salary, allowances, perquisite and various retirement benefits;
- **identify** the allowances which are exempt and perquisites which are tax free under default tax regime under section 202(1) and under the optional tax regime (i.e., the normal provisions of the Act);
- **determine** the taxable portion of retirement benefits, allowances and other benefits which form part of salary;
- **determine** the value of perquisite chargeable to tax under the head "Salaries";
- **identify** the admissible deductions from salary under the default tax regime under section 202(1);
- **identify** the admissible deductions from salary under the optional tax regime (i.e., the normal provisions of the Act)
- **compute** the income chargeable to tax under the head "Salaries" under both the default tax regime and the optional tax regime.

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Proforma for computation of income under the head "Salaries" as per default tax regime under section 202(1)

	Particulars			Amt (₹)
(i)	Basic Salary			xxx
(ii)	Fees/Commission			xxx
(iii)	Bonus			xxx
(iv)	**Allowances:**			
	(a)	Dearness Allowance [Fully taxable]		xxx
	(b)	House Rent Allowance (HRA) [Fully taxable]		xxx
	(c)	Children Education Allowance [Fully taxable]		xxx
	(d)	Children Hostel Allowance [Fully taxable]		xxx
	(e)	Transport allowance	xxx	
		Less: ₹ 15,000 plus DA thereon per month in case of metro cities and Rs 8000 plus DA thereon per month in case of other cities only in case of blind/ deaf and dumb/ orthopedically handicapped employee	xxx	xxx
	(f)	Entertainment Allowance [Fully taxable]		xxx
	(g)	Travelling Allowance/ Transfer Allowance/ Daily Allowance/ Conveyance Allowance	xxx	
		Less: Exempt if the amount is fully utilised for the purpose	xxx	xxx
	(h)	Other Allowances including overtime allowance, city compensatory allowance etc. [Fully taxable]		xxx
(v)	Annual accretion to the balance to the credit of an employee participating in a RPF comprising of interest credited at a rate exceeding 9.5% p.a.			xxx
(vi)	Contribution made by the Central Government or any other employer to the NPS account of employee			xxx

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(vii)	**Taxable Perquisites**			
	(a)	**Value of rent-free accommodation provided to the employee[1]/ Value of any accommodation provided to the employee at a concessional rate[1]**		xxx
		I) Where the accommodation is provided by the Govt. to its employees		
		License fee determined by the Govt.	xxx	
		Less: Rent actually paid by the employer	xxx	
		II) Where the accommodation is provided by any other employer		
		If accommodation is owned by the employer		
		(i) **Cities having population > 40 lakh as per 2011 census**		
		10% of salary in respect of the period of occupation (–) rent actually paid by the employee	xxx	
		(ii) **Cities having population > 15 lakh ≤ 40 lakh as per 2011 census**		
		7.5% of salary in respect of the period of occupation (–) rent actually paid by the employee	xxx	
		(iii) **In other cities**		
		5% of salary in respect of the period of occupation (–) rent actually paid by the employee	xxx	
		If accommodation is taken on lease/ rent by the employer		
		Lower of lease rental paid or payable by the employer (or) 10% of salary in respect of the period of occupation	xxx	
		Less: Rent actually paid by the employee	xxx	
	(b)	**Obligation of employee discharged by employer:** For e.g., Professional tax paid by the employer		xxx

[1]In case of furnished accommodation, the value will be increased by 10% p.a. of the cost of furniture or hire charges, as the case may be, ***less*** amount recovered from the employee.

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	(c)	**Any sum payable by the employer to effect an assurance on the life of the employee or to effect a contract for annuity**: Actual expenditure incurred by the employer	xxx
	(d)	Amount or aggregate of amounts of any contribution made - in a recognised provident fund, - in NPS referred to in section 124(1) - in an approved superannuation fund by the employer to the account of the assessee, to the extent it **exceeds ₹ 7,50,000 in a tax year**	xxx
	(e)	**Annual accretion by way of interest, dividend or any other amount of similar nature** during the tax year to the balance at the credit of the recognized provident fund or NPS or approved superannuation fund to the extent it relates to the **employer's contribution which is included in total income in any tax year under section 17(1)(i)**	xxx
	(f)	**Value of use of motor car *[Refer Table below]***	xxx
	(g)	**Any other perquisite:** For example, (1) **Provision of services of a sweeper, gardener, watchman or personal attendant:** Actual cost to employer by way of salary paid or payable for such services (-) amount paid by the employee (2) **Gas, electricity, or water supplied by employer for household consumption of the employee:** Amount paid on that account by the employer to the agency supplying gas etc. (-) amount paid by the employee ***Note:*** *Where it is provided to the employee from the resources owned by the employer without purchasing them from any outside agency, the value of perquisite would be the manufacturing cost incurred by the employer (-) amount paid by the employee.* (3) **Provision of free or concessional education facilities for any member of employee's household:** Sum equal to the expenditure incurred by the employer (-) amount paid or recovered from the employee	xxx

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		Where educational institution is maintained and owned by employer: Cost of such education in similar institution in or near the locality (-) amount paid or recovered from employee [However, there would be no perquisite if the value of benefit per child does not exceed ₹ 3,000 p.m.]		
		Note: *Above perquisites in (f) and (g) are taxable only in case of specified employees, being a director of a company or who hold not less than 20% of the voting power in the company or an employee whose income under the head "Salaries" by way of monetary payment exceed ₹ 4 lakhs.*		
		(4) **Interest-free or concessional loan exceeding ₹ 2,00,000:** Interest computed at the rate charged by SBI as on 1st day of relevant tax year in respect of loans for similar purposes on the maximum outstanding monthly balance (-) interest actually paid by employee		
		(5) **Free food and non-alcoholic beverages through paid vouchers:** Expenses incurred by employer (-) amount recovered from employee [Free food and non-alcoholic beverages provided during office hours or through paid vouchers upto ₹ 200 per meal is exempt]		
		(6) **Value of gift, voucher:** Sum equal to the amount of such gift [If value of gift, voucher is below ₹ 15,000, there would be no perquisite]		
		(7) **Use of moveable assets**		
		(8) **Transfer of moveable assets:** Actual cost of asset to employer – cost of normal wear and tear – Amount paid or recovered from employee		
(viii)	Leave travel concession **[Fully Taxable]**			xxx
(ix)	Gratuity			
	(a) Received during the tenure of employment (fully taxable)		xxx	

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	(b)	Received at the time of retirement or otherwise (Deduction is available u/s 19(1) from gross salary)	xxx	xxx
(x)	Pension			
	Uncommuted pension [fully taxable]		xxx	
	Commuted pension (Deduction is available u/s 19(1) from gross salary)		xxx	xxx
(xi)	Retrenchment Compensation (Deduction is available u/s 19(1) from gross salary)			xxx
(xii)	Voluntary Retirement Compensation (Deduction is available u/s 19(1) from gross salary)			xxx
(xiii)	Leave Encashment			
	(a)	Received during the employment [fully taxable]	xxx	
	(b)	Received at the time of retirement or otherwise (Deduction is available u/s 19(1) from gross salary)	xxx	xxx
Gross Salary				xxx
Less:	Deductions under section 19(1)			
	-	**Standard deduction -** Amount of salary or ₹ 75,000, whichever is less.	xxx	
	-	Gratuity, if received at the time of retirement or otherwise	xxx	
	-	Commuted Pension	xxx	
	-	Retrenchment Compensation: Deduction would be least of the following	xxx	
		(a) Compensation actually received	xxx	
		(b) ₹ 5,00,000	xxx	
		(c) 15 days average pay x completed years of service and part thereof in excess of 6 months	xxx	
	-	Voluntary Retirement Compensation: Deduction would be least of the following	xxx	
		(a) Compensation received/ receivable on voluntary retirement	xxx	
		(b) ₹ 5,00,000	xxx	

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	(c) 3 months' salary x completed years of service	xxx		
	(d) Last drawn salary x remaining months of service left	xxx		
	- Leave Encashment		xxx	xxx
Income under the head "Salaries"				**xxx**

Proforma for computation of income under the head "Salaries" under the optional tax regime (i.e., the normal provisions of the Act)

	Particulars			Amt (₹)
(i)	Basic Salary			xxx
(ii)	Fees/Commission			xxx
(iii)	Bonus			xxx
(iv)	Allowances:			
	(a)	Dearness Allowance [Fully taxable]		xxx
	(b)	**House Rent Allowance (HRA)**	xxx	
		Less: Least of the following is exempt [Schedule III (Table SI No. 11)]	xxx	xxx
		(i) HRA actually received xxx		
		(ii) Rent paid (-)10% of salary for the relevant period xxx		
		(iii) 50% of salary, if accommodation is located in Mumbai, Kolkata, Delhi, Chennai, Hyderabad, Pune, Bengaluru or Ahmedabad or 40% of salary in any other city for the relevant period xxx		
	(c)	**Children Education Allowance**	xxx	
		Less: Exempt upto ₹ 3,000 per month per child upto maximum of two children	xxx	xxx
	(d)	**Children Hostel Allowance**	xxx	

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		Less: Exempt upto ₹ 9,000 per month per child upto maximum of two children	xxx	xxx
	(e)	**Transport allowance**	xxx	
		Less: ₹ 15,000 plus DA thereon per month in case of metro cities, ₹ 8,000 plus DA thereon per month in case of other cities only in case of blind/ deaf and dumb/ orthopedically handicapped employee	xxx	xxx
	(f)	Entertainment Allowance [Fully Taxable]		xxx
	(g)	Travelling Allowance/ Transfer Allowance/ Daily Allowance/ Conveyance Allowance / Helper Allowance/ Research allowance/ Uniform Allowance	xxx	
		Less: Exempt if the amount is fully utilised for the purpose	xxx	xxx
	(h)	Allowances such as compensatory field area allowance, compensatory modified field area allowance, any special allowance in the nature of high altitude	xxx	
		Less: Exempt to extent of prescribed limit	xxx	xxx
	(i)	Other Allowances including overtime allowance, city compensatory allowance etc.		xxx
(v)	Annual accretion to the balance to the credit of an employee participating in a RPF comprising of interest credited at a rate exceeding 9.5% p.a.			xxx
(vi)	Contribution made by the Central Government or any other employer to the NPS account of employee			xxx
(vii)	**Taxable Perquisites**			
	(a)	**Value of rent-free accommodation provided to the employee[2]/ Value of any accommodation provided to the employee at a concessional rate[2]**		xxx

[2]In case of furnished accommodation, the value will be increased by 10% p.a. of the cost of furniture or hire charges, as the case may be, ***less*** amount recovered from the employee.

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		I) Where the accommodation is provided by the Govt. to its employees		
		License fee determined by the Govt.	xxx	
		Less: Rent actually paid by the employer	xxx	
		II) Where the accommodation is provided by any other employer		
		If accommodation is owned by the employer		
		(i) **Cities having population > 40 lakh as per 2011 census**		
		10% of salary in respect of the period of occupation (–) rent actually paid by the employee	xxx	
		(ii) **Cities having population > 15 lakh ≤ 40 lakh as per 2011 census**		
		7.5% of salary in respect of the period of occupation (–) rent actually paid by the employee	xxx	
		(iii) **In other cities**		
		5% of salary in respect of the period of occupation (–) rent actually paid by the employee	xxx	
		If accommodation is taken on lease/rent by the employer		
		Lower of lease rental paid or payable by the employer (or) 10% of salary in respect of the period of occupation	xxx	
		Less: Rent recovered from the employee	xxx	
	(b)	**Obligation of employee discharged by employer:** For e.g., Professional tax paid by the employer		xxx
	(c)	**Any sum payable by the employer to effect an assurance on the life of the employee or to effect a contract for annuity**: Actual expenditure incurred by the employer		xxx
	(d)	Amount or aggregate of amounts of any contribution made –		xxx
		- in a recognised provident fund,		

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		- in NPS referred to in section 124(1) - in an approved superannuation fund by the employer to the account of the assessee, to the extent it **exceeds ₹ 7,50,000 in a tax year**	
	(e)	**Annual accretion by way of interest, dividend or any other amount of similar nature** during the tax year to the balance at the credit of the recognized provident fund or NPS or approved superannuation fund to the extent it relates to the **employer's contribution which is included in total income in any tax year under section 17(1)(i)**	xxx
	(f)	**Value of use of motor car *[Refer Table below]***	xxx
	(g)	**Any other perquisite:** For example, (1) **Provision of services of a sweeper, gardener, watchman or personal attendant:** Actual cost to employer by way of salary paid or payable for such services (-) amount paid by the employee (2) **Gas, electricity, or water supplied by employer for household consumption of the employee:** Amount paid on that account by the employer to the agency supplying gas etc. (-) amount paid by the employee ***Note:*** *Where it is provided to the employee from the resources owned by the employer without purchasing them from any outside agency, the value of perquisite would be the manufacturing cost incurred by the employer (-) amount paid by the employee.* (3) **Provision of free or concessional education facilities for any member of employee's household:** Sum equal to the expenditure incurred by the employer (-) amount paid or recovered from the employee **Where educational institution is maintained and owned by employer:** Cost of such education in similar institution in or near the locality (-) amount paid or recovered from employee [However, there would be no perquisite if the value of benefit per child does not exceed ₹ 3,000 p.m.]	xxx

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	Note: *Above perquisites in (f) and (g) are taxable only in case of specified employees, being a director of a company or who hold not less than 20% of the voting power in the company or an employee whose income under the head "Salaries" by way of monetary payment exceed ₹ 4 lakhs.* (4) **Interest-free or concessional loan exceeding ₹ 2,00,000:** Interest computed at the rate charged by SBI as on 1st day of relevant tax year in respect of loans for similar purposes on the maximum outstanding monthly balance (-) interest actually paid by employee (5) **Free food and non-alcoholic beverages:** Expenses incurred by employer (-) amount recovered from employee [Free food and non-alcoholic beverages provided during office hours or paid vouchers upto ₹ 200 per meal is exempt] (6) **Value of gift, voucher:** Sum equal to the amount of such gift [If value of gift, voucher is below ₹ 15,000, there would be no perquisite] (7) **Use of moveable assets** (8) **Transfer of moveable assets:** Actual cost of asset to employer – cost of normal wear and tear – Amount paid or recovered from employee		
(viii)	Leave travel concession	xxx	
	Less: Exempt under Schedule III (Table Sl No. 8)	xxx	xxx
(ix)	Gratuity		
	(a) Received during the tenure of employment (fully taxable)	xxx	
	(b) Received at the time of retirement or otherwise (Deduction is available u/s 19(1) from gross salary)	xxx	xxx
(x)	Pension		
	Uncommuted pension [fully taxable]	xxx	

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	Commuted pension (Deduction is available u/s 19(1) from gross salary)	xxx	
(xi)	Retrenchment Compensation (Deduction is available u/s 19(1) from gross salary)		xxx
(xii)	Voluntary Retirement Compensation (Deduction is available u/s 19(1) from gross salary)		xxx
(xiii)	Leave Encashment		
	(a) Received during the employment [fully taxable]	xxx	
	(b) Received at the time of retirement or otherwise (Deduction is available u/s 19(1) from gross salary)	xxx	
Gross Salary			xxx
Less:	Deduction under section 19(1)		
	- Professional Tax/Tax on employment paid by employee	xxx	
	- **Standard deduction -** Amount of salary or ₹ 50,000, whichever is less.	xxx	
	- Gratuity, if received at the time of retirement or otherwise	xxx	
	- Commuted Pension	xxx	
	- Retrenchment Compensation: Deduction would be least of the following		
	(a) Compensation actually received	xxx	
	(b) ₹ 5,00,000	xxx	
	(c) 15 days average pay x completed years of service and part thereof in excess of 6 months	xxx	
	- Voluntary Retirement Compensation: Deduction would be least of the following	xxx	
	(a) Compensation received / receivable on voluntary retirement	xxx	
	(b) ₹ 5,00,000	xxx	

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	(c) 3 months' salary x completed years of service	xxx		
	(d) Last drawn salary x remaining months of service left	xxx		
	- Leave Encashment		xxx	xxx
Income under the head "Salaries"				**xxx**

Proforma for computation of income under the head "Salaries" under optional tax regime taking Salaries computed as per default tax regime under section 202(1) as the starting point

Particulars	Amt (₹)
Income under the head "Salaries" under default tax regime under section 202(1)	xxx
***Add*: Deduction under section 19(1)**	
Standard Deduction - Difference between standard deduction claimed under default tax regime i.e., lower of gross salary or ₹ 75,000 and standard deduction available under optional tax regime i.e., lower of gross salary ₹ 50,000	xxx
Less: Professional Tax/Tax on employment paid by employee	xxx
	xxx
Less: HRA exempt under schedule III (Table Sl No. 11) – i.e., Least of the three limits stated above	xxx
Children Education Allowance (Upto ₹ 3,000 per month per child upto maximum of two children)	xxx
Children Hostel Allowance (Upto ₹ 9,000 per month per child upto maximum of two children)	xxx
Less: Exemption allowed in respect of Helper Allowance/ Research Allowance / Uniform Allowance, if the amount is fully utilised for the purpose	xxx
Less: Exemption allowed in respect of certain allowances such as compensatory field area allowance, compensatory modified field area allowance, any special allowance in the nature of high altitude to the extent of prescribed limit	xxx
Less: Leave travel concession exempt as per Schedule III (Table Sl No. 8)	xxx
Income under the head "Salaries" under optional tax regime	**xxx**

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<table>
<tr><th colspan="5">PERQUISITE VALUE OF MOTOR CAR</th></tr>
<tr><th>S. No.</th><th>Car owned/ hired by</th><th>Expenses met by</th><th>Wholly official use</th><th>Partly personal use</th></tr>
<tr><td>1</td><td>Employer</td><td>Employer</td><td>No value*</td><td><table><tr><th>cc of engine</th><th>Perquisite value</th></tr><tr><td>upto 1.6 litres or Electric vehicle</td><td>₹ 5,000 p.m.</td></tr><tr><td>above 1.6 litres</td><td>₹ 7,000 p.m.</td></tr></table>If chauffeur is also provided, ₹ 3000 p.m. should be added to the above value.</td></tr>
<tr><td>2</td><td>Employee</td><td>Employer</td><td>No value*</td><td>Actual amount of expenditure incurred by the employer as reduced by the perquisite value arrived at in (1) above.</td></tr>
<tr><td>3</td><td>Employer</td><td>Employee</td><td>-</td><td><table><tr><th>cc of engine</th><th>Perquisite value</th></tr><tr><td>upto 1.6 litres or electric vehicle</td><td>₹ 2,000 p.m.</td></tr><tr><td>above 1.6 litres</td><td>₹ 3,000 p.m.</td></tr></table>If chauffeur is also provided, ₹ 3,000 p.m. should be added to the above value.</td></tr>
</table>

*provided employer maintains the complete details of such journey and expenditure thereon and gives a certificate that such expenditure are incurred wholly for official use.



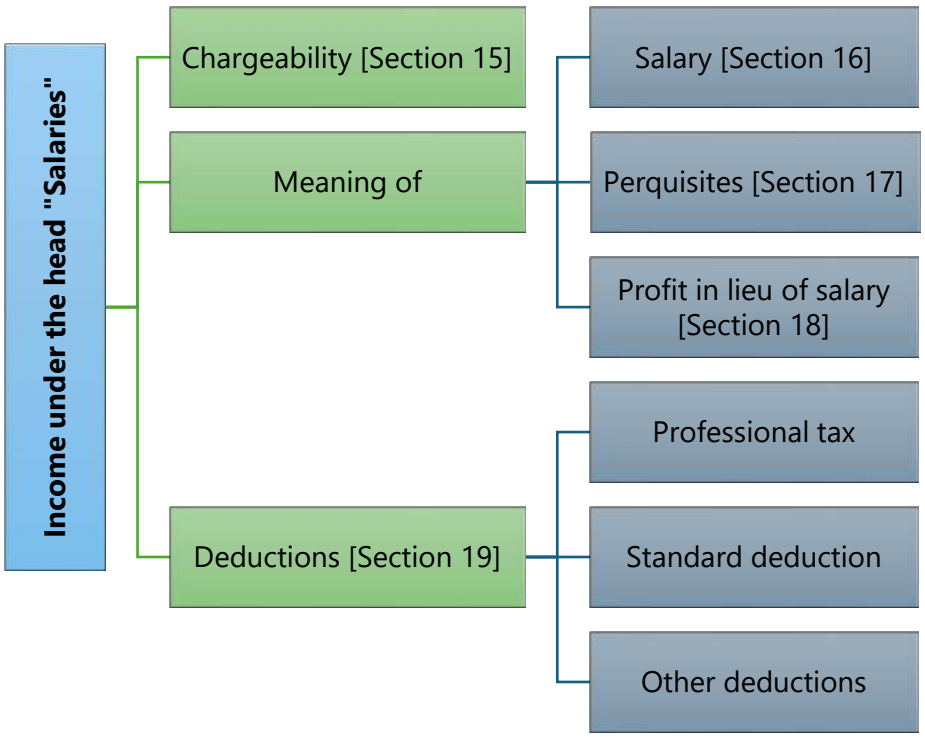
Perquisite value of motor car is taxable only in case of specified employees if motor car is provided by the employer to the employee. However, where the motor car is owned by the employee and used by him or members of his family wholly for personal purpose and for which employer reimburses the running and maintenance expenses of the car, the perquisite value of motor car would be taxable in case of all employees.

Where car is owned by employer and expenses are also met by the employer, the taxable perquisite in case such car is used wholly for personal purposes of the employee would be equal to the actual expenditure incurred by the employer on running and maintenance expenses and normal wear and tear (calculated @10% p.a. of actual cost of motor car) *less* amount charged from the employee for such use.

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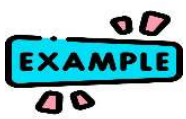
1.1 INTRODUCTION

The provisions pertaining to Income under the head "Salaries" are contained in section 15, 16,17, 18 and 19 in the following manner.



Before learning the provisions, it is essential to understand the important concepts relating to Salaries.

(1) Employer-employee relationship: Every payment made by an employer to his employee for service rendered would be chargeable to tax as salaries. Before an income can become chargeable under the head 'salaries', it is vital that there should exist between the payer and the payee, the relationship of an employer and an employee.



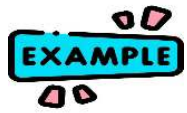
Sujata, an actress, is employed in Chopra Films, where she is paid a monthly remuneration of ₹ 2 lakhs. She acts in various films produced by various producers. The remuneration for acting in such films is directly paid to Chopra Films by the different producers.

In this case, ₹ 2 lakhs will constitute salary in the hands of Sujata, since the relationship of employer and employee exists between Chopra Films and Sujata.

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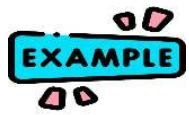
In the above example, if Sujata acts in various films and gets fees from different producers, the same income will be chargeable as income from profession since the relationship of employer and employee does not exist between Sujata and the film producers.



Commission received by a director from a company is salary if the Director is an employee of the company. If, however, the Director is not an employee of the company, the said commission cannot be charged as salary but has to be charged either as income from business or as income from other sources depending upon the facts.



Salary paid to a partner by a firm is nothing but an appropriation of profits. Any salary, bonus, commission or remuneration by whatever name called due to or received by partner of a firm shall not be regarded as salary. The same is to be charged as income from profits and gains of business or profession. This is primarily because the relationship between the firm and its partners is not that of an employer and employee.

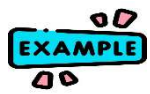


Remuneration received by a Member of Parliament/State Legislature is not taxable under the head 'Salaries' as such person is not a government employee. Such income would be taxable as 'Income from Other Sources'.

(2) Full-time or part-time employment: Once the relationship of employer and employee exists, the income is to be charged under the head "salaries". It does not matter whether the employee is a full-time employee or a part-time one.

For example, if an employee works with more than one employer, salaries received from all the employers should be clubbed and brought to charge for the relevant tax years.

(3) Forgoing of salary: Once salary accrues, the subsequent waiver by the employee does not absolve him from liability to income-tax. Such waiver is only an application and hence, chargeable to tax.



Mr. A, an employee instructs his employer that he is not interested in receiving the salary for April 2026 and the same might be donated to a charitable institution, being a registered non-profit organisation.

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In this case, Mr. A cannot claim that he cannot be charged in respect of the salary for April 2026. It is only due to his instruction that the donation was made to a charitable institution by his employer. It is only an application of income.

Hence, the salary for the month of April 2026 will be taxable in the hands of Mr. A. He is, however, entitled to claim a deduction under section 133 for the amount donated to the institution. Deduction under section 133 is available only if Mr. A exercises the option under section 202(4) of shifting out of the default tax regime. [The concept of deductions is explained in detail in Chapter 6].

(4) **Surrender of salary:** If an employee surrenders his salary, in the public interest, to the Central Government under section 2 of the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961, the salary so surrendered would be exempt while computing his taxable income.

(5) **Salary paid tax-free:** This, in other words, means that the employer bears the burden of the tax on the salary of the employee. In such a case, the income from salaries in the hands of the employee will consist of his salary income and also the tax on this salary paid by the employer.

However, as per Schedule III (Table SI No. 10), the income-tax paid by the employer on non-monetary perquisites on behalf of the employee would be **exempt in the hands of the employee**.

(6) **Place of accrual of salary**: Under section 9(3), salary earned 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.

If an employee is paid pension abroad in respect of services rendered in India, the same will be deemed to accrue in India. Similarly, leave salary paid abroad in respect of leave earned in India is deemed to accrue or arise in India.

Section 9(3)(b) provides that salaries payable by the Government to a citizen of India for services rendered outside India shall be deemed to accrue or arise in India. However, by virtue of Schedule III (Table SI. No. 9), any allowance or perquisites paid or allowed outside India by the Government to **a citizen of India** for rendering services outside India will be fully exempt.

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Exemptions in respect of remuneration/ salary to non-Indian citizen

Individual assessees **who are not citizens of India** are entitled to the following exemptions in respect of remuneration/ salary received by them under section 11, read with Schedule IV:

(i) Remuneration received by officials of Embassies etc. of Foreign States [Schedule IV (Table SI No. 2)]: The remuneration received by a person (not being an Indian citizen) for services as an official of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign State or as a member of the staff of any of these officials is exempt.

Conditions:

(a) The remuneration received as a trade commissioner or other official representative in India of the government of a foreign State or as members of staff of the government, resident for similar purposes in the country concerned enjoy similar exemption in that country; and

(b) The above-mentioned members of the staff should be the subjects of the respective countries represented and should not be engaged in any other business or profession or employment in India.

(ii) Remuneration received for services rendered in India as an employee of foreign enterprise [Schedule IV (Table SI No. 3)]

Remuneration received by a foreign national as an employee of a foreign enterprise for service rendered by him during his stay in India is also exempt from tax.

Conditions:

(a) The foreign enterprise **is not engaged in any business or trade in India;**

(b) The employee's stay in India **does not exceed in the aggregate a period of 90 days in the tax year**;

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(c) The remuneration **is not liable to be deducted** from the employer's income chargeable to tax under the Act.

(iii) Salary received by a non-citizen non-resident for services rendered in connection with employment on foreign ship [Schedule IV (Table SI No. 4)]

Salary income received by or due to a non-citizen of India who is also non-resident for services rendered in connection with his employment on a foreign ship is exempt where his total **stay** in India **does not exceed** in the aggregate a period of **90 days in the tax year**.

(iv) Remuneration received by Foreign Government employees during their stay in India for specified training [Schedule IV (Table SI No. 5)]

Any remuneration received by employee (not being an Indian citizen) of foreign Government from his respective Government during his stay in India, is exempt from tax, if such remuneration is received in connection with his training in any establishment or office of or in any undertaking owned by –

(a) the Government; or

(b) any company wholly owned by the Central or any State Government(s) or jointly by the Central and one or more State Governments; or

(c) any company which is subsidiary of a company referred to in (b) above; or

(d) any statutory corporation; or

(e) any society registered under the Societies Registration Act, 1860 or any other similar law, which is wholly financed by the Central Government or any State Government(s) or jointly by the Central and one or more State Governments.



Exemption under Schedule III (Table SI No. 9) and Schedule IV (as mentioned above) would be available to an assessee irrespective of the regime under which he pays tax.

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Now, let us discuss the chargeability (u/s 15), the provisions explaining the meaning of Salary (u/s 16), Perquisite (u/s 17) and Profits in lieu of salary (u/s 18) and the deductions (u/s 19).



1.	*Remuneration received by a Member of Parliament shall be taxable under the head –*	
	(a)	*Salaries*
	(b)	*Capital Gains*
	(c)	*Income from Other Sources*
	(d)	*Profits and Gains of Business or Profession*
2.	*Ms. Anna, a foreign national employed by a foreign enterprise not engaged in business in India, stayed in India for 88 days during the tax year. Her salary was not claimed as deduction by the employer in India. The remuneration received by her shall be –*	
	(a)	*Fully taxable*
	(b)	*Exempt under Schedule IV*
	(c)	*Taxable only to the extent received in India*
	(d)	*Exempt only if she is a non-resident*

1.2 BASIS OF CHARGE [SECTION 15]

(i) Section 15 deals with the basis of charge under the head "Salaries". Salary is chargeable to tax either on 'due' basis or on 'receipt' basis, whichever is earlier.

(ii) However, where any salary, paid in advance, is assessed in the year of payment, it cannot be subsequently brought to tax in the year in which it becomes due.

(iii) If the salary paid in arrears has already been assessed on due basis, the same cannot be taxed again when it is paid.

(iv) Employer includes former employer as well.

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(v) Any salary, bonus, commission or remuneration, due to or received by a **partner of a firm from the firm shall not be regarded as salary** for the purposes of this section.



*If A draws his salary in advance for the month of April 2027 in the month of March 2027 itself, the same becomes chargeable on **receipt basis** and is to be assessed as income of the tax year 2026-27. However, the salary for the tax year 2027-28 will not include that of April 2027.*



*If the salary due for March 2027 is received by A later in the month of April 2027, it is still chargeable as income of the tax year 2026-27 on **due basis.** Obviously, salary for the tax year 2027-28 will not include that of March 2027.*

Advance Salary

Advance salary is taxable when it is received by the employee irrespective of the fact whether it is due or not. The rule behind this is the basis of taxability of salary i.e., salary is taxed on due or receipt basis, whichever is earlier.

It may so happen that when advance salary is included and charged in a particular tax year, the rate of tax at which the employee is assessed may be higher than the normal rate of tax to which he would have been assessed. Section 157 provides relief in these types of cases. The concept of relief under section 157 is explained in this unit later on.

Difference between advance salary and advance against salary

Loan is different from salary. When an employee takes a loan from his employer, which is repayable in certain specified instalments, the loan amount cannot be brought to tax as salary of the employee.

Similarly, advance against salary is different from advance salary. It is an advance taken by the employee from his employer. This advance is generally adjusted with his salary over a specified time period. It cannot be taxed as salary.

Arrears of Salary

Normally speaking, salary arrears must be charged on due basis. However, there are circumstances when it may not be possible to bring the same to charge on due basis.

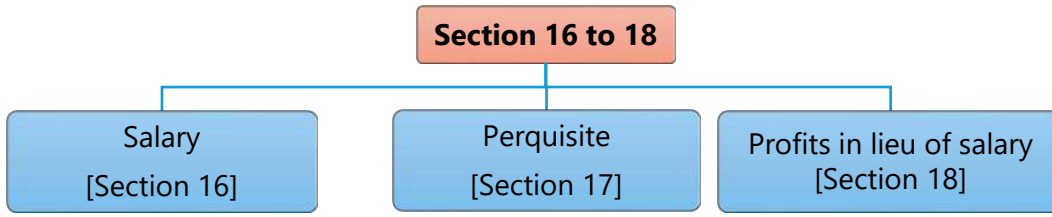
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(1) If the Pay Commission is appointed by the Central Government and it recommends revision of salaries of employees with retrospective date, the arrears received in that connection will be charged on receipt basis. Here also, relief under section 157 is available.

(2) If the Central Government announces an increase in HRA in the tax year 2026-27 which is effective from 1.1.2024, then the arrears from 1.1.2024 to 31.3.3026 will be taxed in the tax year in which they are paid because they were never due earlier. Here also, relief under section 157 is available.

1.3 SALARY, PERQUISITE AND PROFITS IN LIEU OF SALARY [SECTION 16, 17 AND 18]



1.3.1 Meaning of Salary

The meaning of the term 'salary' for purposes of income-tax is much wider than what is normally understood. The term 'salary' for the purposes of Income-tax Act, 2025 will include both monetary payments (e.g. basic salary, bonus, commission, allowances etc.) as well as non-monetary facilities (e.g. housing accommodation, medical facility, interest free loans etc.).

Section 16 defines the term "Salary". It is an inclusive definition and includes monetary as well as non-monetary items.

'Salary' under section 16, includes the following:	
(1)	Wages,
(2)	Any annuity or pension,
(3)	Any gratuity,
(4)	Any fees or commission
(5)	Perquisites
(6)	Profits in lieu of or in addition to any salary or wages,

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(7)	Any advance of salary,
(8)	Any payment received in respect of any period of leave not availed by him i.e., leave salary or leave encashment,
(9)	Annual accretion to the balance at the credit of an employee participating in a recognised provident fund to the extent it is taxable as per paragraph 6 of Part A of Schedule XI.
(10)	Aggregate of all sums that are comprised in the transferred balance as referred in paragraph 11(2) of Part A of Schedule XI of an employee participating in the recognized provident fund to the extent it is taxable under sub-paragraphs (4) and (5) thereof.
(11)	Contribution made by the Central Government or any other employer in any tax year to the account of an employee under a pension scheme referred to in section 124.
(12)	Contribution made by the Central Government in any tax year, to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in section 125.

Wages

In common parlance, the term "wages" means fixed regular payment earned for work or services. The words "wages", "salary", "basic salary" are used interchangeably. Moreover, the payments in the form of Bonus, Allowances etc. made to the employee are also included within the meaning of salary. Under the Income-tax Act, there are certain payments made which are fully taxable, partly taxable and fully exempt.



For example, wages, salary, bonus, dearness allowance etc. are fully taxable payments, whereas monetary benefits in the form of allowances such as House Rent Allowance, conveyance allowance etc. are partially taxable.

Allowances

Allowances are monetary payments made by the employer to the employees for meeting specific expenditure, whether personal or for the performance of duties. These allowances are generally taxable unless some specific exemption has been provided in respect of such allowance. Various types of allowances normally in vogue are discussed below:

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Allowances which are fully taxable under both Regimes

The allowances listed in the table below are taxable under both default tax regime as well as under optional tax regime.

Sl. No.	Nature of Allowance
(i)	Entertainment Allowance
(ii)	Dearness Allowance
(iii)	Overtime Allowance
(iv)	Fixed Medical Allowance
(v)	City Compensatory Allowance
(vi)	Interim Allowance
(vii)	Servant Allowance
(viii)	Project Allowance
(ix)	Tiffin/Lunch/Dinner Allowance
(x)	Warden Allowance
(xi)	Non-practicing Allowance
(xii)	Transport allowance to employee other than blind/ deaf and dumb/ orthopedically handicapped employee
(xiii)	Any other cash allowance

Allowances which are fully exempt only under the optional tax regime

Sl. No.	Nature of Allowance
(i)	**Allowances to High Court Judges:** Any allowance paid to a Judge of a High Court and Supreme Court under section 22A(2) of the High Court Judges (Conditions of Service) Act, 1954 and section 23(1A) of the Supreme Court Judges (Salaries and Conditions of services) Act, 1958, respectively, is not taxable under the optional tax regime (i.e., normal provisions of the Act).
(ii)	**Salary and Allowances paid by the United Nations Organization:** Salary and emoluments paid by the UNO to its employees is not taxable by virtue of section 18 of the United Nations (Privileges and Immunities) Act, 1947 under the optional tax regime (i.e., normal provisions of the Act).

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(iii)	**Sumptuary allowance granted to High Court or Supreme Court Judges:** Sumptuary allowance given to High Court Judges under section 22C of the High Court Judges (Conditions of Service) Act, 1954 and Supreme Court Judges under section 23B of the Supreme Court Judges (Conditions of Service) Act, 1958 is not chargeable to tax under the optional tax regime (i.e., normal provisions of the Act).
Note – *In cases (i) and (iii) above, the respective Acts provide for such exemption, notwithstanding anything contained in the Income-tax Act, 2025. In case (ii), exemption is provided under the respective Act, notwithstanding anything to the contrary contained in any other law.*	

Allowances which are fully exempt under both tax regimes

Allowance granted to Government employees outside India [Schedule III (Table SI No. 9)]: Allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India **for services rendered outside India are exempt from tax under both regimes.**

Allowances which are partially exempt under the optional tax regime but fully taxable under default tax regime with few exceptions

SI. No.	Nature of Allowance
(i)	House Rent Allowance [Schedule III (Table SI No. 11)]
(ii)	Special Allowances [Schedule III (Table SI No. 12) & (13)] **Except** (a) Travelling allowance (b) Transfer allowance (c) Daily allowance (d) Conveyance allowance (e) Transport allowance to blind/ deaf and dumb/ orthopedically handicapped employee ***Note*** *– The exceptions in (a) to (e) above are exempt or partly exempt under both the tax regimes*

Let's discuss these allowances and to the extent they are exempted.

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House Rent Allowance

HRA is a special allowance specifically granted to an employee by his employer to meet expenditure actually incurred on payment of rent for residence occupied by the employee. Such allowance is exempt by virtue of Schedule III (Table SI No. 11) to such extent as may be prescribed having regard to the area in which such accommodation is situated. Such residential accommodation should not be owned by the employee.



Accordingly, Rule 279 prescribes that HRA granted to an employee is exempt to the extent of least of the following:

Metro Cities (i.e., Mumbai, Kolkata, Delhi, Chennai, Hyderabad, Pune, Ahmedabad and Bengaluru)	**Other Cities**
1) HRA actually received for the relevant period	1) HRA actually received for the relevant period
2) Rent paid **(-)** 10% of salary for the relevant period	2) Rent paid **(-)** 10% of salary for the relevant period
3) 50% of salary for the relevant period	3) 40% of salary for the relevant period



*(1) HRA Exemption would be available to an assessee only if he exercises the **option of shifting out of the default tax regime**. It is not available under the default tax regime u/s 202(1).*

*(2) Exemption is **not available** to an assessee who **lives in his own house**, or in a house for which he has not incurred the expenditure of rent.*

(3) "Salary" includes dearness allowance, if provided for under the terms of employment, but excludes all allowances and perquisites. Commission as a fixed percentage of turnover is also to be included.

***(4) Relevant period** means the period during which the said accommodation was occupied and HRA was received by the assessee during the tax year.*

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ILLUSTRATION 1

Mr. Raj Kumar has the following receipts from his employer:

(1)	*Basic pay*	*₹ 40,000 p.m.*
(2)	*Dearness allowance (D.A.)*	*₹ 6,000 p.m.*
(3)	*Commission*	*₹ 50,000 p.a.*
(4)	*Motor car for personal use (expenses met by the employer)*	*₹ 1,500 p.m.*
(5)	*House rent allowance*	*₹ 15,000 p.m.*

Find out the amount of HRA exempt in the hands of Mr. Raj Kumar assuming that he paid a rent of ₹ 16,000 p.m. for his accommodation at Kanpur. DA forms part of salary for retirement benefits. Mr. Raj Kumar exercises the option under section 202(4) of shifting out of the default tax regime.

SOLUTION

Particulars		Amount (₹)
HRA received		1,80,000
Less: Least of the following would be exempt		1,36,800
(i) HRA received (₹ 5,000 × 12)	1,80,000	
(ii) Rent Paid (-) 10% of salary for the relevant period (₹ 16,000×12) (-) 10% of [(₹ 40,000 + ₹ 6,000) × 12] = ₹ 1,92,000 - ₹ 55,200	1,36,800	
(iii) 40% salary as his accommodation is situated at Kanpur - 40% of [(₹ 40,000 +₹ 6,000) × 12]	2,20,800	
Taxable HRA		**43,200**

Note: For the purpose of exemption under, salary includes dearness allowance only when the terms of employment so provide and commission as a fixed percentage of turnover but excludes all other allowances and perquisites. Here the commission is not as a fixed percentage of turnover.

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Special Allowances

(I) Special allowances to meet expenses relating to performance of duties [Schedule III (Table Sl No. 12)]:

As per Schedule III (Table Sl No. 12), any allowances or benefit, not being in the nature of a perquisite, specifically granted to meet expenses incurred wholly, necessarily and exclusively in the performance of the duties of an office or employment of profit**, as may be prescribed, would be exempt as per Rule 280(1).**

These allowances would be exempt **to the extent such expenses are actually incurred** for that purpose. In other words, actual allowance received or actual amount spent **for the performance of the duties** of an office or employment of profit, whichever is less would be exempt. Accordingly, Rule 280(1) prescribes the following allowances:

a) **Travelling Allowance**: Any allowance granted to meet the cost of travel on tour or on transfer;

b) **Transfer Allowance**: Any sum paid in connection with transfer, packing and transportation of personal effects on such transfer;

c) **Daily Allowance:** Any allowance, whether granted on tour or for the period of journey in connection with transfer, to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty;

d) **Conveyance Allowance**: Any allowance granted to meet the expenditure incurred on conveyance in performance of duties of an office or employment of profit where no free conveyance is provided by the employer;

e) **Helper Allowance:** Any allowance granted to meet the expenditure incurred on a helper where such helper is engaged for the performance of the duties of an office or employment of profit;

f) **Research Allowance:** Any allowance granted for encouraging the academic, research and training pursuits in educational and research institutions;

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g) **Uniform Allowance:** Any allowance granted to meet the expenditure incurred on the purchase or maintenance of uniform for wear during the performance of the duties of an office or employment of profit.



An employee who is paying tax under default tax regime u/s 202(1) shall be entitled to exemption only in respect of the allowances listed from (a) to (d) i.e., Travelling Allowance, Transfer Allowance, Daily Allowance and Conveyance Allowance.[3]

(II) Special allowances to meet personal expenses or for performing duties of special nature [Schedule III (Table Sl No. 13)]:

As per Schedule III (Table Sl No. 13), special allowances granted to

- to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides or
- to compensate him for the increased cost of living

would be exempt, to the extent as may be prescribed.

Any special allowance granted to the employee to compensate for performing duties of special nature relating to his office or employment shall not be exempted unless such allowance is related to the place of his posting or residence.

Accordingly, Rule 280(2) prescribes the following allowances and the extent to which they are exempted:

S. No.	Name of Allowance	Extent to which allowance is exempt
1.	Any Special Compensatory (Remote locality) Allowance.	₹ 7,000 per month, when not claimed exemption mentioned at Sl. No. 4, 5 and 9.

[3] *As per Rule 280(3), an employee who has exercised the option under section 202(4) to shift out of the default tax regime (i.e., paying tax as per normal provisions/optional tax regime) shall be entitled to exemption only in respect of the allowances specified in clauses (a) to (d) of sub-rule (1). However, the restriction regarding non-allowability of exemption is specifically applicable under the default tax regime. Accordingly, the above interpretation has been adopted considering the legislative intent and scheme of the provisions.*

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S. No.	Name of Allowance	Extent to which allowance is exempt
	Places covered under Tough Location Allowance -I[4]	
2	Any Special Compensatory (Remote locality) Allowance. Places covered under Tough Location Allowance -II[5]	₹ 4,500 per month, when not claimed exemption mentioned at SI. No. 4, 5 and 9.
3.	Any Special Compensatory (Remote locality) Allowance. Places covered under Tough Location Allowance -III[6]	₹ 1,500 per month, when not claimed exemption mentioned at SI. No. 4, 5 and 9.
4.	Compensatory Field Area Allowance [Specified areas in Specified States] [7]	₹ 13,500 per month
5.	Compensatory Modified Field Area Allowance [Specified areas in Specified States] [8]	₹ 8,000 per month
6.	Any allowance granted to an employee **working in any transport system** to meet his personal expenditure during his duty performed in the course of running such transport from one place to another, provided that such employee is not in receipt of daily allowance	70% of such allowance upto a maximum of ₹ 25,000 per month
7	**Children Education Allowance**	₹ 3,000 per month per child upto a maximum of two children
8.	Any allowance granted to an employee to meet the **hostel expenditure** on his child	₹ 9,000 per month per child upto a maximum of two children

[4] *Please refer Rule 280(2) for the places at which such allowance is exempt.*
[5] *Please refer Rule 280(2) for the places at which such allowance is exempt.*
[6] *Please refer Rule 280(2) for the places at which such allowance is exempt.*
[7] *Please refer Rule 280(2) for the places at which such allowance is exempt.*
[8] *Please refer Rule 280(2) for the places at which such allowance is exempt.*

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<table>
<tr><th>S. No.</th><th>Name of Allowance</th><th colspan="2">Extent to which allowance is exempt</th></tr>
<tr><td>9.</td><td>Any special allowance in the nature of counter insurgency allowance granted to the members of the armed forces operating in areas away from their permanent locations.</td><td colspan="2">₹ 22,000 per month</td></tr>
<tr><td rowspan="2">10.</td><td>Transport allowance granted to an employee, who is blind or deaf and dumb or orthopedically handicapped with disability of lower or upper extremities, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty</td><td colspan="2">(i) Metro Cities: ₹ 15,000/ + DA thereon per month
(ii) Other Cities: ₹ 8,000/- + DA thereon per month</td></tr>
<tr><td colspan="3">Important note - An employee paying tax under default tax regime u/s 202(1) shall also be entitled to exemption in respect of this transport allowance.  </td></tr>
<tr><td rowspan="3">11.</td><td rowspan="3">Any special allowance in the nature of high-Altitude allowance granted to the member of the armed forces operating in high altitude areas</td><td>For altitude of 9,000 to 15,000 feet and altitude below 9000 feet with uncongenial climate</td><td>₹ 4,500 per month</td></tr>
<tr><td>For altitude above 15,000 feet</td><td>₹ 7,000 per month</td></tr>
<tr><td>All locations of Union territories of Jammu & Kashmir, Ladakh and States of Sikkim and Uttarakhand</td><td>₹ 30,000 per month</td></tr>
<tr><td>12</td><td>Underground Allowance granted to an employee who is working in uncongenial,</td><td colspan="2">15% of basic pay</td></tr>
</table>

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S. No.	Name of Allowance	Extent to which allowance is exempt	
	unnatural climate in underground mines.		
13.	Any special allowance granted to the member of the armed forces in the nature of **special compensatory highly active field area allowance**	₹ 22,000 per month	
14.	Any special allowance granted to the member of the armed forces in the nature of **Island (duty) allowance or Island special duty allowance** in **Andaman & Nicobar and Lakshadweep Group of Islands**[9]	Areas around capital town (Port Blair, Kavarattii and Agatti)	10% of Basic Pay
		Difficult Areas	16% of Basic Pay
		More difficult areas	20% of Basic Pay
15.	Siachen Allowance granted to the member of the armed forces	₹ 42,500 per month	

Note - For the allowances under this category, there is a limit on the tax-free amount which the employee can receive from the employer. Any amount received by the employee in excess of these specified limits will be taxable in his hands as income from salary for the year. It does not matter whether the amount which is received is actually spent or not by the employee for the purpose for which it was given to him.



ILLUSTRATION 2

Mr. Srikant has two sons. He is in receipt of children education allowance of ₹ 4500 p.m. for his elder son and ₹ 4000 p.m. for his younger son. Both his sons are going to school. He also receives the following allowances:

Transport allowance : ₹ 1,800 p.m.

[9] *Please refer Rule 280(2) for list of areas classified as difficult area or more difficult area.*

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Special Compensatory (Remote locality)
Allowance (place covered in tough location allowance I) : ₹8,000 p.m.

Compute his taxable allowances.

SOLUTION

Taxable allowance in the hands of Mr. Srikant is computed as under -

If Mr. Srikant exercises the option under section 202(4) of shifting out of the default tax regime

Children Education Allowance:	
- Elder son [(₹ 4,500 – ₹ 3,000) p.m. × 12 months]	₹ 18,000
- Younger son [(₹ 4,000 – ₹ 3,000) p.m. × 12 months]	₹ 12,000
Transport allowance (₹ 1,800 p.m. × 12 months)	₹ 21,600
Special Compensatory (Remote locality) Allowance [(₹ 8,000 – ₹ 7,000) p.m. × 12 months]	₹ 12,000
Taxable allowances	**₹ 63,600**

If Mr. Srikant pays tax under default tax regime under section 202(1)

Children Education Allowance [(₹ 4,500 + ₹ 4,000) p.m. × 12 months]	₹1,02,000
Transport allowance (₹ 1,800 p.m. × 12 months)	₹ 21,600
Special Compensatory (Remote locality) Allowance (₹ 8,000 x 12)	₹ 96,000
Taxable allowances	**₹ 2,19,600**



3.	*Mr. A, employed in Bengaluru, receives House Rent Allowance (HRA) of ₹ 25,000 p.m. He pays rent of ₹ 28,000 p.m. for a rented accommodation occupied by him. He is paying tax under default tax regime under section 202(1). The tax treatment of HRA would be –*	
	(a)	*Fully exempt*
	(b)	*Partially exempt*
	(c)	*Fully taxable*
	(d)	*Exempt up to 50% of salary*

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4.	*Mr. Y, a blind employee working in Mumbai, receives transport allowance of ₹ 18,000 p.m. plus DA thereon. The exemption available under the default tax regime would be –*	
	(a)	*Nil*
	(b)	*₹ 8,000 p.m. plus DA thereon*
	(c)	*₹ 15,000 p.m. plus DA thereon*
	(d)	*Entire allowance received*

Annuity or Pension

Meaning of Annuity

- As per the definition, 'annuity' is treated as salary. Annuity is a sum payable in respect of a particular year. It is a yearly grant. If a person invests some money entitling him to series of equal annual sums, such annual sums are annuities in the hands of the investor.
- Annuity received from a present employer is to be taxed as salary. It does not matter whether it is paid in pursuance of a contractual obligation or voluntarily.
- Annuity received from a past employer is taxable as profit in lieu of salary.
- Annuity received from person other than an employer is taxable as **"Income from other sources".**

Pension

- *Concise Oxford Dictionary* defines 'pension' as a periodic payment made especially by Government or a company or other employers to the employee in consideration of past service payable after his retirement.

Pension is of two types: commuted and uncommuted

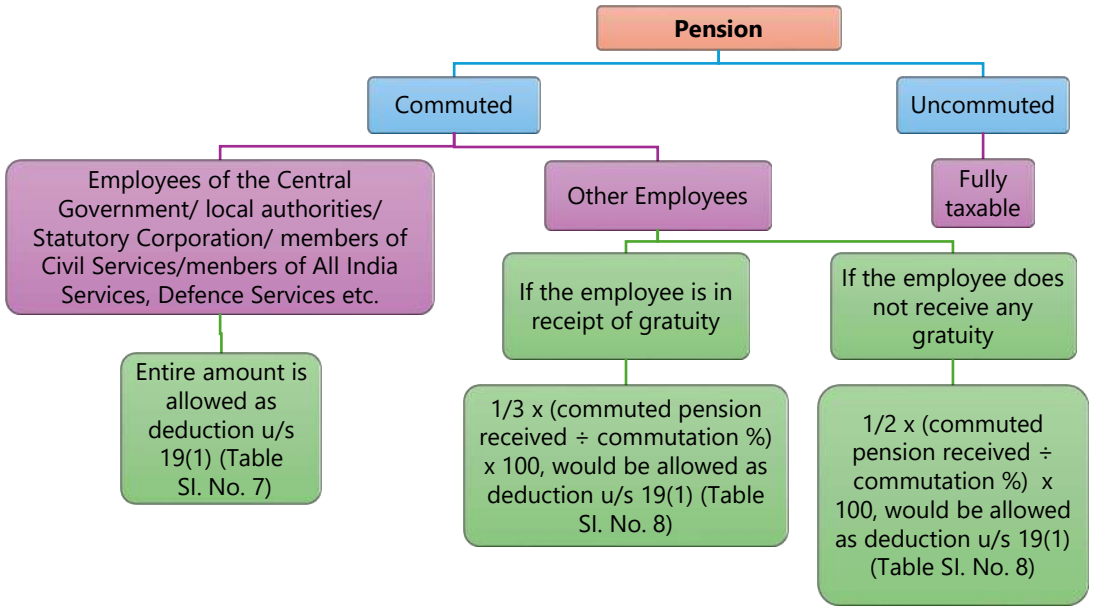
- **Uncommuted Pension:** Uncommuted pension refers to pension received periodically. It is fully taxable in the hands of both government and non-government employees.
- **Commuted Pension:** Commuted pension means lump sum amount taken by commuting the whole or part of the pension. Many persons convert their future right to receive pension into a lumpsum amount receivable immediately.

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Suppose a person is entitled to receive a pension of say ₹ 30,000 p.m. for the rest of his life. He may commute ¼th i.e., 25% of this amount and get a lumpsum of say ₹ 5,00,000. After commutation, his pension will now be the balance 75% of ₹ 30,000 p.m. = ₹ 22,500 p.m.

Deduction in respect of Commuted Pension [Section 19(1) (Table Sl No.7 & 8)]

Section 19 provides that income chargeable under the head "Salaries" shall be computed after making certain deductions in respect of certain sums including commuted pension. Accordingly, Table Sl No. 7 & 8 provide for the deduction available in respect of commuted pension. The following diagram/ flowchart depicts the tax treatment of commuted and uncommuted pension:



(1) Deduction u/s 19(1) (Table Sl. No.7 & 8) in respect of commuted pension is available to an assessee irrespective of the regime under which he pays tax.

(2) Judges of the Supreme Court and High Court will be entitled to the deduction of the commuted portion u/s 19(1) (Table Sl. No. 7).

ILLUSTRATION 3

Mr. Sagar who retired on 1.10.2026 is receiving ₹ 20,000 p.m. as pension. On 1.2.2027, he commuted 60% of his pension and received ₹ 3,00,000 as commuted

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pension. You are required to compute net pension amount includible under the head "Salaries" assuming:

(a) He is a Government employee.

(b) He is a private sector employee and received gratuity of ₹ 5,00,000 at the time of retirement.

(c) He is a private sector employee and did not receive any gratuity at the time of retirement.

SOLUTION

(a) He is a Government employee

Uncommuted pension received (October – March) [(₹ 20,000 × 4 months) + (40% of ₹ 20,000 × 2 months)]	₹ 96,000
Commuted pension received	₹ 3,00,000
	₹ 3,96,000
₹ 3,00,000, being the entire sum received as commuted pension allowed as deduction u/s 19(1) (Table Sl. No. 7)	₹ 3,00,000
	₹ 96,000

(b) He is a private sector employee and received gratuity ₹ 5,00,000 at the time of retirement

Uncommuted pension received (October – March) [(₹ 20,000 × 4 months) + (40% of ₹ 20,000 × 2 months)]	₹ 96,000
Commuted pension received	₹ 3,00,000
	₹ 3,96,000
Deduction u/s 19(1) (Table Sl. No. 8) $\left(\frac{1}{3} \times \frac{₹\ 3,00,000}{60} \times 100\right)$	₹ 1,66,667
	₹ 2,29,333

(c) He is a private sector employee and did not receive any gratuity at the time of retirement

Uncommuted pension received (October – March) [(₹ 20,000 × 4 months) + (40% of ₹ 20,000 × 2 months)]	₹ 96,000
Commuted pension received	₹ 3,00,000
	₹ 3,96,000

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Deduction u/s 19(1) (Table Sl. No. 8)

$\left(\frac{1}{2} \times \frac{₹\ 3,00,000}{60} \times 100\right)$ ₹ 2,50,000

₹ 1,46,000

Exemption in respect of pension received by recipient of gallantry awards [Schedule III (Table Sl. No. 14)]

Pension received by an individual is exempt from income-tax if –

(a) such individual was an employee of Central or State Government **and**

(b) has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other gallantry award notified by the Central Government in this behalf.

In case of the **death of such individual**, any income by way of family pension received by any member of the family of such individual shall also be exempt under Schedule III (Table Sl no. 15).

Exemption of disability pension granted to disabled personnel of armed forces who have been invalided on account of disability attributable to or aggravated by such service [Schedule III (Table Sl. No. 38A)]

Disability pension received (including services element and disability element) by an individual who has been a member of the armed forces (including paramilitary forces) of the union would be exempt if -

(a) the individual has been invalided out of service in the armed forces on account of bodily disability attributable to, or aggravated by such service; and

(b) the individual has not retired on superannuation or otherwise.



(1) "Family", in relation to an individual, means –

- spouse and children of the individual; and
- parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.



(2) Exemption under Schedule III (Table Sl. No. 14 and 15) and [Table Sl. No. 38A] would be available to an assessee irrespective of the regime under which he pays tax.

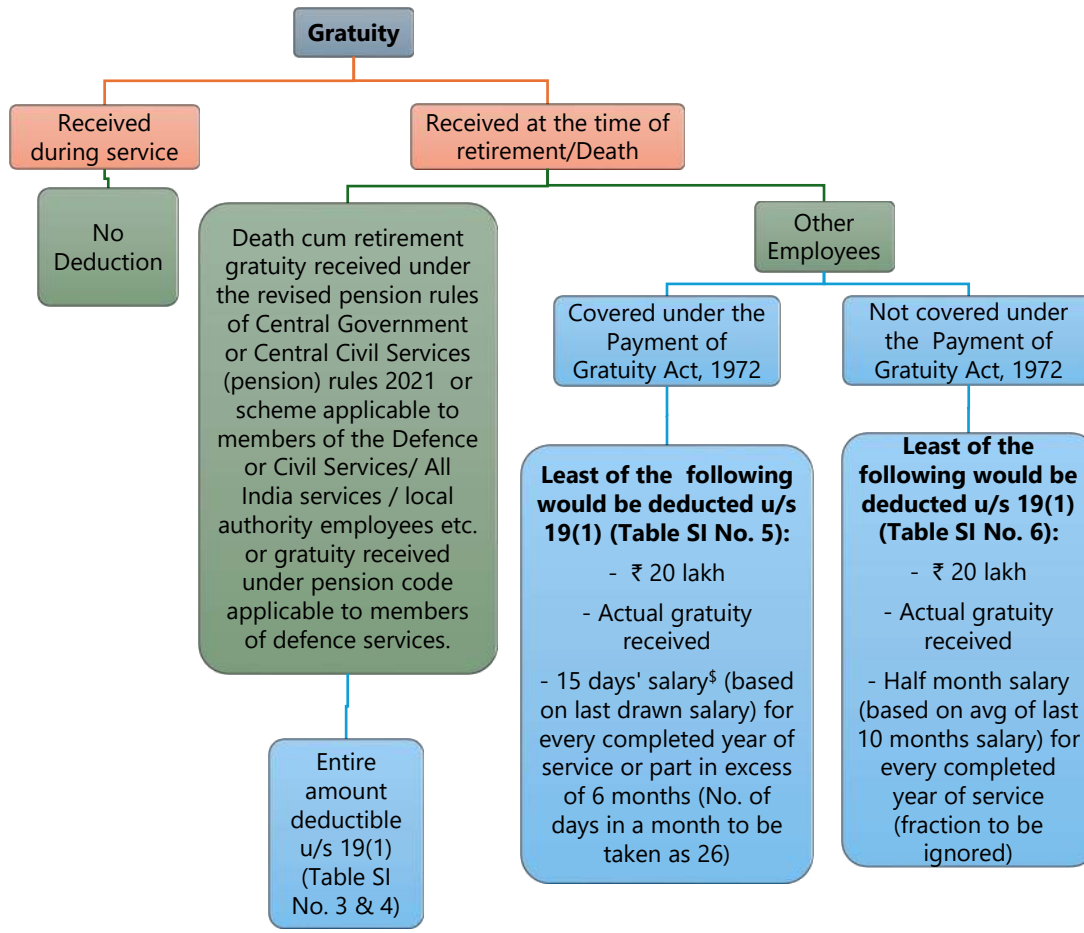
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Gratuity

Gratuity is a voluntary payment made by an employer in appreciation of services rendered by the employee. Now-a-days gratuity has become a normal payment applicable to all employees. In fact, Payment of Gratuity Act, 1972[10] is a statutory recognition of the concept of gratuity. Almost all employers enter into an agreement with employees to pay gratuity.

Deduction in respect of Gratuity [Section 19(1) (Table Sl. No. 3, 4, 5 and 6)]

Let's discuss the following deductions in respect of gratuity provided under section 19(1) (Table Sl No. 3, 4, 5 & 6):



[10] Now Code on Social Security, 2020

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Exemption in respect of gratuity received by widow, children or dependents [Schedule III (Table Sl. No. 38)]

Amount computed above as deduction in respect of any gratuity received by widow, children or dependents on death of an employee would be exempt by virtue of Schedule III [Table Sl. No. 38]

Meaning of Salary	
Covered under the Payment of Gratuity Act, 1972	**Not covered under the Payment of Gratuity Act, 1972**
Salary for this purpose means basic salary and dearness allowance. No. of days in a month for this purpose, shall be taken as 26.	Salary for this purpose means basic salary and dearness allowance, if provided in the terms of employment for retirement benefits, forming part of salary and commission which is expressed as a fixed percentage of turnover.

ILLUSTRATION 4

Mr. Ravi retired on 15.6.2026 after completion of 26 years 8 months of service and received gratuity of ₹ 15,00,000. At the time of retirement, his salary was:

Basic Salary : ₹ 50,000 p.m.

Dearness Allowance : ₹ 10,000 p.m. (60% of which is for retirement benefits)

Commission : 1% of turnover (turnover in the last 12 months was ₹ 1,20,00,000)

Bonus : ₹ 25,000 p.a.

Compute deduction in respect of gratuity assuming:

(a) He is private sector employee and covered under the Payment of Gratuity Act, 1972.

(b) He is private sector employee and not covered under the Payment of Gratuity Act, 1972.

(c) He is a Government employee.

SOLUTION

(a) He is covered under the Payment of Gratuity Act 1972

Deduction under section 19(1) (Table Sl No. 5), would be 9,34,615

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least of the following:

i. Gratuity received ₹ 15,00,000

ii. Statutory limit ₹ 20,00,000

iii. 15 days' salary based on last drawn salary for each completed year of service or part thereof in excess of 6 months

$\frac{15}{26} \times$ last drawn salary × years of service

$\frac{15}{26} \times$ (50,000 + 10,000) x 27= ₹ 9,34,615

(b) He is not covered under the Payment of Gratuity Act 1972

Deduction under section 19(1) (Table SI No. 6) would be 8,58,000 least of the following:

(i) Gratuity received ₹ 15,00,000

(ii) Statutory limit ₹ 20,00,000

(iii) Half month's salary based on average salary of last 10 months preceding the month of retirement for each completed year of service.

i.e. $\frac{1}{2} \times$ Average salary × years of service

$$= \frac{1}{2} \times \frac{\left[(50,000 \times 10) + (10,000 \times 60\% \times 10) + \left(1\% \times 1,20,00,000 \times \frac{10}{12}\right)\right]}{10} \times 26$$

= ₹ 8,58,000

(c) He is a government employee

Deduction under section 19(1) (Table SI No. 3) would be amount received as gratuity i.e., ₹ 15,00,000

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5.	*Family pension received after the death of a central government employee who was awarded "Vir Chakra" shall be exempt in the hands of –*	
	(a)	*Only the spouse*
	(b)	*Any member of the family as defined*
	(c)	*Only dependent children*
	(d)	*Only parents of the deceased individual*
6.	*Mr. X, son of a deceased employee, receives gratuity after the death of his father. The gratuity received by him shall be –*	
	(a)	*Fully taxable as salary*
	(b)	*Exempt to the extent computed as deduction under gratuity provisions*
	(c)	*Taxable as family pension*
	(d)	*Exempt only if father was a Government employee*

Fees or Commission

The payment in the form of fees or commission by the employer to the employee is fully taxable. Commission may be paid as fixed percentage of turnover or net profits etc.

Perquisites

The term 'perquisite' indicates some extra benefit in addition to the amount that may be legally due by way of contract for services rendered. In modern times, the salary package of an employee normally includes monetary salary and perquisites like housing, car etc.

- Perquisite may be provided in cash or in kind.
- Reimbursement of expenses incurred in the official discharge of duties is not a perquisite.

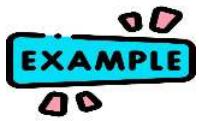
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- Perquisite may arise in the course of employment or in the course of profession. If it arises from a relationship of employer-employee, then the value of the perquisite is taxable as salary. However, if it arises during the course of profession, the value of such perquisite is chargeable as profits and gains of business or profession.
- Perquisite will become taxable only if it has a legal origin. Any unauthorised advantage taken by an employee without his employer's sanction cannot be considered as a perquisite under the Act.

Section 17 contain the provisions relating to perquisites. The provisions of this section are discussed in detail separately under the heading 1.3.2 in this unit.

Profits in lieu of salary

Profit in lieu of or in addition to salary or wages is the extra monetary benefit related to employment, especially given at the time of joining, leaving or modifying the terms of employment. Even if the amount is received after leaving the employment, it can still be taxed as salary, if it arises from employment.



If an employee receives ₹ 5,00,000 as compensation for early termination of employment, it will be treated as profit in lieu of salary and taxed under the head "Salaries".

Section 18 contains the provisions relating to "profits in lieu of salary". The provisions of this section are discussed in detail separately under the heading 1.3.3 in this unit.

Leave Salary or Leave Encashment

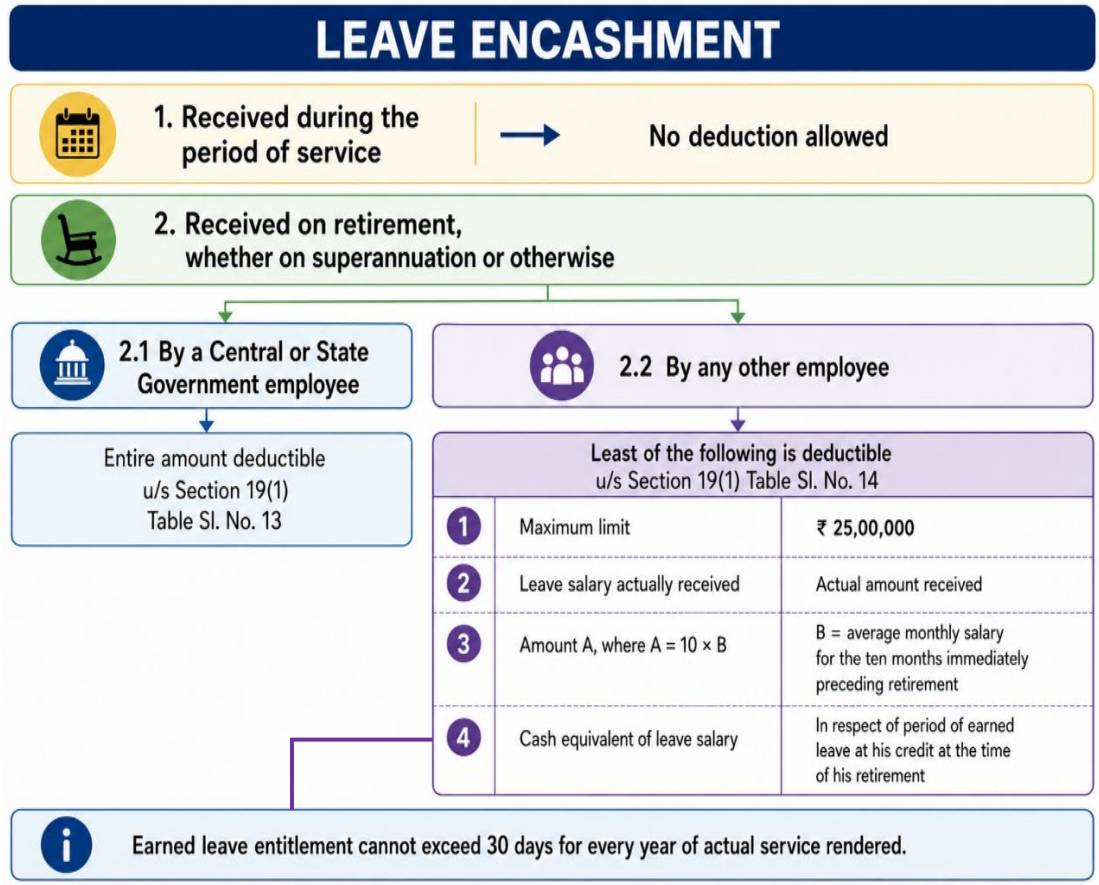
Generally, employees are allowed to take leave during the period of service. Employees may avail such leave or in case the leave is not availed, then the leave may either lapse or be accumulated for future or allowed to be encashed every year or at the time termination/retirement. The payment received on account of encashment of unavailed leave would form part of the salary.

Deduction in respect of amount received by way of encashment of unutilised earned leave by an employee at the time of his retirement, whether on superannuation or otherwise is allowed under section 19(1) (Table SI No. 13 & 14).

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Deduction in respect of encashment of unutilised earned leave on retirement [Section 19(1) (Table Sl No. 13 & 14)]

The deduction provisions are depicted hereunder:



- Where any payment on account of cash equivalent of leave salary is received from one or more employers in the same tax year, then the aggregate amount of deduction in respect of leave salary cannot exceed A – B,



Where,

A= Limit specified by the Central Government, i.e., ₹ 25,00,000

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B= aggregate amount of payment(s) received in one or more earlier tax years and allowed as an exemption or deduction from the total income of such tax year(s).

- Where leave salary is received in any earlier tax year from a former employer and again received from another employer in a later tax year, the limit of ₹ 25,00,000 will be reduced by the amount of leave salary exempt/deducted earlier.
- Salary means basic salary and dearness allowance, if provided in the terms of employment for retirement benefits and commission which is expressed as a fixed percentage of turnover.
- Deduction under section 19(1) (Table Sl. No.13 and 14) would be available to an assessee irrespective of the regime under which he pays tax.

ILLUSTRATION 5

Mr. Gupta retired on 1.12.2026 after 20 years of service and received leave salary of ₹ 5,00,000. Other details of his salary income are:

Basic Salary	:	*5,000 p.m. (₹ 1,000 was increased w.e.f. 1.4.2026)*
Dearness Allowance	:	*3,000 p.m. (60% of which is for retirement benefits)*
Commission	:	*500 p.m.*
Bonus	:	*1,000 p.m.*
Leave availed during service	:	*480 days*

He was entitled to 30 days leave every year.

You are required to compute deduction in respect of leave salary assuming:

(a) He is a government employee.

(b) He is a non-government employee.

SOLUTION

(a) He is a government employee

Entire amount of leave salary of ₹ 5,00,000 would be allowed as deduction under section 19(1) (Table Sl. No.13).

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(b) He is a non-government employee

Deduction would be least of the following as per section 19(1) (Table Sl. No. 14)

(i) Cash equivalent of leave salary in respect of the period of earned leave standing at the credit of the employee at the time of his retirement (not exceeding 30 days per year of service)

Unavailed leave = Leave allowed – Leave taken

= (30 days per year × 20 years) – 480 days= 120 days

$$\text{Cash Equivalent} = \text{Leave Salary received X } \frac{\text{Leaves unavailed}}{\text{Leaves encashed at retirement}}$$

$$\text{Cash Equivalent} = 5{,}00{,}000 \text{ X } \frac{120}{120} = ₹\ 5{,}00{,}000$$

(ii) A = 10 X B

B= Average monthly salary for 10 months immediately preceding his retirement

$$\text{i.e., } \left[10\text{x}\frac{\text{Salary of last 10 months i.e. Feb. - Nov.}}{\text{10 months}}\right]$$

$$= \left[10 \times \frac{(5000\times8)+(4000\times2)+(60\%\times3000\times10)}{\text{10 months}}\right] \quad ₹\ 66{,}000$$

(iii) Statutory limit ₹ 25,00,000

(iv) Leave salary received ₹ 5,00,000

Hence, deduction in respect of leave salary would be ₹ 66,000.

Provident fund

Provident fund scheme is a scheme intended to give monetary benefits to an employee at the time of his retirement. Under this scheme, a specified sum is deducted from the salary of the employee each month or at regular intervals as his contribution towards the fund. The employer also generally contributes the same amount out of his pocket, to the fund. The contributions of the employer and the employee are invested in approved securities. Interest earned thereon is also credited to the account of the employee. Thus, the credit balance in a provident fund account of an employee consists of the following:

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(i) employee's contribution

(ii) interest on employee's contribution

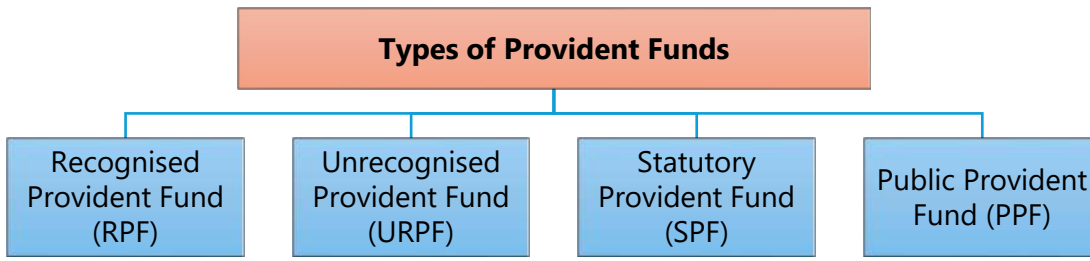
(iii) employer's contribution

(iv) interest on employer's contribution.

The accumulated balance is paid to the employee at the time of his retirement or resignation. In the case of death of the employee, the same is paid to his legal heirs.

The provident fund represents an important source of small savings available to the Government. Hence, the Income-tax Act, 2025 gives certain deductions on savings in a provident fund account.

Transferred Balance in respect of recognized provident fund: Aggregate of all sums comprised in the transferred balance of an employee participating in the recognized provident fund to the extent it is taxable is included in the salary income of the employee.



(i) Recognised Provident Fund (RPF): Recognised provident fund means a provident fund recognised by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner of Income-tax for the purposes of income-tax. It is governed by Part A of Schedule XI to the Income-tax Act, 2025. This schedule contains various rules regarding the following:

(a) Recognition of the fund

(b) Employee's and employer's contribution to the fund

(c) Treatment of accumulated balance etc.

A fund constituted under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 will also be a Recognised Provident Fund.

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According to section 16(i), annual accretion to the balance at the credit of an employee participating in RPF, to the extent it is chargeable to tax as per para 6 of Part A of Schedule XI, forms part of salary.

The said para 6 states that the portion of annual accretion to the balance of an employee in a RPF which consists of **interest credited at a rate exceeding the rate fixed by the Central Government notification shall be included in his total income and shall be liable to income tax.** The Central Government has by notification fixed such rate of interest at 9.5% per annum.



Annual accretion in relation to the balance to the credit of an employee means the increase to such balance, in any year arising from contributions and interest.



Contribution means any sum credited by or on behalf of any **employee** out of his salary, or by an **employer** out of his own funds, to the individual account of an employee, excluding any sum credited as interest.

(ii) **Unrecognised Provident Fund (URPF):** A fund which is not recognised by the Commissioner etc. of Income-tax is Unrecognised Provident Fund.

(iii) **Statutory Provident Fund (SPF):** The SPF is governed by Provident Funds Act, 1925. It applies to employees of government, railways, semi-government institutions, local bodies, universities and all recognised educational institutions.

(iv) **Public Provident Fund (PPF):** Public provident fund is operated under the Public Provident Fund Act, 1968. Membership of the fund is open to every individual though it is ideally suited to self-employed people. A salaried employee may also contribute to PPF in addition to the funds operated by his employer. An individual may contribute to the fund on his own behalf or on behalf of a minor of whom he is the guardian.

For getting a deduction under section 123, a member is required to contribute to the PPF a minimum of ₹ 500 in a year. The maximum amount that may qualify for deduction on this account is ₹ 1,50,000 as per PPF rules.

A member of PPF may deposit his contribution in as many installments in multiples of ₹ 500 as is convenient to him. The amount of contribution may be paid at any of the offices or branch offices of the State Bank of India or its subsidiaries and specified branches of banks or any Post Office.

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The tax treatment is given below:

During the Employment period				
Particulars	**Recognised PF**	**Unrecognised PF**	**Statutory PF**	**Public PF**
Employer's Contribution	Not taxable except as specified in Note below.	Not taxable at the time of contribution	Fully exempt	N.A. (as there is only assessee's own contribution)
Note **-** *Aggregate contribution in recognized provident fund, notified pension scheme referred to in section 124(1) and in an approved Superannuation fund in excess of ₹ 7,50,000 in a tax year would be taxable as perquisite as per section 17(1)(h).*				
Employee's Contribution	Eligible for deduction u/s 123, where an employee exercises the option under section 202(4) of shifting out of the default tax regime	Not eligible for deduction	Eligible for deduction u/s 123, where an employee exercises the option under section 202(4) of shifting out of the default tax regime	Eligible for deduction u/s 123, where an employee exercises the option under section 202(4) of shifting out of the default tax regime
Interest Credited on Employer's Contribution	Amount in excess of 9.5% p.a. is taxable as "salary" u/s 16	Not taxable at the time of credit of interest	Fully exempt	N.A.
Interest Credited on Employee's Contribution	Amount in excess of 9.5% p.a. is taxable as "salary" u/s 16 **[See Note below]**	Not taxable at the time of credit of interest	Exempt upto certain limit of contribution **[See Note below]**	Fully exempt
Note – *However, where employee's/person's yearly contribution made on or after 1.4.2021 exceed ₹ 5,00,000 (where no contribution is made by employer) and ₹ 2,50,000 in other cases, entire interest accrued during the tax year on such*				

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exceeding contribution would be taxable as per Schedule II (Table Sl No. 3 & 4). Such interest shall be computed in the following manner as provided in Rule 277.

Computation of interest on employee contribution exceeding the threshold limit [Rule 277]

For calculation of taxable interest, separate accounts within the provident fund account shall be maintained during the tax year 2021-22 and all subsequent tax years for taxable contribution and non-taxable contribution made by a person.

(a)	**Non-taxable contribution account – Aggregate of**
	(i) closing balance in the account as on 31.03.2021; (ii) any contribution made by the person in the account during the tax year 2021-22 and subsequent tax years, 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 – Aggregate of**
	(i) contribution made by the person in the account during the tax year 2021-22 and subsequent tax years, which is in excess of the yearly threshold limit of ₹ 5,00,000/ ₹ 2,50,000, as the case may be; and (ii) interest accrued on (i) as reduced by the withdrawal, if any, from such account.

At the time of withdrawals on retirement/termination

Particulars	Recognised PF	Unrecognised PF	Statutory PF	Public PF
Amount withdrawn on retirement/ termination	Exempt under Schedule II (Table Sl No. 4) subject to certain conditions detailed in the table below.	• Employee's contribution is not taxable. • Interest on Employee's contribution is taxable under 'Income from Other Sources'. • Employer's contribution	Exempt under Schedule II (Table Sl No. 3) **[Refer Table below]**	Exempt under Schedule II (Table Sl No. 3) **[Refer Table below]**

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		and interest thereon is taxable salary		

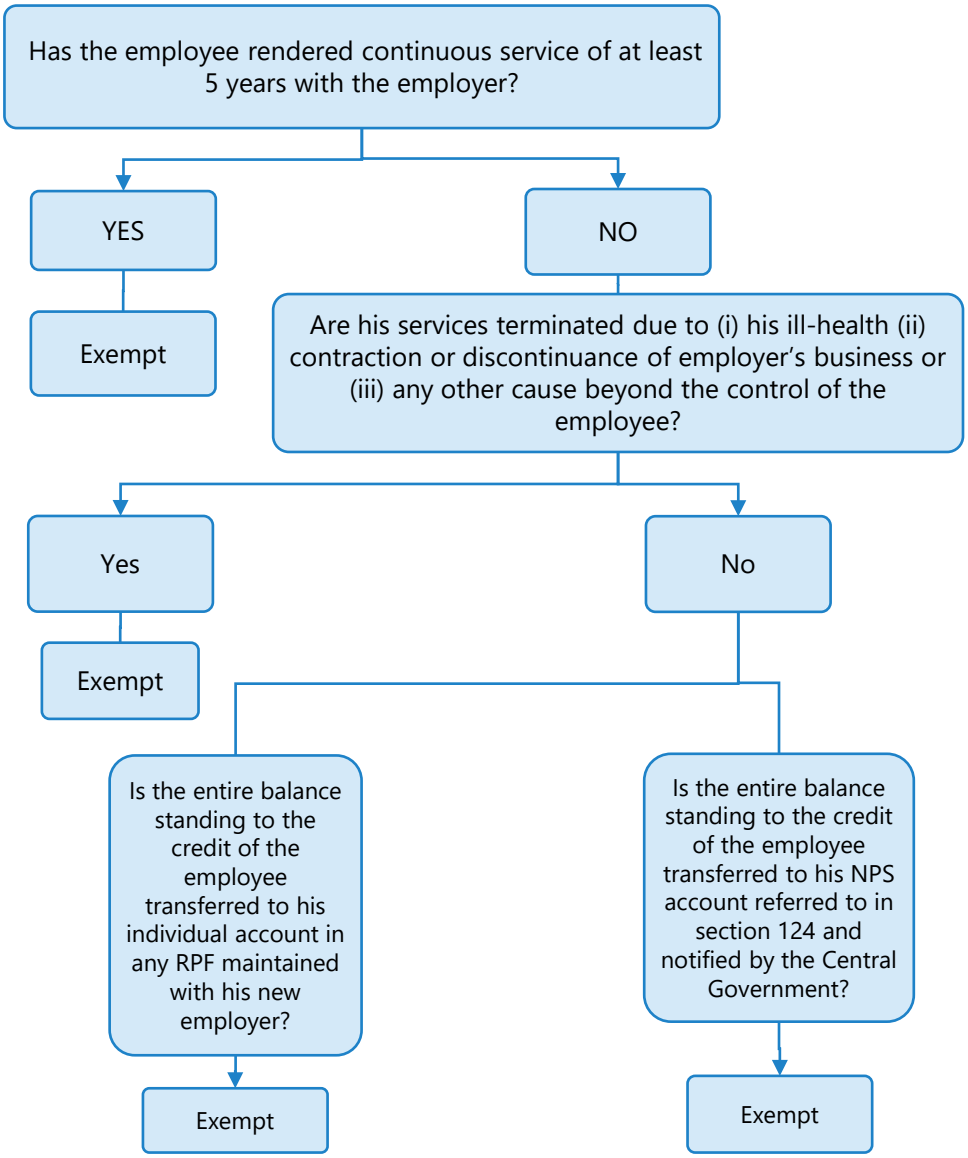
Payment from various funds shall be exempt from tax as follows:

Related Schedule	Income not to be included in total income	Conditions
Schedule II (Table Sl No. 3)	Any payment from a Provident Fund (PF) to which Provident Fund Act, 1925 applies or from Public Provident Fund	(a) Interest accrued during the tax year shall not be exempted from total income where- (i) It is attributable to the contribution (including aggregate contribution) made by that person on or after 1.4.2021 (ii) Such contribution exceeds ₹ 5,00,000 in a tax year where no contribution is made by employer and ₹ 2,50,000 in other cases (b) Interest not to be exempted shall be computed as prescribed in Rule 277 discussed above.
Schedule II (Table Sl No. 4)	Accumulated balance due and becoming payable to an employee participating in RPF to the extent provided in Para 8 of Part A of Schedule XI discussed in the chart below.	(a) Interest accrued during the tax year shall not be exempted from total income where- (i) It is attributable to the contribution (including aggregate contribution) made by that person on or after 1.4.2021 (ii) Such contribution exceeds ₹ 5,00,000 in a tax year where no contribution is made by employer and ₹ 2,50,000 in other cases (b) Interest not to be exempted shall be computed as prescribed in Rule 277 discussed above.

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Exemption under Schedule II (Table SI No.3 & 4) would be available to an assessee irrespective of the regime under which he pays tax.

Exemption of Accumulated balance of RPF, payable to an employee



1. Where the accumulated balance in RPF becomes taxable, the tax payable in each of the years would be computed as if the fund

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had been an URPF and the difference in tax would be payable by the employee.

2. If, after termination of his employment with one employer, the employee obtains employment under another employer, then, only so much of the accumulated balance in his provident fund account will be exempt which is transferred to his individual account in a recognised provident fund maintained by the new employer. In such a case, for exemption of payment of accumulated balance by the new employer, the period of service with the former employer shall also be taken into account for computing the period of five years' continuous service.

ILLUSTRATION 6

Mr. A retires from service on December 31, 2026, after 25 years of service. Following are the particulars of his income/investments for the tax year 2026-27:

Particulars	***₹***
Basic pay @ ₹ 16,000 per month for 9 months	*1,44,000*
Dearness pay (50% forms part of the retirement benefits) ₹ 8,000 per month for 9 months	*72,000*
Lumpsum payment received from the Unrecognized Provident Fund	*6,00,000*
Deposits in the PPF account	*40,000*

Out of the amount received from the unrecognised provident fund, the employer's contribution was ₹ 2,20,000 and the interest thereon ₹ 50,000. The employee's contribution was ₹ 2,70,000 and the interest thereon ₹ 60,000. What is the taxable portion of the amount received from the unrecognized provident fund in the hands of Mr. A for the tax year 2026-27?

SOLUTION

Taxable portion of the amount received from the URPF in the hands of Mr. A for the tax year 2026-27 is computed hereunder:

Particulars	**₹**
Amount taxable under the head "Salaries":	
Employer's share in the payment received from the URPF	2,20,000

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Interest on the employer's share	50,000
Total	2,70,000
Amount taxable under the head "Income from Other Sources":	
Interest on the employee's share	60,000
Total amount taxable from the amount received from the fund	**3,30,000**

***Note**: Since the employee is not eligible for deduction under section 123 for contribution to URPF at the time of such contribution, the employee's share received from the URPF is not taxable at the time of withdrawal as this amount has already been taxed as his salary income.*

ILLUSTRATION 7

Will your answer be any different if the fund mentioned above was a recognised provident fund?

SOLUTION

Since the fund is a recognised one, and the maturity is taking place after a service of 25 years, the entire amount received on the maturity of the RPF will be fully exempt from tax.

ILLUSTRATION 8

Mr. B is working in XYZ Ltd. and has given the details of his income for the tax year 2026-27. You are required to compute his salary from the details given below:

Basic Salary	*₹ 10,000 p.m.*
D.A. (50% is for retirement benefits)	*₹ 8,000 p.m.*
Commission as a percentage of turnover	*0.1%*
Turnover during the year	*₹ 50,00,000*
Bonus	*₹ 40,000*
Gratuity	*₹ 25,000*
His own contribution in the RPF	*₹ 20,000*
Employer's contribution to RPF	*20% of his basic salary*
Interest accrued in the RPF @ 13% p.a.	*₹ 13,000*

Assume he has shifted out of the default tax regime by exercising option under section 202(4).

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SOLUTION

Computation of Salary of Mr. B for the tax year 2026-27

Particulars	₹	₹
Basic Salary [₹ 10,000 × 12]		1,20,000
Dearness Allowance [₹ 8,000 × 12]		96,000
Commission on turnover [0.1% × ₹ 50,00,000]		5,000
Bonus		40,000
Gratuity		25,000
Employer's contribution to RPF [Not taxable since it does not exceed ₹7,50,000]		Nil
Interest accrued in the RPF@13% p.a.	13,000	
Less: Exempt@9.5% p.a.	9,500	3,500
Gross Salary		**2,89,500**
Less: Standard Deduction		50,000
Net Salary		**2,39,500**

Notes:

1. Gratuity received during service is fully taxable.

2. Employee's contribution to RPF is **not** taxable. It is eligible for deduction under section 123, since he exercises the option under section 202(4) of shifting out of the default tax regime.

Notified Pension Scheme

National Pension scheme is a scheme approved by the Government for Indian citizen aged between 18-70 years. Subscribers of the NPS account contributes some amount in their account. In case of any employee, being a subscriber of the NPS account, employer may also contribute into the employee's account.

The contribution made by the Central Government or any other employer in the tax year to the account of an employee under a notified pension scheme referred to in section 124 is taxable under the head "Salaries".

Further, if the employer contribution to RPF, NPS and superannuation fund exceeds ₹ 7,50,000 in a tax year, the excess would be treated as a taxable perquisite.

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However, while computing total income of the employee, a deduction under section 124(1)/(2) is allowed to the assessee in respect of the employer's contribution as does not exceed -

- 14% of salary, where such contribution is made by employer being Central Government or State Government
- 10% of salary, where such contribution is made by any other employer [If employee paying tax under default tax regime u/s 202(1), then employer's contribution as does not exceed @ 14% of salary is allowed as deduction].



The basic salary of Mr. Ganesh, CEO of A Ltd., is ₹ 50 lakh for tax year 2026-27. Dearness allowance which forms part of pay is 60% of basic salary. A Ltd. contributes 10% of salary to NPS account of Mr. Ganesh. Assume that there is no employer contribution to PF or superannuation fund. Discuss the tax implication in respect of A Ltd.'s contribution to NPS.

The entire employer contribution of ₹ 8 lakh (10% of ₹ 80 lakh) would be included in salary. In addition, ₹ 50,000, being the employer contribution to NPS in excess of ₹ 7.50 lakh would be included as perquisite. Deduction u/s 124(1) for employer contribution to NPS would be ₹ 8 lakh. In effect, in this example, ₹ 50,000 would be included in total income and subject to tax.

Deduction for employee's contribution under a pension scheme is available under section 123 as well as 124(3)/(4). (Deduction under section 123 and 124 will be discussed in detail in Chapter 6 – "Deductions from Gross Total Income")



Deduction under section 124(1)/(2) in respect of employer's contribution would be available to an assessee irrespective of the regime under which he pays tax. However, deduction under section 123 and 124(3)/(4) in respect of employee's contribution would be available to an assessee only if he exercises the option under section 202(4) of shifting out of the default tax regime.

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Agniveer Corpus Fund

Agnipath Scheme is a Central Government Scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces as Agniveers for four years to serve the country.

In pursuance of the Government's decision to implement the Agnipath Scheme, 2022, the Competent Authority has decided to create a non-lapsable dedicated Agniveer Corpus Fund in the interest-bearing section of the Public Account head.

In this account, fixed percentage of monthly emoluments would be contributed by the Agniveer and matching amount would be contributed by the Central Government.

The Agniveer Corpus Fund is defined as a Fund in which consolidated contributions of all the Agniveers and matching contributions of the Government along with interest on these contributions would be held in their respective accounts.

The contribution made by the Central Government in the tax year, to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in section 125 would form part of salary of employees under section 16(1).

However, while computing total income of an individual enrolled in the Agnipath Scheme, being the assessee, a deduction under section 125 is allowed to the assessee in respect of his contribution as well as Central Government's contribution under Agniveer Corpus Fund referred therein.

(Deduction under section 125 will be discussed in detail in Chapter 6 – "Deductions from Gross Total Income")



- Deduction under section 125(2) in respect of Central Government's contribution would be available to an assessee irrespective of the regime under which he pays tax.
- However, deduction under section 125(1) in respect of employee's contribution would be available to an assessee only if he exercises the option under section 202(4) of shifting out of the default tax regime.

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7.	*Interest credited during the tax year in a Public Provident Fund account would lose exemption where the contribution made on or after 1.4.2021 exceeds the specified threshold limit. The threshold limit where no employer contribution is made is –*	
	(a)	*₹ 1,50,000*
	(b)	*₹ 2,50,000*
	(c)	*₹ 5,00,000*
	(d)	*₹ 7,50,000*
8.	*Interest on employee's contribution in an Unrecognised Provident Fund at the time of withdrawal shall be taxable under the head –*	
	(a)	*Salaries*
	(b)	*Capital Gains*
	(c)	*Income from Other Sources*
	(d)	*Profits and Gains of Business or Profession*
9.	*Mr. Ganesh receives employer contribution to NPS amounting to ₹ 8 lakh during the tax year. There is no employer contribution to PF or superannuation fund. The amount taxable as perquisite would be –*	
	(a)	*Nil*
	(b)	*₹ 50,000*
	(c)	*₹ 8,00,000*
	(d)	*₹ 7,50,000*

1.3.2 Perquisite

The term "perquisite" is defined under section 17(1). The definition of perquisite is an inclusive one. The Income- tax Rules, 2026 contain the provisions for valuation of perquisites. It is important to note that only those perquisites which the employee actually enjoys have to be valued and taxed in his hand.

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Suppose a company offers rent-free housing accommodation to an employee but the latter declines to accept it, then the value of such accommodation obviously cannot be evaluated and taxed in the hands of the employees.

Let's discuss the perquisite and their valuation rules one by one –

Rent Free Accommodation

Clause (a) and (b) of section 17(1) contains the provisions relating to rent free accommodation as follows:

(a) Value of rent-free accommodation provided to the assessee by his employer computed in the prescribed manner shall be considered as perquisite and taxable as salary.

(b) Value of any accommodation provided to the assessee by his employer at a concessional rate, which exceeds the rent recoverable from, or payable by, the assessee and such value of accommodation should be computed in the prescribed manner shall also be considered as perquisite and taxable as salary.

Accordingly, for the purpose of computing the income chargeable under the head "Salaries", the value of perquisites provided by the employer, either directly or indirectly, to the employee or to any member of his household by reason of his employment, shall be determined in accordance with Rule 15.

Rule 15(2) prescribes that the value of residential accommodation provided by the employer referred in (a) and (b) above during the tax year shall be determined in the following manner –

Sl. No.	Circumstances	In case of unfurnished accommodation	In case of furnished accommodation
(1)	(2)	(3)	(4)
1.	**Where the accommodation is provided by the Central Government or any State**	• License fee determined by the Central Government or any State Government in respect of	The value of perquisite as determined under column (3) should be **increased by** **(i) If furniture is owned by employer,**

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	Government to the employees	accommodation in accordance with the rules framed by such Government **as reduced by** • the rent actually paid by the employee.	10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment). **(ii) If such furniture is hired from a third party,** • The actual hire charges payable for the same **as reduced by** • any charges paid or payable for the same by the employee during the tax year
2.	**Where the accommodation is provided by any other employer** (a) where the accommodation is owned by the employer	(i) 10% of salary in cities having population > 40 lakhs as per 2011 census; (ii) 7.5% of salary in cities having population > 15 lakhs ≤ 40 lakhs as per 2011 census; (iii) 5% of salary in other areas, **as reduced by** the rent, if any, actually paid by the employee. Salary to be considered for the period during which the said accommodation was	The value of perquisite as determined under column (3) should be **increased by** **(i) If furniture is owned by employer,** 10% per annum of the cost of furniture (including television sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets). **(ii) If such furniture is hired from a third party,** • the actual hire charges payable for the same **as reduced by** • any charges paid or payable for the same by

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		occupied by the employee during the tax year	the employee during the tax year
	(b) where the accommodation is taken on lease or rent by the employer	• Actual amount of lease rental paid or payable by the employer or • 10% of salary whichever is lower, **as reduced by** • the rent, if any, actually paid by the employee. Salary to be considered for the period during which the said accommodation was occupied by the employee during the tax year	The value of perquisite as determined under column (3) should be **increased by** **(i) If furniture is owned by employer,** 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets). **(ii) If such furniture is hired from a third party,** • the actual hire charges payable for the same **as reduced by** • any charges paid or payable for the same by the employee during the tax year
3.	**Where the accommodation is provided by any employer, whether Government or any other employer, in a hotel.**	Not applicable	• 24% of salary paid or payable or • the actual charges paid or payable to such hotel, **whichever is lower,** for the period during which such accommodation is provided **as reduced by**

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			• the rent, if any, actually paid or payable by the employee. However, where the employee is provided such accommodation for a period not exceeding in aggregate 15 days on his transfer from one place to another, there would be no perquisite.

Exception: Rent free official residence provided to a Judge of a High Court or to a Judge of the Supreme Court is not taxable if they exercise the option of shifting out of the default tax regime.



[As per section 22A(2) of the High Court Judges (Conditions of Service) Act,1954 and section 23(1A) of the Supreme Court Judges (salaries and Conditions of Services) Act,1958]

Notes:

(1) **Accommodation provided on account of transfer from one place to another:** If an employee is provided with accommodation, on account of his transfer from one place to another, 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 accommodation which has the lower perquisite value, as calculated above, for a period not exceeding 90 days and thereafter, the value of perquisite shall be charged for both such accommodations.

(2) **Value of perquisite to be restricted to CII:** Where the accommodation is owned or taken on lease or rent by the employer and the same accommodation is continued to be provided to the same employee for more than one tax year, the value of perquisite as calculated in Sl. No. 2. above shall not exceed the amount so calculated for the first tax year (first tax year shall be tax year 2023-24 or tax year in which the accommodation is provided to the employee, whichever is later), as multiplied by the amount which is a ratio of the CII for the tax year for



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which the value is calculated and the CII for the tax year in which the accommodation was initially provided to the employee.

Perquisite value shall be lower of the following:

(a) Perquisite value determined for the current tax year as per the rule stated above.

(b) Perquisite value determined for first tax year in which accommodation was provided multiplied by (x) CII of current tax year/ CII of the first tax year.

(3) **Employee serving on deputation:** Where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government,-

(i) the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and

(ii) the value of perquisite of such an accommodation shall be the amount calculated in accordance with Sl. No.2.(a) of the above table, as if the accommodation is owned by the employer.

(4) **"Accommodation"** includes a house, flat, farm house or part thereof, or accommodation in a hotel, motel, service apartment, guest house, caravan, mobile home, ship or other floating structure.

(5) **"Hotel"** includes licensed accommodation in the nature of motel, service apartment or guest house.

(6) **"First tax year"** means the tax year 2023-24 or the tax year in which the accommodation was provided to the employee, whichever is later.

Meaning of Salary for Valuation Rules

"Salary" includes pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called, from one or more employers, as the case may be. However, it does not include the following, namely–

(1) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;

(2) employer's contribution to the provident fund account of the employee;

(3) allowances which are exempted from the payment of tax;

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(4) value of the perquisites specified in section 17(1);

(5) any payment or expenditure specifically excluded under section 17(2);

(6) lump-sum payments 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.

ILLUSTRATION 9

Mr. C is a Finance Manager in ABC Ltd. The company has provided him with rent-free unfurnished accommodation owned by ABC Ltd. in Mumbai. He gives you the following particulars:

Basic salary	*₹ 8,500 p.m.*
Dearness Allowance	*₹ 2,000 p.m. (30% is for retirement benefits)*
Bonus	*₹ 1,500 p.m.*

Even though the company allotted the house to him on 1.4.2026, he occupied the same only from 1.11.2026. Calculate the taxable value of the perquisite for tax year 2026-27.

SOLUTION

Value of the rent-free unfurnished accommodation

= 10% of salary for the relevant period

= 10% of [(₹ 8,500 × 5) + (₹ 2,000 × 30% × 5) + (₹ 1,500 × 5)] ***[See Note below]***

= 10% of ₹ 53,000 = ₹ 5,300.

Note: *Since Mr. C occupies the house only from 1.11.2026, we have to include the salary due to him only in respect of months during which he has occupied the accommodation. Hence salary for 5 months (i.e. from 1.11.2026 to 31.03.2027) will be considered.*

ILLUSTRATION 10

Using the data given in the previous illustration 9, compute the value of the perquisite if Mr. C is required to pay a rent of ₹ 1,000 p.m. to the company for the use of this accommodation.

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SOLUTION

First of all, we have to see whether the accommodation is provided at a concessional rate. If the value of accommodation computed in prescribed manner exceeds the rent recoverable, or payable by, the assessee, the accommodation would be deemed to have been provided at a concessional rate.

In this case, 10% of salary would be ₹ 5,300 (i.e. 10% of ₹ 53,000). The rent paid by the employee is ₹ 5,000 (i.e., ₹ 1,000 x 5). Since 10% of salary exceeds the rent recovered from the employee, the accommodation would be deemed to have been provided at a concessional rate.

Value of the accommodation	= ₹ 5,300
Less: Rent paid by the employee (₹ 1,000 × 5)	= ₹ 5,000
Perquisite value of accommodation given at a concessional rent	**₹ 300**

ILLUSTRATION 11

Using the data given in illustration 9, compute the value of the perquisite if ABC Ltd. has taken this accommodation on a lease rent of ₹ 1,025 p.m. and Mr. C is required to pay a rent of ₹ 1,000 p.m. to the company, for the use of this accommodation.

SOLUTION

Here again, we have to see whether the accommodation is provided at a concessional rate.

In the case of accommodation taken on lease by the employer, the accommodation would be deemed to have been provided at a concessional rate if the rent paid by the employer or 10% of salary, whichever is lower, exceeds rent recoverable from the employee.

In this case, 10% of salary is ₹ 5,300 (i.e. 10% of ₹ 53,000). Rent paid by the employer is ₹ 5,125 (i.e. ₹ 1,025 x 5). The lower of the two is ₹ 5,125, which exceeds the rent paid by the employee i.e., ₹ 5,000 (₹ 1,000 x 5). Therefore, the accommodation would be deemed to have been provided at a concessional rate.

Value of the accommodation **[Note]**	= ₹ 5,125
Less: Rent paid by the employee (₹ 1,000 × 5)	= ₹ 5,000
Value of accommodation given at a concessional rent	**= ₹ 125**

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Note: Value of the accommodation is lower of

(i) Lease rent paid by the company for relevant period = 1,025 × 5 = ₹ 5,125

(ii) 10% of salary for the relevant period (computed earlier) = ₹ 5,300

ILLUSTRATION 12

Using the data given in illustration 9 compute the value of the perquisite if ABC Ltd. has provided a television (WDV ₹ 10,000; Cost ₹ 25,000) and two air conditioners. The rent paid by the company for the air conditioners is ₹ 400 p.m. each. The television was provided on 1.1.2027. However, Mr. C is required to pay a rent of ₹ 1,000 p.m. to the company, for the use of this furnished accommodation.

SOLUTION

Here again, we have to see whether the accommodation is provided at a concessional rate. In the case of accommodation owned by the employer in a city having a population exceeding 40 lakhs, the accommodation would be deemed to have been provided at a concessional rate, if 10% of salary exceeds rent recoverable from the employee. In case of furnished accommodation, the excess of hire charges paid or 10% p.a. of the cost of furniture, as the case may be, over and above the charges paid or payable by the employee has to be added to the value arrived at above to determine whether the accommodation is provided at a concessional rate.

In this case, 10% of salary is ₹ 5,300 (i.e. 10% of ₹ 53,000). The value of furniture of ₹ 4,625 **(See Note below)** is to be added to 10% of salary. The rent paid by the employee is ₹ 5,000 (i.e. ₹ 1,000 x 5). Therefore, the accommodation would be deemed to have been provided at a concessional rate.

Value of the accommodation (computed earlier)	= ₹ 5,300
Add: Value of furniture provided by the employer **[Note]**	= ₹ 4,625
Value of furnished accommodation	= ₹ 9,925
Less: Rent paid by the employee (₹ 1,000 × 5)	= ₹ 5,000
Value of furnished accommodation given at a concessional rent	**= ₹ 4,925**

Note: Value of the furniture provided = (₹ 400 p.m. × 2 × 5 months) + (₹ 25,000 × 10% p.a. for 3 months) = ₹ 4,000 + ₹ 625 = ₹ 4,625

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ILLUSTRATION 13

Using the data given in illustration 12 above, compute the value of the perquisite if Mr. C is a government employee. The licence fees determined by the Government for this accommodation was ₹ 700 p.m.

SOLUTION

In the case of Government employees, the accommodation would be deemed to have been provided at a concessional rate, if the licence fees determined by the employer as increased by the value of furniture and fixture exceeds the rent recovered/ recoverable from the employee.

In this case, ₹ 3,500 (licence fees: ₹ 700 x 5) + ₹ 4,625 (Value of furniture) is the value of furnished accommodation. The rent paid by the employee is ₹ 5,000 (i.e. ₹ 1,000 x 5). Therefore, the accommodation would be deemed to have been provided at a concessional rate.

Value of the accommodation (₹ 700 × 5)	= ₹ 3,500
Add: Value of furniture provided by the employer (computed earlier)	= ₹ 4,625
Value of furnished accommodation	**= ₹ 8,125**
Less: Rent paid by the employee (₹ 1,000 × 5)	= ₹ 5,000
Perquisite value of furnished accommodation given at concessional rent =	**₹ 3,125**

Specified Security or Sweat Equity Shares

As per section section 17(1)(d), value of any specified security or sweat equity shares allotted or transferred by the current or former employer, free of cost or at concessional rate to the employee is taxable as perquisite under the head "Salaries".

Specified security, being an equity share

Rule 15(6) prescribes, the fair market value of any specified security or sweat equity share, being an equity share in a company, on the date on which the option is exercised by the employee, shall be determined in the following manner –

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Valuation of specified security or sweat equity share, being an equity share in a company

(1) **If shares are listed on recognized stock exchange on the date of the exercising of the option, -** In a case where, on the date of the exercising of the option, the share in the company is listed on a recognized stock exchange, the fair market value shall be the **average of the opening price and closing price of the share on that date** on the said stock exchange.

If shares are listed on more than one recognized stock exchange -Where on the date of exercising of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the **average of opening price and closing price** of the share on the recognised stock exchange which records the **highest volume of trading** in the share.

If no trading in share on recognized stock exchange - Where on the date of exercising of the option, there is **no trading** in the share on any recognized stock exchange, the fair market value shall be -

(a) the **closing price** of the share on any recognised stock exchange on a date closest to the date of exercising of the option and immediately preceding such date; or

(b) the **closing price** of the share on a recognised stock exchange, which records the **highest volume** of trading in such share, if the closing price, as on the date closest to the date of exercising of the option and immediately preceding such date, is recorded on **more than one recognized stock exchange.**

"Closing price" of a share on a recognised stock exchange on a date shall be the price of the last settlement on such date on such stock exchange.

However, where the stock exchange quotes both "buy" and "sell" prices, the closing price shall be the "sell" price of the last settlement.

"Opening price" of a share on a recognised stock exchange on a date shall be the price of the first settlement on such date on such stock exchange.

However, where the stock exchange quotes both "buy" and "sell" prices, the opening price shall be the "sell" price of the first settlement.

(2) **If shares are not listed on recognized stock exchange -** In a case where, on the date of exercising of the option, the share in the company is not listed

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on a recognised stock exchange, the fair market value shall be such value of the share in the company as determined by a merchant banker on the specified date.

For this purpose, **"specified date"** means -

(i) the date of exercising of the option; or

(ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

Note: Where any amount has been recovered from the employee, the same shall be deducted to arrive at the value of perquisites.

ILLUSTRATION 14

AB Co. Ltd. allotted 1000 sweat equity shares to Sri Chand in June 2026. The shares were allotted at ₹ 200 per share as against the fair market value of ₹ 300 per share on the date of exercise of option by the allottee viz. Sri Chand. The fair market value was computed in accordance with the method prescribed under the Act.

(i) What is the perquisite value of sweat equity shares allotted to Sri Chand?

(ii) In the case of subsequent sale of those shares by Sri Chand, what would be the cost of acquisition of those sweat equity shares?

SOLUTION

(i) As per section 17(1)(d), the value of sweat equity shares chargeable to tax as perquisite shall be **the fair market value of such shares on the date on which the option is exercised by the assessee** as reduced by the amount actually paid by, or recovered from, the assessee in respect of such shares.

Particulars	₹
Fair market value of 1000 sweat equity shares @ ₹ 300 each	3,00,000
Less: Amount recovered from Sri Chand 1000 shares @ ₹ 200 each	2,00,000
Value of perquisite of sweat equity shares allotted to Sri Chand	**1,00,000**

(ii) As per section 73(1) (Table SI No. 4), where capital gain arises from transfer of sweat equity shares, the cost of acquisition of such shares shall be the fair

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market value which has been taken into account for perquisite valuation under section 17(1)(d).

(The provisions of section 73(1) are discussed in Unit 4: Capital Gains of this chapter)

Therefore, in case of subsequent sale of sweat equity shares by Sri Chand, the cost of acquisition would be ₹ 3,00,000.

Valuation of specified security, not being an equity share in a company



Rule 15(7) prescribes**,** the fair market value of any specified security, not being an equity share in a company, on the date on which the option is exercised by the employee, shall be such value as determined by a merchant banker on the specified date.

For this purpose**, "specified date"** means -

(i) the date of exercising of the option; or

(ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

Any other benefit or amenity

Section 17(1)(e) provide that the value of any other benefit or amenity as may be prescribed would be included in the definition of perquisite and taxable in the hands of all employees.

Accordingly, Rule 15(5) prescribes the rules for valuation of the following benefits or amenities chargeable to tax in the hands of all employees:-

1.	**Interest-free or concessional loan**		
	Nature of other benefits or amenities	**Value of perquisite**	**Conditions**
	Benefit from the provision of interest-free or concessional loan for any purpose	Sum equal to the interest computed - at the **annual rate** charged	**(a) No value would be charged** if such loans are made available

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	made available to the - employee or - any member of his household during the relevant tax year by the employer or any person on his behalf.	by the State Bank of India, - as on the 1st day of the relevant tax year in respect of loans for the same purpose advanced by it - on **the maximum outstanding monthly balance** - as reduced - by the interest, if any, actually paid by him or any such member of his household.	- for medical treatment in respect of specified diseases (like cancer, tuberculosis, etc.) or - for an amount **not exceeding** ₹ 2,00,000 **in the** aggregate. (b) Where the benefit relates to the loans made available for medical treatment referred to above, the exemption so provided shall not apply to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.
"Maximum outstanding monthly balance" means the aggregate outstanding balance for each loan as on the last day of each month.			
2.	**Travelling, touring and accommodation**		
	Nature of other benefits or amenities	**Value of perquisite**	**Conditions**
	The value of travelling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of	Sum equal to the amount of the expenditure incurred by such employer in that behalf.	**(a) If Travelling, touring, accommodation etc. facilities are maintained by employer for particular employees only -** Where such facility is maintained by the employer, and is not available uniformly to all employees, the value of benefit shall be taken to be the value at which such

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	his household, other than leave travel concession or assistance		facilities are offered by other agencies to the public. **(b) Expenses on any member of household accompanying such employee on office tour -** Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure so incurred shall also be an amenity. **(c) If official tour is extended as vacation -** However, where any official tour is extended as a vacation, the value of such fringe benefit shall be limited to the expenses incurred in relation to such extended period of stay or vacation. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.
3.	**Free or concessional food and non-alcoholic beverages**		
	Nature of other benefits or amenities	**Value of perquisite**	**Conditions**
	The value of free food and non-alcoholic beverages provided by the employer to an employee shall be	Amount of expenditure incurred by such employer **reduced by** the amount, if any, paid or recovered from the employee for	Following would not be treated as a perquisite - (1) free food and non-alcoholic beverages provided by such employer • during working hours at office or business premises or • through paid vouchers which

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		such benefit or amenity	are not transferable and usable only at eating joints, to the extent the value thereof either case does not exceed ₹ 200 per meal or (2) tea or snacks provided during working hours or (3) free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.
4.	**Value of gift, voucher or token in lieu of such gift**		
	Nature of other benefits or amenities	**Value of perquisite**	**Conditions**
	The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial occasions or otherwise from the employer	Sum equal to the amount of such gift	If the value of such gift, voucher or token, as the case may be, is below ₹ 15,000 in the aggregate during the tax year, the value of perquisite shall be taken as 'Nil'
5.	**Credit card expenses**		
	Nature of other benefits or amenities	**Value of perquisite**	**Conditions**
	The amount of expenses including membership fees and annual fees	Value of perquisite chargeable to tax as reduced by the amount, if any	Such expenses incurred wholly and exclusively for official purposes **would not be treated as a perquisite** if the following conditions are fulfilled.

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	incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card) provided by the employer, or otherwise, paid for or reimbursed by such employer	paid or recovered from the employee for such benefit or amenity.	(1) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure and the nature of expenditure; (2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.
6.	**Club expenditure**		
	Nature of other benefits or amenities	**Value of perquisite**	**Conditions**
	The value of benefit to the employee resulting from the payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by a member of his household	Actual amount of expenditure incurred or reimbursed by such employer on that account as reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.	Where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership. Further, if such expenditure is incurred wholly and exclusively for business purposes, it would not be treated as a perquisite provided the following conditions are fulfilled:- (1) complete details in respect of such expenditure are maintained by the employer which may, *inter alia,* include the date of expenditure, the nature of expenditure and its business expediency;

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			(2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties. (3) use of health club, sports and similar facilities provided uniformly to all employees by the employer.
7.	**Use of movable assets**		
	Nature of other benefits or amenities	**Value of perquisite**	**Conditions**
	The value of benefit to the employee resulting from the use by the employee or any member of his household of any movable asset (other than motor car and laptops, computers, tablets and mobile phones) belonging to the employer or hired by him.	10% p.a. of the actual cost of such asset, **or** the amount of rent or charge paid, or payable by the employer, **as the case may be as** reduced by the amount, if any, paid or recovered from the employee for such use.	There would be **no perquisite** for use of laptops, computers, tablets and mobile phones provide by the employer.
8.	**Transfer of movable assets**		
	Nature of other benefits or amenities	**Value of perquisite**	**Conditions**
	The value of benefit to the employee arising	**Actual cost** of such assets to the employer	**Assets transferred** / **Cost of normal wear and tear would be**

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	from the transfer of any movable asset belonging to the employer directly or indirectly to the employee or any member of his household.	**as reduced** by the cost of normal wear and tear and as further reduced by the amount, if any, paid or recovered from the employee being the consideration for such transfer.	Computers and electronic items: @50% on WDV Motor cars: @20% on WDV Any other asset: @10% on SLM Cost of normal wear and tear for each completed year during which such asset was put to use by employer.
9.	**Other benefit or amenity**		
	Nature of other benefits or amenities	**Value of perquisite**	**Conditions**
	The value of any other benefit or amenity, service, right or privilege provided by the employer except **expenses on telephones including mobile phone**	Cost to the employer under an arms' length transaction as reduced by the employee's contribution, if any.	

Payment in respect of an obligation of employee

As per section 17(1)(f), any sum paid by an employer in respect of any obligation which but for such payment, would have been payable by the employee.



If a domestic servant is engaged by an employee and the employer reimburses the salary paid to the servant, it becomes an obligation which the employee would have discharged even if the employer did not reimburse the same. This perquisite will be taxable in the hands of all employees.

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Assurance on the life of the assessee

Section 17(1)(g) provide that any sum payable by an employer directly or indirectly

- to effect an assurance on the life of the assessee or
- to effect a contract for an annuity,
- other than payment made to RPF or approved superannuation fund or deposit-linked insurance fund[11],

shall be chargeable as a perquisite in the hands of the employee.

However, there are schemes like group annuity scheme, employees state insurance scheme and fidelity insurance scheme, under which insurance premium is paid by employer on behalf of the employees. Such payments are not regarded as perquisite in view of the fact that the employees have only an expectancy of the benefit in such schemes.

Contribution to RPF, NPS and Superannuation Fund

As per section section 17(1)(h), aggregate amount of any contribution made

- in a recognised provident fund;
- in NPS;
- in an approved superannuation fund

by the employer to the account of the assessee, to the extent it exceeds ₹ 7,50,000 shall be chargeable as a perquisite in the hands of employee.

Interest credited on Employer's contribution to RPF, NPS and Superannuation Fund

As per section 17(1)(i), any annual accretion by way of interest, dividend or any other amount of similar nature during the tax year to the balance at the credit of the

- recognized provident fund or
- NPS or
- approved superannuation fund

[11] established under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 or Employees' Provident Fund and Miscellaneous Provisions Act, 1952

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to the extent it relates to the employer's contribution which is included in total income in any tax year (on account of the same having exceeded ₹ 7,50,000) under section 17(1)(h) computed in prescribed manner, shall be treated as a perquisite.

Accordingly, Rule 16 prescribes the following manner to compute the annual accretion by way of interest, dividend or any other amount of similar nature during the tax year-

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

Where,

TP	Taxable perquisite under section 17(1)(i) for the current tax year
PC	Aggregate amount of employer's contribution in excess of ₹ 7.5 lakh to RPF, NPS and approved superannuation fund during the tax year
PC1	Aggregate amount of employer's contribution in excess of ₹ 7.5 lakh to RPF, NPS and approved superannuation fund for the tax year or years commencing on or after 1st April, 2020 other than the current tax year
TP1	Aggregate of taxable perquisite under section 17(1)(i) for the tax year or years commencing on or after 1st April, 2020 other than the current tax year
R	I/ F(avg)
I	Aggregate amount of income accrued during the current tax year in RPF, NPS and approved superannuation fund
F(avg)	(Aggregate amount of balance to the credit of RPF, NPS and approved superannuation fund on first day of the current tax year (+) Aggregate amount of balance to the credit of RPF, NPS and approved superannuation fund on last day of the current tax year)/2

Where aggregate amount of TP1 and PC1 exceeds the aggregate amount of balance to the credit of the specified fund or scheme on the first day of the current tax year, then, the excess amount shall be ignored for the purpose of computing the aggregate of TP1 and PC1.

ILLUSTRATION 15

Mr. X is appointed as a CFO of ABC Ltd. in Mumbai from 1.9.2024. His basic salary is ₹6,00,000 p.m. He is paid 8% as D.A. He contributes 10% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. The accumulated balance in recognized provident fund as on 31.3.2026 and 31.3.2027 is

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₹ 27,43,048 and ₹ 46,48,555, respectively. Taxable perquisite under section 17(1)(i)[12] for the tax year 2025-26 is ₹ 1,532. Compute the perquisite value chargeable to tax in the hands of Mr. X u/s 17(1)(h) and 17(1)(i) for the tax year 2026-27. Prior to 1.9.2024, he was a consultant, whose professional fees was taxable under the head "Profits and gains of business or profession".

SOLUTION

Computation of perquisite value taxable u/s 17(1)(h) and 17(1)(i) for tax year 2026-27

1. Perquisite value taxable u/s 17(1)(h) = ₹ 7,77,600, being employer's contribution to recognized provident fund during the tax year 2026-27 – ₹ 7,50,000 = ₹ 27,600

2. Perquisite value taxable u/s 17(1)(i) = Annual accretion on perquisite taxable u/s 17(1)(i) = (PC/2)*R + (PC1 + TP1)*R

   = (27,600/2) x 0.09479 + (27,600 + 1,532) x 0.09479

   = ₹ 1,308 + ₹ 2,761 = ₹ 4,069

PC	ABC Ltd.'s contribution in excess of ₹ 7.5 lakh to recognized provident fund during tax year 2026-27 = ₹ 27,600
PC1	Amount of employer's contribution in excess of ₹ 7,50,000 to RPF in tax year 2025-26 = ₹ 27,600
TP1	Taxable perquisite under section 17(1)(i) for the tax year 2025-26 = ₹ 1,532
R	I/F(avg) = ₹ 3,50,307/ ₹ 36,95,802 = 0.09479
I	RPF balance as on 31.3.2027 – employee's and employer's contribution during the year – RPF balance as on 1.4.2026 = ₹ 3,50,307 (₹ 46,48,555 – ₹ 7,77,600 – ₹ 7,77,600 – ₹ 27,43,048 (op. bal.)
F(avg)	Balance to the credit of recognized provident fund as on 1st April, 2026 + Balance to the credit of recognized provident fund as on 31st March, 2027)/2 = (₹ 27,43,048 + ₹ 46,48,555)/2 = ₹ 36,95,802

[12] *Erstwhile section 17(2)(vii)*

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Note – *Interest on aggregate of Employee's contribution exceeding ₹2,50,000 during tax year 2024-25, 2025-26 and 2026-27 will also be chargeable to tax during tax year 2026-27.*

Exemption in respect of payment from approved superannuation funds [Schedule II Table Sl. No. 8]

Any payment received by any employee from an approved superannuation fund shall be entirely exempted if the payment is made

(a) on the death of a beneficiary.

(b) to an employee in lieu or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; or

(c) by way of refund of contribution on the death of a beneficiary; or

(d) by way of refund of contribution to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or his becoming incapacitated prior to such retirement, to the extent the payment made does not exceed the contribution made prior to 1-4-2026 and the interest thereon.

(e) by way of transfer to the NPS account of the employee.

Perquisites taxable only in the hands of specified employees

Any monetary obligation of the employee which is discharged by the employer is perquisite in the hands of all employees as per section 17(1)(f). However, sometimes instead of discharging employees' obligation, employer provides perquisites in the form of facility to the employee. The following are examples of such services:

(i) Provision of sweeper, gardener, watchman or personal attendant

(ii) Facility of use of gas, electricity or water supplied by employer

(iii) Free or concessional tickets

(iv) Use of motor car

(v) Free or concessional educational facilities

Such facilities and benefits are taxable only in the hands of employees specified under section 17(1)(c).

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Section 17(1)(c) provides that the value of any benefit or amenity granted or provided free of cost or at concessional rate -

(i) by a company to a director employee or an employee who has a substantial interest in the company

(ii) by any employer (including a company) to an employee [other than employee referred in sub-clause (i)] whose income under the head "Salaries" by way of monetary payment (from one or more employers) exceeds such amount as may be prescribed.

would be taxable as perquisite.

For ease of reference, these employees are referred as "Specified Employees".

For the purpose of this clause, Rule 17 prescribes the amount of ₹ 4,00,000 as the limit of salary for this purpose**.** The above salary is to be considered exclusive of the value of all benefits or amenities not provided by way of monetary payments.

For computing the prescribed amount, the following items have to be excluded or deducted:	
(a)	all non-monetary benefits;
(b)	monetary benefits which are exempt under schedule III. This is because the exemptions provided under schedule III are excluded completely from salaries.
(c)	Deductions under section 19

If an employee is employed with more than one employer, the aggregate of the salary received from all employers is to be taken into account in determining the prescribed limit i.e., Salary for this purpose = Basic Salary + Dearness Allowance + Commission, whether payable monthly or turnover based +Bonus + Fees + Any other taxable payment + Any taxable allowances + Any other monetary benefits – Deductions under section 19]



It is immaterial whether he is a full-time director or part-time director. It also does not matter whether he is a nominee of the management, workers, financial institutions or the Government. It is also not material whether or not he is a director throughout the tax year.

A person has a substantial interest in a company if he is a beneficial owner of equity shares carrying 20% or more of the voting power in the company.

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Beneficial and legal ownership: In order to determine whether a person has a substantial interest in a company, it is the beneficial ownership of equity shares carrying 20% or more of the voting power that is relevant rather than the legal ownership.



A, Karta of a HUF, is a registered shareholder of Bright Ltd. The amount for purchasing the shares is financed by the HUF. The dividend is also received by the HUF. Supposing further that A is an employee in Bright Ltd., the question arises whether he is a specified employee.

In this case, he cannot be called a specified person since he has no beneficial interest in the shares registered in his name. It is only for the purpose of satisfying the statutory requirements that the shares are registered in the name of A. All the benefits arising from the shareholding goes to the HUF. Conversely, it may be noted that an employee who is not a registered shareholder will be considered as a specified employee if he has beneficial interest in 20% or more of the equity shares in the company.

The value of such facilities and amenities are provided in Rule 15(3) & 15(4)

Valuation of Motor Car

As per Rule 15(3), the value of motor car used by an employee provided by an employer shall be determined in the following manner:

Value of Perquisite per Calendar Month

Sl. No.	Circumstances	Where cubic capacity of engine does not exceed 1.6 litres or the motor car is an electric vehicle	Where cubic capacity of engine exceeds 1.6 litres
(1)	(2)	(3)	(4)
(1)	**Where the motor car is owned or hired by the employer and –**		
	(a) is used wholly and exclusively in the performance of his official duties		
		Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.	

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	(b) is used exclusively for the private or personal purposes of the employee or any member of his household		
	Running and maintenance expenses are met or reimbursed by the employer	**Actual amount of expenditure incurred by the employer** on the running and maintenance of motor car during the relevant tax year including remuneration, if any, paid by the employer to the **chauffeur** as increased **normal wear and tear** of the motor car (or hire charges if taken on hire) and as **reduced by any amount charged** from the employee for such use.	
	(c) is used partly in the performance of duties and partly for private or personal purposes of his own or any member of his household and-		
	(i) the expenses on maintenance and running are met or reimbursed by the employer	₹ 5,000 (plus ₹ 3,000, if chauffeur is also provided to run the motor car)	₹ 7,000 (plus ₹ 3,000, if chauffeur is also provided to run the motor car)
	(ii) the expenses on running and maintenance for private or personal use are fully met by the employee	₹ 2,000 (plus ₹ 3000, if chauffeur is also provided by the employer to run the motor car)	₹ 3,000 (plus ₹ 3,000, if chauffeur is also provided by the employer to run the motor car)
(2)	**Where the employee owns a motor car but the actual running and maintenance charges (including remuneration of the chauffeur, if any) are met or reimbursed to him by the employer and –**		
	(a) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.	
	(b) such reimbursement is for the use of the vehicle partly for	The actual amount of expenditure incurred by the employer less ₹ 5,000 (plus ₹ 3,000,	The actual amount of expenditure incurred by the employer less ₹ 7,000 (plus ₹ 3,000, if

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	official purposes and partly for personal or private purposes of the employee or any member of his household.	if chauffeur is also provided by employer) (Also conditions in note (2) below this table are met).	chauffeur is also provided by employer) (Also conditions in note (2) below this table are met).
(3)	**Where the employee owns any other automotive conveyance, but the actual running and maintenance charges are met or reimbursed to him by the employer and**		
	(a) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes	Not a perquisite, provided the documents specified in the note (2) below the table are maintained by the employer.	Not applicable.
	(b) such reimbursement is for the use of vehicle partly for official purposes and partly for personal or private purposes of the employee	The actual amount of expenditure incurred by the employer as reduced by the amount of ₹ 3,000. (Also conditions in note (2) below this table are met).	

Notes:

(1) **Where more than one motor car is provided -** Where an employer owns or hires one or more motor cars and allowed the employee or any member of his household to the use then for the purposes other than wholly and exclusively in the performance of his duties, the value of perquisite shall be the amount calculated for

- one car - ₹ 5,000/₹ 7,000 (plus ₹ 3,000, if chauffeur is also provided to run the motor car)
- other cars - **Actual amount of expenditure incurred by the employer** on the running and maintenance of motor car during the relevant tax

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year including remuneration, if any, paid by the employer to the **chauffeur** as increased **normal wear and tear** of the motor car and as **reduced by any amount charged** from the employee for such use.

(2) Documents to be maintained in certain cases - Where the employer or the employee claims that the motor-car is used solely for official duties or that the actual expenses on the running and maintenance of the motor-car owned by the employee for official purposes is more than the amounts deductible in Sl. No. 2(b) or 3(b) of the above table, he may claim a higher amount for such official use and the value of perquisite in such a case shall be

the actual amount of expenses paid or reimbursed by the employer as reduced by such higher amount attributable to official use of the vehicle provided that the following conditions are fulfilled :-

(a) 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 and

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

(3) Meaning of Normal wear and tear of a motor car - For computing the perquisite value of motor car, the normal wear and tear of a motor car shall be taken at 10% per annum of the actual cost of the motor car or cars.

Valuation of other benefits

The value of any benefit provided by the employer to the employee or to any member of his household for goods, services or utilities shall be determined in accordance with **Rule 15(4).**

Sl No.	Nature of goods, services or utilities	Value of benefit of the goods, services or utilities provided
1	Services of a sweeper, a gardener, a watchman or a personal attendant	The total amount of salary paid or payable by employer/ any other person on his behalf for the services **as reduced** by any amount paid by the employee for such services.
2(a)	Supply of gas, electric energy or water for	The amount paid by the employer to the supplying agency as reduced by any

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	consumption of employee's household by purchasing them from any outside agency	amount paid by the employee for such services.
2(b)	Supply of gas, electric energy or water for consumption of employee's household made from resources owned by the employer, without purchasing them from any outside agency	The amount of manufacturing cost per unit incurred by the employer as reduced by any amount paid by the employee for such services.
3(a)	Provision of free or concessional educational facilities for any member of the employee's household	The amount of expenditure incurred by the employer as reduced by any amount paid or recovered from the employee on that account.
3(b)	Provision of free or concessional educational facilities for any member of the employee's household, where the educational institution is maintained and owned by the employer	Cost of such education in a similar institution in or near the locality **as reduced** by any amount paid or recovered from the employee on that account, where the cost of such education or value of benefit per child exceeds ₹ 3,000 per month. Note that the exemption of ₹ 3,000 p.m. is provided in case of educational facility provided to children of employee and not in case of other household members.
3(c)	Provision of free educational facilities for any member of the employee's household in any other educational institution by reason of his employment	Cost of such education in a similar institution in or near the locality as reduced by any amount paid or recovered from the employee on that account., where the cost of such education or value of benefit per child exceeds ₹ 3,000 per month. Note that the exemption of ₹ 3,000 p.m. is provided in case of educational facility provided to children of employee and not in case of other household members.

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4	Provision by an employer engaged in carriage of goods/passengers to any employee or member of his household (other than railway or airline employee) the facility of free/at concessional fare personal/ private journey for transport of passengers/ goods in any conveyance owned, leased or otherwise made available by the employer	Value at which such benefit/ amenity is offered by the employer to public as reduced by any amount paid or recovered from the employee on that account.

Definitions for the purpose of perquisite rules -

The following definitions are relevant for applying the perquisite valuation rules -

Term	Meaning
Member of household	shall include- (a) spouse(s), (b) children and their spouses, (c) parents, and (d) servants and dependants;
Salary	includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called from one or more employers, as the case may be, but does not include the following, namely:- (a) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned; (b) employer's contribution to the provident fund account of the employee; (c) allowances which are exempted from payment of tax; (d) the value of perquisites specified in section 17(1) of the Income-tax Act; (e) any payment or expenditure specifically excluded under section 17(2);

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	(f) lump-sum payments 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;

Tax free perquisites

As per section 17(2), certain benefits such as medical treatment expenses, health insurance premium, expenditure on vehicle for journey from residence to office etc. would not be considered as perquisite and thus not taxable. Let's understand these benefits:

(i) **Value of medical treatment in any hospital maintained by the employer:** The value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;

(ii) **Reimbursement of expenditure actually incurred on medical treatment:** Any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family

- **in any hospital** maintained by the Government/local authority/any other hospital approved by the Government for the purpose of medical treatment of its employees.
- **in respect of the prescribed disease** or ailments in any hospital approved by the Principal Chief Commissioner or Chief Commissioner having regard to the prescribed guidelines.

(iii) **Premium paid by the employer towards health insurance of an employee:** Any premium paid by an employer in relation to health insurance of an employee under a scheme approved by the Central Government or the Insurance Regulatory Development Authority (IRDA).

(iv) **Reimbursement of health insurance premium paid by employee: Reimbursement of health insurance premium which is** paid by the employee for himself or on the health of any member of his family under a scheme approved by the Central Government or the Insurance Regulatory Development Authority (IRDA).

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(v) **Amount paid by the employer or reimbursement by the employer towards expenditure incurred outside India on medical treatment:** Any expenditure incurred by the employer or any sum paid by the employer on any expenditure actually incurred by the employee on the following:

(a) **medical treatment** of the employee or any member of the family of such employee outside India;

(b) **travel and stay abroad** of the employee or any member of the family of such employee for medical treatment;

(c) **travel and stay abroad of one attendant** who accompanies the patient in connection with such treatment.

Conditions [section 17(3)]:

1. The perquisite element in respect of expenditure on medical treatment and stay abroad will be exempt only to the extent permitted by the RBI.

2. The expenses in respect of **traveling** of the patient and the attendant will be exempt if the employee's gross total income as computed before including the said expenditure **does not exceed ₹ 8,00,000, being the limit prescribed under Rule 19.**

Family means spouse and children of the individual. Children may be dependent or independent, married or unmarried. It also includes parents, brothers and sisters of the individual if they are wholly or mainly dependent upon him.



Hospital includes a dispensary or a clinic or a nursing home.

(vi) **Expenditure incurred on vehicle provided to an employee:** Any expenditure incurred by the employer for the use of any vehicle for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence.

Payment of premium on personal accident insurance policies

If an employer takes personal accident insurance policies on the life of employees and pays the insurance premium, no immediate benefit would become payable and benefit will accrue at a future date only if certain events take place.

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Moreover, the employers would be taking such policy in their business interest only, so as to indemnify themselves from payment of any compensation. Therefore, the premium so paid will not constitute a taxable perquisite in the employees' hands[13].

ILLUSTRATION 16

Compute the taxable value of the perquisite in respect of medical facilities received by Mr. G from his employer during the tax year 2026-27:

Medical premium paid for insuring health of Mr. G	*₹ 7,000*
Treatment of Mr. G by his family doctor	*₹ 5,000*
Treatment of Mrs. G in a Government hospital	*₹ 25,000*
Treatment of Mr. G's grandfather in a private clinic	*₹ 12,000*
Treatment of Mr. G's mother (68 years and dependant) by family doctor	*₹ 8,000*
Treatment of Mr. G's sister (dependant) in a nursing home	*₹ 3,000*
Treatment of Mr. G's brother (independent)	*₹ 6,000*
Treatment of Mr. G's father (75 years and dependent) abroad	*₹ 50,000*
Expenses of staying abroad of the patient	*₹ 30,000*
Limit specified by RBI	*₹ 75,000*

SOLUTION

Computation of taxable value of perquisite in the hands of Mr. G

Particulars	₹	₹
Treatment of Mrs. G in a Government hospital		Nil
Treatment of Mr. G's father (75 years and dependent) abroad	50,000	
Expenses of staying abroad of the patient and attendant	30,000	
	80,000	
Less: Exempt up to limit specified by RBI	75,000	5,000
Medical premium paid for insuring health of Mr. G		Nil
Treatment of Mr. G by his family doctor		5,000
Treatment of Mr. G's mother (dependent) by family doctor		8,000

[13] *CIT vs. Lala Shri Dhar [1972] 84 ITR 19 (Del.)*

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Treatment of Mr. G's sister (dependent) in a nursing home		3,000
Treatment of Mr. G's grandfather in a private clinic		12,000
Treatment of Mr. G's brother (independent)		6,000
Taxable value of perquisite		**39,000**

Other Tax-Free Perquisites

The following perquisites are exempt from tax in the hands of all employees.

Amount spent on training of employees	Amount spent by the employer on training of employees or amount paid for refresher management course including expenses on boarding and lodging;
Leave travel concession	Leave travel concession if the assessee exercises the option under section 202(4) of shifting out of the default tax regime, subject to the conditions specified under schedule III (Table Sl No. 8) (discussed below)
Note: *Value of Leave travel concession provided to the High Court judge, or the Supreme Court Judge and members of his family are completely exempt without any conditions if they exercise the option under section 202(4) of shifting out of the default tax regime.* *[As per section 22A (2) of the High Court Judges(Conditions of Service) Act,1954 and section 23(1A) of the Supreme Court Judges (salaries and Conditions of Services) Act,1958]*	
Rent-free official residence	Rent-free official residence provided to a Judge of a High Court or the Supreme Court if they exercise the option under section 202(4) of shifting out of the default tax regime;
Conveyance facility	Conveyance facility provided to High Court Judges under section 22B of the High Court Judges (Conditions of Service) Act, 1954 and Supreme Court Judges under section 23A of the Supreme Court Judges (Conditions of Service) Act, 1958 if they exercise the option under section 202(4) of shifting out of the default tax regime.

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Leave travel concession

Leave Travel Concession (LTC) is a benefit provided by employers to employees to encourage them to take leave and travel with their family. When an employee goes on vacation within India and incurs expenses on travel (like air, rail, or bus fare), the employer may reimburse these expenses as LTC. As per Schedule III (Table Sl. No. 8), the value of travel concession provided to an employee would be exempt subject to the following conditions:

(a) **Amount towards travel to India Only:** Such sum is received from his employer from his employer or former employer for himself and his family in connection with his proceeding

(i) **on leave** to any place in India

(ii) to any place in India after retirement from service or after the termination of his service

Family means

- spouse and children of the individual and

- parents, brothers and sisters of the individual or any of them wholly or mainly dependent on the individual.

(b) **Subject to Prescribed Conditions:** Such sum is subject to such conditions as may be prescribed (including conditions as to number of journeys and the amount exempt per head);

(c) **Alignment with Central Government Rules:** The conditions in clause (b) shall have regard to the travel concession or assistance granted to the employees of the Central Government; and

(d) **Restriction to Actual Expenditure:** Amount exempted should not exceed the amount of expenses actually incurred for the purpose of such travel.

Prescribed Conditions [Rule 278]: Amount exempted as per Schedule III (Table Sl. No. 8) would be subjected to the following conditions:

(i) **Monetary Limits:** Amount actually incurred would be exempt subject to the following monetary limits:

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S.No.	Journey performed by		Limit
1	Air		Amount not exceeding the fare admissible for the class of travel to which the employee is entitled by the shortest route to the place of destination.
2	Any other mode:		
	(i)	Where rail service is available	Amount not exceeding the air-conditioned first class rail fare by the shortest route to the place of destination
	(ii)	Where rail service is not available and	
		(a) a recognised public transport system exists	amount not exceeding the 1st class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination
		(b) no recognised public transport system exists and no specific rates have been prescribed by the Directorate of transport	Amount calculated at the rate of ₹30 per kilometre for the distance of the journey by the shortest route shall be admissible

(ii) Exemption will be available in respect of 2 journeys performed in a block of 4 calendar years commencing from the calendar year 2022.

Where such travel concession or assistance is not availed by the individual during any block of 4 calendar years, one such unavailed LTC (must be availed in the first calendar year of next block) will be carried forward to the immediately succeeding block of 4 calendar years and will be eligible for exemption.

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An employee does not avail any LTC for the block 2022-25 He is allowed to carry forward maximum one unavailed LTC to be used in the succeeding block of 2026-29. Accordingly, if he avails LTC in April 2026, the same will be treated as having availed in respect of the block 2022-2025. Therefore, he will be eligible for exemption in respect of that journey and two more journeys can be further availed in respect of the block of 2026-29.

Note: The exemption referred to shall not be available to more than two surviving children of an individual after 30.09.1998. This restrictive condition shall not apply in respect of children born before 1.10.1998 and also in case of multiple births after one child.

Exemption in respect of leave travel concession under Schedule III (Table Sl. No. 8) would be available to an assessee only if he exercises the option under section 202(4) of shifting out of the default tax regime.



ILLUSTRATION 17

Mr. D went on a holiday on 25.12.2026 to Delhi with his wife and three children (one son – age 5 years; twin daughters – age 3 years). They went by flight (economy class) and the total cost of tickets reimbursed by his employer was ₹ 60,000 (₹ 45,000 for adults and ₹ 15,000 for the three minor children). Compute the amount of LTC exempt if Mr. D exercises the option under section 202(4) of shifting out of the default tax regime.

SOLUTION

Since the son's age is more than the twin daughters, Mr. D can avail exemption for all his three children. The restriction of two children is not applicable to multiple births after one child. The holiday being in India and the journey being performed by air (economy class), the entire reimbursement met by the employer is fully exempt in the hands of Mr. D, since he is exercising the option under section 202(4) of shifting out of the default tax regime.

ILLUSTRATION 18

In the above illustration 17, will there be any difference if among his three children the twins were 5 years old and the son 3 years old? Discuss.

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SOLUTION

Since the twins' age is more than the son, Mr. D cannot avail for exemption for all his three children. LTC exemption can be availed in respect of only two children.

Taxable LTC = $15,000 \times \frac{1}{3}$ = ₹ 5,000.

LTC exempt would be only ₹ 55,000 (i.e. ₹ 60,000 – ₹ 5,000)

ILLUSTRATION 19

Mr. X and Mr. Y are working for M/s. Gama Ltd. As per salary fixation norms, the following perquisites were offered:

(i) For Mr. X, who engaged a domestic servant for ₹ 500 per month, his employer reimbursed the entire salary paid to the domestic servant i.e. ₹ 500 per month.

(ii) For Mr. Y, he was provided with a domestic servant @ ₹ 500 per month as part of remuneration package.

You are required to comment on the taxability of the above in the hands of Mr. X and Mr. Y, who are not specified employees.

SOLUTION

In the case of Mr. X, it becomes an obligation which the employee would have discharged even if the employer did not reimburse the same. Hence, the perquisite will be covered under section 17(1)(f) and will be taxable in the hands of Mr. X. This is taxable in the case of all employees.

In the case of Mr. Y, it cannot be considered as an obligation which the employee would meet. The employee might choose not to have a domestic servant. This is taxable only in the case of specified employees covered by section 17(1)(c). Hence, there is no perquisite element in the hands of Mr. Y.

ILLUSTRATION 20

Mr. X retired from the services of M/s Y Ltd. on 31.01.2027, after completing service of 30 years and one month. He had joined the company on 1.1.1997 at the age of 30 years and received the following on his retirement:

(i) Gratuity ₹ 6,00,000. He was covered under the Payment of Gratuity Act, 1972.

(ii) Leave encashment of ₹ 3,30,000 for 330 days leave balance in his account. He was credited 30 days leave for each completed year of service.

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(iii) As per the scheme of the company, he was offered a car which was purchased on 30.01.2024 by the company for ₹ 5,00,000. Company has recovered ₹ 2,00,000 from him for the car. Company depreciates the vehicles at the rate of 15% on Straight Line Method.

(iv) An amount of ₹ 3,00,000 as commutation of pension for 2/3 of his pension commutation.

(v) Company presented him a gift voucher worth ₹ 14,000 on his retirement.

(vi) His colleagues also gifted him a Television (LCD) worth ₹ 50,000 from their own contribution.

Following are the other particulars:

(i) He has drawn a basic salary of ₹ 20,000 and 50% dearness allowance per month for the period from 01.04.2026 to 31.01.2027.

(ii) Received pension of ₹ 5,000 per month for the period 01.02.2027 to 31.03.2027 after commutation of pension.

Compute his taxable salary from the above for tax Year 2026-27 assuming he exercises the option under section 202(4) of shifting out of the default tax regime

SOLUTION

Computation of Taxable Salary of Mr. X for T.Y. 2026-27

Particulars			₹
Basic Salary = ₹ 20,000 x 10			2,00,000
Dearness Allowance = 50% of basic salary			1,00,000
Gratuity			6,00,000
Leave Salary			3,30,000
Pension			
- Uncommuted Pension (5,000 x 2)	10,000		
- Commuted Pension	3,00,000		3,10,000
Gift Voucher [Not taxable, since value does not exceed ₹ 15,000			-
Transfer of car **(See Note - 1)**			56,000
Gross Salary			**15,96,000**
Less: **Deduction under section 19(1)**			
- Standard Deduction		50,000	

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- Gratuity **(See Note - 2)**	5,19,231	
- Leave encashment **(See Note - 3)**	2,00,000	
- Commuted pension **(See Note - 4)**	1,50,000	**9,19,231**
Taxable Salary		**6,76,769**

Notes:

(1) **Perquisite value of transfer of car:** As per Rule 15(5)(a), the value of benefit to the employee, arising from the transfer of an asset, being a motor car, by the employer is the actual cost of the motor car to the employer as reduced by 20% of WDV of such motor car for each completed year during which such motor car was put to use by the employer. Therefore, the value of perquisite on transfer of motor car, in this case, would be:

Particulars	₹
Purchase price (30.1.2024)	5,00,000
Less: Depreciation @20%	1,00,000
WDV on 29.1.2025	4,00,000
Less: Depreciation @20%	80,000
WDV on 29.1.2026	3,20,000
Less: Depreciation @20%	64,000
WDV on 29.1.2027	2,56,000
Less: Amount recovered	2,00,000
Value of perquisite	**56,000**

The rate of 15% as well as the straight-line method adopted by the company for depreciation of vehicle is **not** relevant for calculation of perquisite value of car in the hands of Mr. X.

(2) **Deduction in respect of gratuity**

Particulars	₹
Deduction in respect of gratuity shall be least of the following:	
(i) Notified limit = ₹ 20,00,000	
(ii) Actual gratuity = ₹ 6,00,000	

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(iii) 15/26 x last drawn salary x no. of completed years of services or part in excess of 6 months 15/26 x ₹ 30,000 x 30 = ₹ 5,19,231	5,19,231

Note: *As per the Payment of Gratuity Act, 1972, D.A. is included in the meaning of salary. Since in this case, Mr. X is covered under the Payment of Gratuity Act, 1972, D.A. has to be included within the meaning of salary for computation of deduction.*

(3) Deduction in respect of leave salary

Particulars		₹
Deduction in respect of leave salary shall be		
Least of the following:		
(i) Notified limit	₹ 25,00,000	
(ii) Actual leave salary	₹ 3,30,000	
(iii) 10 months x ₹ 20,000	₹ 2,00,000	
(iv) Cash equivalent of leave to his credit	₹ 3,30,000	
$3,30,000 \times \frac{330}{330}$		2,00,000

Note – *It has been assumed that dearness allowance does not form part of salary for retirement benefits. In case it is assumed that dearness allowance forms part of pay for retirement benefits, then, the third limit for exemption under section 19(1) (Table Sl No. 14) in respect of leave encashment would be ₹ 3,00,000 (i.e. 10 x ₹ 30,000) and hence the deduction in respect of leave encashment would be ₹ 300,000, being the least of all limits.*

In such a case, the taxable salary income would be ₹ 5,76,769.

(4) Deduction in respect of Commuted Pension

Since Mr. X is a non-government employee in receipt of gratuity, deduction under section 19(1) (Table Sl No.8) would be available to the extent of 1/3rd of the amount of the pension which he would have received had he commuted the whole of the pension.

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Particulars	₹
Amount of deduction shall be $= \frac{1}{3} \times \left[3,00,000 \times \frac{3}{2}\right]$	1,50,000

(5) The taxability provisions under section 92(22)(m) are not attracted in respect of television received from colleagues, since television is not included in the definition of 'property' therein.

ILLUSTRATION 21

Shri Bala employed in ABC Co. Ltd. as Finance Manager gives you the list of perquisites provided by the company to him for the entire financial year 2026-27:

(i) Domestic servant was provided at the residence of Bala. Salary of domestic servant is ₹ 1,500 per month. The servant was engaged by him and the salary is reimbursed by the company (employer).

In case the company has employed the domestic servant, what is the value of perquisite?

(ii) Free education was provided to his two children Arthy and Ashok in a school maintained and owned by the company. The cost of such education for Arthy is computed at ₹ 2,900 per month and for Ashok at ₹ 3,200 per month. No amount was recovered by the company for such education facility from Bala.

(iii) The employer has provided movable assets such as television, refrigerator and air-conditioner at the residence of Bala. The actual cost of such assets provided to the employee is ₹ 1,10,000.

(iv) A gift voucher worth ₹ 20,000 was given on the occasion of his marriage anniversary. It is given by the company to all employees above certain grade.

(v) Telephone provided at the residence of Shri Bala and the bill aggregating to ₹ 25,000 and mobile phone bill ₹ 25,200 paid by the employer. Both telephone and mobile phone provided by employer were both for personal and official purpose.

(vi) Housing loan @ 6% per annum. Amount outstanding on 31.3.2026 is ₹ 6,00,000. Shri Bala pays ₹ 12,000 per month towards principal on 1st of each month.

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Compute the chargeable perquisite in the hands of Mr. Bala for the tax year 2026-27.

The lending rate of State Bank of India as on 1.4.2026 for housing loan may be taken as 10%.

SOLUTION

Taxability of perquisites provided by ABC Co. Ltd. to Shri Bala

(i) Domestic servant was employed by the employee and the salary of such domestic servant was paid/ reimbursed by the employer. It is taxable as perquisite for all categories of employees.

Taxable perquisite value = ₹ 1,500 × 12 = ₹ 18,000.

If the company had employed the domestic servant and the facility of such servant is given to the employee, then the perquisite is taxable only in the case of specified employees. The value of the taxable perquisite in such a case also would be ₹ 18,000.

(ii) Where the educational institution is owned by the employer, the value of perquisite in respect of free education facility shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality. However, there would be no perquisite if the cost of such education per child does not exceed ₹ 3,000 per month.

Therefore, there would be no perquisite in respect of cost of free education provided to his child Arthy, since the cost does not exceed ₹ 3,000 per month.

However, the cost of free education provided to his child Ashok would be taxable, since the cost exceeds ₹ 3,000 per month. The taxable perquisite value would be ₹ 38,400 (₹ 3,200 p.m. × 12).

(iii) Where the employer has provided movable assets to the employee or any member of his household, 10% per annum of the actual cost of such asset owned or the amount of hire charges incurred by the employer shall be the value of perquisite. However, this will not apply to laptops and computers. In this case, the movable assets are television, refrigerator and air conditioner and actual cost of such assets is ₹ 1,10,000.

The perquisite value would be 10% of the actual cost i.e., ₹ 11,000, being 10% of ₹ 1,10,000.

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(iv) As per Rule 15(5)(a)), if the value of any gift or voucher or token in lieu of gift received by the employee or by member of his household is below ₹ 15,000 in aggregate during the tax year, the value of such perquisite will be nil. In this case, the amount was received on the occasion of marriage anniversary and the sum is ₹ 15,000 or more.

Therefore, the entire amount of ₹ 20,000 is liable to tax as perquisite.

(v) Telephone provided at the residence of the employee and mobile phone provided by the employer who made payment of both the bills, are tax-free perquisites.

(vi) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan made available to the employee or any member of his household during the relevant tax year by the employer or any person on his behalf shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India (SBI) as on the 1st day of the relevant tax year in respect of loans for the same purpose advanced by it. This rate should be applied on the maximum outstanding monthly balance and the resulting amount should be reduced by the interest, if any, actually paid by him.

"Maximum outstanding monthly balance" means the aggregate outstanding balance for loan as on the last day of each month.

The perquisite value for computation is 10% - 6% = 4%

Month	Maximum outstanding balance as on last date of month (₹)	Perquisite value at 4% for the month (₹)
April, 2026	5,88,000	1,960
May, 2026	5,76,000	1,920
June, 2026	5,64,000	1,880
July, 2026	5,52,000	1,840
August, 2026	5,40,000	1,800
September, 2026	5,28,000	1,760
October, 2026	5,16,000	1,720
November, 2026	5,04,000	1,680
December, 2026	4,92,000	1,640

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January, 2027	4,80,000	1,600
February, 2027	4,68,000	1,560
March, 2027	4,56,000	1,520
Total value of this perquisite		**20,880**

Total value of taxable perquisite

= ₹ 1,08,280 [i.e. ₹ 18,000 + ₹ 38,400 + ₹ 11,000 + ₹ 20,000 + ₹ 20,880].

ILLUSTRATION 22

X Ltd. provided the following perquisites to its employee Mr. Y for the tax year 2026-27 –

(1) Accommodation taken on lease by X Ltd. for ₹ 15,000 p.m. ₹ 5,000 p.m. is recovered from the salary of Mr. Y.

(2) Furniture, for which the hire charges paid by X Ltd. is ₹ 3,000 p.m. No amount is recovered from the employee in respect of the same.

(3) A car of 1,200 cc which is owned by X Ltd. and given to Mr. Y to be used both for official and personal purposes. All running and maintenance expenses are fully met by the employer. He is also provided with a chauffeur.

(4) A gift voucher of ₹ 20,000 on his birthday.

Compute the value of perquisites chargeable to tax for the tax year 2026-27, assuming his salary for perquisite valuation to be ₹ 10 lakh.

SOLUTION

Computation of the value of perquisites chargeable to tax in the hands of Mr. Y for the tax year 2026-27

	Particulars	Amount in ₹		
(1)	**Value of accommodation at concessional rate**			
	Actual amount of lease rental paid by X Ltd.	1,80,000		
	10% of salary i.e., 10% of ₹ 10,00,000	1,00,000		
	Lower of the above		1,00,000	
	***Less:* Rent paid by Mr. Y (₹ 5,000 × 12)**		**60,000**	
			40,000	

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	Add: Hire charges paid by X Ltd. for furniture provided for the use of Mr. Y (₹ 3,000 × 12)		36,000	76,000
(2)	Perquisite value of car owned by X Ltd. and provided to Mr. Y for his personal and official use [(₹ 5,000 + ₹ 3,000) × 12]			96,000
(3)	Value of gift voucher			20,000
	Value of perquisites chargeable to tax			**1,92,000**



10.	*Ms. Kavya Sharma's employer provided free education facility to her daughter in a school maintained by the employer. The cost of education in a similar institution is ₹ 2,800 p.m. No amount is recovered from the employee. The taxable value of perquisite would be –*	
	(a)	*Nil*
	(b)	*₹ 2,800 p.m.*
	(c)	*₹ 33,600 p.a.*
	(d)	*₹ 15,000 p.a.*
11.	*Mr. Sameer Verma was provided with a telephone connection and mobile phone by his employer. The employer paid aggregate bills of ₹ 48,000 for both official and personal use. The taxable value of perquisite would be –*	
	(a)	*₹ 48,000*
	(b)	*₹ 24,000*
	(c)	*Nil*
	(d)	*₹ 15,000*
12.	*If the domestic servant is employed directly by the employer and provided to the employee, the perquisite would be taxable –*	
	(a)	*In all cases*
	(b)	*Only in the case of specified employees*
	(c)	*Only for Government employees*
	(d)	*Only if salary exceeds ₹10 lakh*

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1.3.3 Profits in lieu of salary [Section 18]

Profits in lieu of salary" includes -

1. (a) **Compensation on account of termination of his employment** or **modification of the terms and conditions of employment:** Any compensation due to, or received by, an assessee from his employer or former employer at or in connection with the -

   (i) termination of his employment or

   (ii) modification of the terms and conditions

   Note: It is to be noted that merely because a payment is made by an employer to a person who is his employee does not automatically fall within the scope of the above provisions. The payment must be arising due to master-servant relationship between the payer and the payee. If it is not on that account, but due to considerations totally unconnected with employment, such payment would not be profit in lieu of salary.

   (b) **Compensation before joining or after cessation of employment:** any amount due to, or received, whether in lump sum or otherwise, by any assessee from any person -

   (i) before his joining any employment with that person; or

   (ii) after cessation of his employment with that person;

   (c) any payment due to or received by an assessee

   (i) from an employer or a former employer; or

   (ii) from a provident or other fund **other than employee contribution or interest on such contribution**; or

   (iii) Any sum received by the assessee under **Keyman Insurance Policy** including sum allocated by way of bonus on such policy.

   Keyman insurance policy means a life insurance policy -

   (i) taken by a person on the life of another person

   (ii) such person is or was the employee of the first-mentioned person or is or was connected in any manner with the business of the first-mentioned person; and

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(iii) includes such policy which has been assigned to a person at any time during the term of the policy, with or without any consideration

(2) The payment referred in sub-section (1)(c) shall not include the following payments:

(a) from provident fund, accumulated balance payable to employee from recognized provident fund and payment from approved superannuation fund as referred in Schedule II (Table: Sl. No. 3, 8 & 4).

(b) house rent allowance mentioned under Schedule III (Table: Sl. No. 11).

With respect to compensations, deduction under section 19 are available which we will be discussing in later part of this unit.

Retrenchment compensation

The retrenchment compensation means the compensation paid under the Industrial Disputes Act, 1947[14] or under any Act, Rule, Order or Notification issued under any law. It also includes compensation paid under any standing orders or any award, contract of service etc.

It may be noted that compensation on account of termination and due to modification in terms and conditions of employment would be taxable as "profits in lieu of salary". Against such retrenchment compensation least of the following would be allowed as deduction under section 19(1) (Table Sl No. 10) as follows:

(a) Compensation received

(b) Amount calculated in accordance with the provisions of section 25F(b) Industrial Disputes Act, 1947[15] i.e., 15 days average pay x completed years of continuous service or part thereof in excess of 6 months

(c) An amount, as may be notified by the Central Government i.e., ₹ 5,00,000.



1. The above limits will not be applicable to cases where the compensation is paid under any scheme approved by the Central Government for giving special protection to workmen under certain circumstances. In such cases, the

[14] Now, section 70 of Industrial Relations Code, 2020
[15] Now, section 70 of the Industrial Relations Code, 2020

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entire compensation received is allowed as deduction under section 19(1) (Table SI No. 11).

2. Average pay means average of the wages payable to a workman

- in the case of monthly paid workman, in the three complete calendar months,
- in the case of weekly paid workman, in the four calendar weeks,
- in the case of daily paid workman, in the twelve full working weeks,

preceding the date on which the average pay becomes payable if the workman had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a workman during the period he actually worked.

3. Wages for this purpose means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes

- such allowances including DA as the workman is for the time being entitled to;
- the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any other service or of any concessional supply of food grains or other articles;
- any travel concession; and
- any commission payable on the promotion of sales or business or both

However, it does not include

- any bonus;
- contribution to a retirement benefit scheme;
- any gratuity payable on the termination of his service.

4. Deduction under section 19(1) (Table SI No. 10 & 11) would be available to an assessee irrespective of the regime under which he pays tax.

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Voluntary Retirement Receipts

Lump sum payment or otherwise received by an employee at the time of voluntary retirement would be taxable as "profits in lieu of salary". Deduction would be allowed under section 19(1) (Table Sl No. 12), subject to the following conditions:

Eligible Undertakings - The employees of the following undertakings are eligible for exemption under this clause:

(i) Public sector company

(ii) Any other company

(iii) An authority established under a Central/State or Provincial Act

(iv) A local authority

(v) A co-operative society

(vi) An University established or incorporated under a Central/State or Provincial Act and an Institution declared to be an University by the University Grants Commission

(vii) An Indian Institute of Technology

(viii) Such Institute of Management as the Central Government may, by notification in the Official Gazette, specify in this behalf

(ix) Any State Government

(x) The Central Government

(xi) An institution, having importance throughout India or in any State or States, as the Central Government may specify by notification in the Official Gazette.

Limit: The maximum limit of deduction should not exceed ₹ 5 lakh.

Such compensation should be at the time of his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or, in the case of public sector company, a scheme of voluntary separation. The deduction will be available even if such compensation is received in instalments.

Guidelines:

The schemes should be framed in accordance with such guidelines, as may be prescribed and should include the criteria of economic viability.

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Rule 20 prescribes that the deduction under this section would be available to an employee who has completed 10 years of service or completed 40 years of age. However, this requirement is not applicable in case of an employee of a public sector company under the scheme of voluntary separation framed by the company.

The amount receivable on account of voluntary retirement or separation of the employee **must not exceed either A or B –**

A = 3 x N X S

B = M x S

N = Number of completed years of service

M= Balance months of service left before the date of his retirement on superannuation

S = Salary at the time of retirement



- Where any relief has been allowed to any assessee u/s 157 for any tax year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no deduction u/s 19(1) (Table Sl No. 12) shall be allowed to him in relation to that tax year or any other tax year.
- Where deduction for voluntary retirement compensation under the said section has been allowed in respect of any tax year, then no deduction thereunder shall be allowed to him in any other tax year.
- **"Salary"** for this purpose means basic salary, dearness allowance, if provided in the terms of employment for retirement benefits, forming part of salary, commission which is expressed as a fixed percentage of turnover and excludes all other allowances and perquisites.
- Deduction under section 19(1) Table Sl No. 12 would be available to an assessee irrespective of the regime under which he pays tax.

ILLUSTRATION 23

Mr. Dutta received voluntary retirement compensation of ₹ 7,00,000 after 30 years 4 months of service. He still has 6 years of service left. At the time of voluntary retirement, he was drawing basic salary ₹ 20,000 p.m.; Dearness allowance (which

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forms part of pay) ₹5,000 p.m. Compute deduction in respect of voluntary retirement compensation, assuming that he does not claim any relief under section 157.

SOLUTION

Deduction in respect of voluntary retirement compensation would be allowed to the extent of least of the following:

(i)	Compensation actually received	= ₹ 7,00,000
(ii)	Statutory limit	= ₹ 5,00,000
(iii)	A = 3 x N i.e., No. of completed year of service x S i.e., Salary at the time of retirement	
	= 3 x 30 × 25,000 (₹ 20,000 + ₹ 5,000)	= ₹ 22,50,000
(iv)	B = M i.e., Balance months service left x S i.e., salary at the time of retirement	
	= 72 (6 × 12 months) x ₹ 25,000 (₹ 20,000 + ₹ 5,000)	= ₹ 18,00,000

Hence, deduction of ₹5,00,000 shall be allowed under section 19(1).

1.4 DEDUCTIONS FROM SALARY [SECTION 19]

As per section 19(1), income chargeable under the head "Salaries" shall be computed after making the deductions listed thereunder. These include deductions in respect of professional tax, standard deduction under both tax regimes, deductions in respect of various payments such as pension, gratuity, leave salary, retrenchment compensation, and voluntary retirement compensation.

While deduction in respect of gratuity, leave salary, pension, retrenchment compensation and voluntary retirement compensation has been discussed in detail while discussing about the incomes from salary under section 16 and profits in lieu of salary under section 18, the remaining deductions are discussed hereunder:

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Professional tax on employment		
Sl. No.	**Nature of sum**	**Amount of deduction**
1.	Professional tax or taxes on employment levied by a State under Article 276 of the Constitution paid by the employee during the tax year.	Entire amount actually paid by the employee is allowed as deduction.



- The total amount by way of professional tax payable in respect of any one person shall not exceed ₹ 2,500 per annum.

  However, the amount paid during the tax year can be more than ₹ 2,500 as the employee may have paid the professional tax of an earlier year during the tax year.
- If professional tax is reimbursed or directly paid by the employer on behalf of the employee, the amount so paid is first included as salary income and then allowed as a deduction u/s 19(1).
- Deduction in respect of professional tax would be available to an assessee only if he exercises the option under section 202(4) of shifting out of the default tax regime. The deduction would not be available under the default tax regime i.e., under section 202(1).

Standard Deduction		
Sl. No.	**Nature of sum**	**Amount of deduction**
2.	Standard Deduction	(a) ₹ 75000 or the salary, whichever is less, under default tax regime u/s 202(1). (b) ₹ 50000 or the salary, whichever is less, under optional tax regime.

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ILLUSTRATION 24

Mr. Goyal receives the following emoluments during the tax year ending 31.03.2027.

Basic pay	*₹ 4,00,000*
Dearness Allowance	*₹ 1,50,000*
Commission	*₹ 1,00,000*
Entertainment allowance	*₹ 40,000*
Medical expenses reimbursed	*₹ 25,000*
Professional tax paid	*₹ 2,000 (₹ 1,000 was paid by his employer)*

Mr. Goyal contributes ₹ 5,000 towards recognized provident fund. He has no other income. Determine the income from salary for tax year 2026-27, if Mr. Goyal is a State Government employee.

SOLUTION

Computation of salary of Mr. Goyal for the tax year 2026-27 under default tax regime under section 202(1)

Particulars	₹
Basic Salary	4,00,000
Dearness Allowance	1,50,000
Commission	1,00,000
Entertainment Allowance received	40,000
Employee's contribution to RPF **[Note]**	-
Medical expenses reimbursed	25,000
Professional tax paid by the employer	1,000
Gross Salary	**7,16,000**
Less: Deductions under section 19(1)	
Standard deduction of upto ₹ 75,000	75,000
Income from Salary	**6,41,000**

Note: Employee's contribution to RPF is not taxable. It is eligible for deduction u/s 123. However, such deduction shall not be available under the default tax regime under section 202(1).

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Computation of salary of Mr. Goyal for the tax year 2026-27 under the optional tax regime (normal provisions of the Act)

Particulars	₹
Basic Salary	4,00,000
Dearness Allowance	1,50,000
Commission	1,00,000
Entertainment Allowance received	40,000
Employee's contribution to RPF **[Note]**	-
Medical expenses reimbursed	25,000
Professional tax paid by the employer	1,000
Gross Salary	**7,16,000**
Less: Deductions under section 19(1)	
Table SI No. 1- Professional Tax paid	2,000
Table SI No. 2 - Standard deduction of upto ₹ 50,000	50,000
Income from Salary	**6,64,000**

Note: Employee's contribution to RPF is not taxable. It is eligible for deduction u/s 123.

1.5 RELIEF UNDER SECTION 157

(1) Where the total income of an assessee is assessed at a rate higher than the rate at which it would otherwise have been assessed, due to the following receipts -

(a) arrears of salary or advance salary; or

(b) salary for more than twelve months in any one tax year; or

(c) Profits in lieu of salary under section 18(1); or

(d) Arrears of family pension

the Assessing Officer shall on an application made to him by the assessee in this behalf, grant such relief, as may be prescribed.

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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) No relief shall be granted on any income on which deduction has been claimed by the assessee in respect of compensation on voluntary retirement or termination of service referred under section 19(1)(Table: Sl. No. 12) for any amount mentioned therein, for current tax year or any other tax year.

Procedure for Computation of relief u/s 157 read with Rule 73 (Table Sl. No. 1)

Sl No.	Receipts	Relief
1.	Portion of salary received in arrears or in advance or family pension received in arrears, i.e., additional salary or additional family pension	Relief =A-B, If A>B, where A= C-D B = Aggregate of E E = F-G **Step 1: Calculate A = C-D** A= tax on additional salary or additional family pension for the relevant tax year C= tax on total income of the relevant tax year D= tax on total income **as reduced** by additional salary or additional family pension, as if such total income were the total income of the relevant tax year **Step 2: Calculate E = F - G** E = tax on the additional salary or additional family pension **for each tax year** ascertained in Step-1. F= tax payable on total income of such tax year as increased by amount relating to such tax year as if the total income so increased were the total income of that tax year G= tax payable on total income of each tax year **Step 3** B= Aggregate of E i.e., aggregate of tax on additional salary or additional family pension for all tax years.

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ILLUSTRATION 25

In the case of Mr. Hari, who turned 68 years on 28.3.2027, you are informed that the salary (computed) for the tax year 2026-27 is ₹ 10,20,000 and arrears of salary received is ₹ 3,45,000. Further, you are given the following details relating to the earlier years to which the arrears of salary received is attributable to:

Tax year	Taxable Salary (₹)	Arrears now received (₹)	Tax paid without arrear (₹)	Tax liability including arrear (₹)
2017 – 2018	7,10,000	1,03,000	69,010	90,228
2018 – 2019	8,25,000	1,17,000	77,250	1,01,532
2019 – 2020	9,50,000	1,25,000	1,04,000	1,37,800

Compute the relief available under section 157 and the tax payable for the tax year 2026-27. Assume that Mr. Hari exercises the option under section 202(4) of shifting out of the default tax regime

SOLUTION

Computation of tax payable by Mr. Hari for the tax year 2026-27

Particulars	Amount
Current year salary (computed)	10,20,000
Add: Arrears of salary	3,45,000
Taxable Salary	13,65,000
Income-tax thereon	2,19,500
Add: Health and education cess @4%	8,780
	2,28,280
***Less:* Relief u/s 157 [Refer Working Note Below]**	**28,520**
Tax payable	**1,99,760**

Working Note –

Computation of Relief u/s 157

Relief = A-B, If A>B

A = Tax on additional salary or additional family pension for the relevant tax year

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B = Aggregate of E i.e., Aggregate of tax on additional salary or additional family pension for all tax years.

= ₹ 1,07,640 (A) - ₹ 79,120 (B)

= **₹ 28,520**

Step 1 – Calculate A = C-D

A= tax on additional salary or additional family pension for the relevant tax year

C= tax on total income of the relevant tax year

D= tax on total income **as reduced** by additional salary or additional family pension, as if such total income were the total income of the relevant tax

Particulars	Tax on total income Incl. arrears of salary (C)	Tax on total income excl. arrears of salary (D)
Current year salary (computed)	10,20,000	10,20,000
Add: Arrears of salary	3,45,000	-
Taxable Salary	13,65,000	10,20,000
Income-tax thereon	2,19,500	1,16,000
Add: Health and education cess @4%	8,780	4,640
Total payable	**2,28,280 (C)**	**1,20,640(D)**
A = C-D		**1,07,640**

Step 2: Calculate E = F - G

E = tax on the additional salary or additional family pension **for each tax year** ascertained in Step-1.

F= tax payable on total income of such tax year as increased by amount relating to such tax year as if the total income so increased were the total income of that tax year

G= tax payable on total income of each tax year

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Computation of Aggregate Tax on additional salary or additional family pension for all tax years

Tax year	Tax paid without arrear (₹) (F)	Tax liability including arrear (₹) (G)	Tax on Additional Salary (E) = (G) – (F)
2017 – 2018	69,010	90,228	21,218
2018 – 2019	77,250	1,01,352	24,102
2019 – 2020	1,04,000	1,37,800	33,800
Step 3: B = Aggregate of E i.e., [21,218 + 24,102 + 33,800]			**79,120**



13	*Mr. Aditya, a State Government employee, paid professional tax of ₹ 3,200 during the tax year, out of which ₹ 1,000 related to earlier years. The amount deductible under section 19(1), assuming he has opted out of the default tax regime, would be –*	
	(a)	*₹ 2,500*
	(b)	*₹ 2,200*
	(c)	*₹ 3,200*
	(d)	*₹ 1,000*
14.	*Ms. Rhea Kapoor has salary income of ₹ 48,000 during the tax year and is taxable under the default tax regime under section 202(1). The amount of standard deduction available to her would be –*	
	(a)	*₹ 75,000*
	(b)	*₹ 50,000*
	(c)	*₹ 48,000*
	(d)	*(d) Nil*
15.	*Relief under section 157 shall not be available in respect of income for which deduction has already been claimed relating to –*	
	(a)	*Entertainment allowance*
	(b)	*Voluntary retirement compensation*
	(c)	*Standard deduction*
	(d)	*Professional tax*

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LET US RECAPITULATE

Basis of Charge [Section 15]

(i)	Salary is chargeable to tax either on 'due' basis or on 'receipt' basis, whichever is earlier.
(ii)	However, where any salary, paid in advance, is assessed in the year of payment, it cannot be subsequently brought to tax in the year in which it becomes due.
(iii)	If the salary paid in arrears has already been assessed on due basis, the same cannot be taxed again when it is paid.

If an employee works with more than one employer, salaries received from all the employers would be clubbed and brought to charge for the relevant tax year.

Meaning of Salary [Section 16]

Section 16 defines the term "Salary". It is an inclusive definition and includes monetary (e.g. basic salary, bonus, commission, allowances etc.) as well as non-monetary items (e.g. housing accommodation, medical facility, interest free loans etc.).

Allowances: Allowances are monetary payments made by the employer to the employees for meeting specific expenditure, whether personal or for the performance of duties. Certain allowances are fully taxable while some are fully exempt or exempt to a particular extent.

Taxability/Exemption of certain Allowances

Section	Allowance	Exemption
11 read with Schedule III (Table Sl No. 11)	House Rent Allowance	Least of the following is exempt: (a) HRA actually received (b) Rent paid *less* 10% of salary (c) 50% of salary, if accommodation is located in Mumbai, Kolkata, Delhi, Chennai, Hyderabad, Pune, Ahmedabad and Bengaluru 40% of salary, if the accommodation is located in any other city.

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		Note - Exemption would be available to an assessee only if he exercises the option under 202(4) of shifting out of the default tax regime.
11 read with Schedule III (Table Sl No. 12 & 13)	Children education allowance	₹ 3,000 per month per child upto maximum of two children **Note -** Exemption would be available to an assessee only if he exercises the option under section 202(4) of shifting out of the default tax regime.
	Transport allowance for an employee who is blind or deaf and dumb or orthopedically handicapped for commuting between the place of residence and the place of duty	₹ 15,000 per month + DA thereon for metro cities and ₹ 8,000 per month + DA thereon for other cities **Note -** Exemption in respect of transport allowance would be available to an assessee irrespective of the regime under which he pays tax.
	Hostel expenditure of employee's children	₹ 9,000 per month per child up to a maximum of two children **Note -** *Exemption would be available to an assessee only if he exercises the option under section 202(4) of shifting out of the default tax regime.*

Valuation of Perquisites [Section 17

Rent-free residential accommodation/ Accommodation provided to an employee at concessional rate [Section 17(1)]			
S. No. (A)	**Category of Employee (B)**	**Unfurnished accommodation (C)**	**Furnished accommodation (D)**
1	Government employee	License fee determined as per Government rules **as reduced by** the rent actually paid by the employee.	Value determined under column (C) ***Add:*** 10% p.a. of the furniture cost. However, if the furniture is hired, then hire charges payable/paid

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<table>
<tr><td></td><td></td><td></td><td>should be added to the value determined under column (C),
as reduced by
charges recovered from employee.</td></tr>
<tr><td>2</td><td>Non-government employee</td><td><u>Where accommodation is owned by employer</u>
<table>
<tr><th>Location</th><th>Perquisite value</th></tr>
<tr><td>In cities having a population > 40 lakhs as per 2011 census</td><td>10% of salary</td></tr>
<tr><td>In cities having a population > 15 lakhs ≤ 40 lakhs as per 2011 census</td><td>7.5% of salary</td></tr>
<tr><td>In other areas</td><td>5% of salary</td></tr>
</table>
The perquisite value should be arrived at by reducing the rent, if any, actually paid by the employee, from the above value.</td><td>Value determined under column (C)
Add: 10% p.a. of the furniture cost.

However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C),
as reduced by
charges recovered from employee.</td></tr>
<tr><td></td><td></td><td><u>Where the accommodation is taken on lease or rent by employer</u>
Lower of the following is taxable:
(a) actual amount of lease rent paid or payable by employer or
(b) 10% of salary
The lower of the above should be reduced by the rent, actually paid by the employee, to arrive at the perquisite value.</td><td>Value determined under column (C)
Add: 10% p.a. of the furniture cost.
However, if the furniture is hired, then hire charges payable/paid should be added to the value determined under column (C),
as reduced by
charges recovered from employee.</td></tr>
</table>

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Other Benefits or Amenities			
S. No.	**Perquisite**	**Value of Perquisite**	**Key Conditions / Exemptions**
1	**Interest-free / Concessional Loan**	SBI lending rate on **maximum outstanding monthly balance** minus interest paid	No perquisite if loan ≤ ₹ 2,00,000 or for specified **medical treatment** (subject to conditions)
2	**Travelling, Touring & Accommodation other than leave travel concession**	Actual **expenditure incurred by employer**	**(i) Facility for selected employees:** If such facilities are not uniformly available, the value is taken as the market value charged by external agencies. **(ii) Family accompanying on official tour:** Expenses incurred for family members are treated as a taxable perquisite. **(iii) Tour extended as vacation:** Only the additional expenses of the vacation period are taxable, The above value shall be reduced by the amount recovered from the employee.
3	**Free Food & Beverages**	Employer's cost minus employee contribution	**Meals during working hours:** Not taxable if provided at office or through non-transferable meal vouchers, up to ₹200 per meal. **Tea or snacks:** Not treated as a perquisite when provided during working hours. **Remote area/offshore:** Free food and beverages provided in remote areas or offshore installations are fully exempt.

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4	**Gifts / Vouchers**	Value of gift	Exempt up to **₹ 15,000 per year**
5	**Credit Card Expenses**	Expenses paid/reimbursed minus employee contribution	Not taxable if **wholly for official purpose** and proper records are maintained
6	**Club Expenditure**	Actual expenditure reimbursed	**Corporate membership:** Initial membership fee paid by employer is not treated as a perquisite. **Official purpose expenses:** Not taxable if expenses are wholly for business purposes, if proper records are maintained **Uniform facilities:** Use of health club/sports facilities provided uniformly to all employees is not a perquisite.
7	**Use of Movable Assets**	10% p.a. of cost or actual rent paid minus the amount recovered from the employee	No perquisite for **laptops, computers, mobiles**
8	**Transfer of Movable Assets**	Actual cost to employer (–) Depreciation (normal wear & tear) (–) Amount paid by employee (if any)	**Depreciation rates (for each completed year of use):** • **Computers & electronic items**: 50% (WDV) • **Motor cars**: 20% (WDV) • **Other assets**: 10% (SLM)
9	**Other Benefits / Amenities**	Cost to employer (at arm's length) minus employee contribution	No perquisite for **telephone/ mobile expenses**

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Motor Car

<table>
<tr><th>S. No.</th><th>Car owned/ hired by</th><th>Expenses met by</th><th>Wholly official use</th><th>Partly personal use (c)</th></tr>
<tr><td>1</td><td>Employer</td><td>Employer</td><td>Not a perquisite*</td><td><table><tr><th>cc of engine</th><th>Perquisite value</th></tr><tr><td>upto 1.6 litres or Electric Vehicle</td><td>₹ 5,000 p.m.</td></tr><tr><td>above 1.6 litres</td><td>₹ 7,000 p.m.</td></tr></table>If chauffeur is also provided, ₹ 3,000 p.m. should be added to the above value.</td></tr>
<tr><td>2</td><td>Employee</td><td>Employer</td><td>Not a perquisite*</td><td>Actual amount of expenditure incurred by the employer as reduced by the perquisite value arrived at in (1) above.</td></tr>
<tr><td>3</td><td>Employer</td><td>Employee</td><td>-</td><td><table><tr><th>cc of engine</th><th>Perquisite value</th></tr><tr><td>upto 1.6 litres or electric vehicle</td><td>₹ 2,000 p.m.</td></tr><tr><td>above 1.6 litres</td><td>₹ 3,000 p.m.</td></tr></table>If chauffeur is also provided, ₹ 3,000 p.m. should be added to the above value.</td></tr>
<tr><td colspan="5">* Provided employer maintains the complete details of such journey and expenditure thereon and gives a certificate that such expenditure was incurred wholly for official use.
Note: Where car is owned by employer and expenses are also met by the employer, the taxable perquisites in case such car is used wholly for personal purposes of the employee would be equal to the actual expenditure incurred by the employer on running and maintenance expenses including remuneration of chauffeur and normal wear and tear (calculated @10% p.a. of actual cost of motor car) less amount charged from the employee for such use.</td></tr>
<tr><th colspan="5">Leave Travel Concession [Schedule III (Table Sl No. 8)]</th></tr>
<tr><td colspan="5">Exemption is available for 2 trips in a block of 4 calendar years. Exemption would be available to an assessee only if he exercises the option under section 202(4) of shifting out of the default tax regime.</td></tr>
</table>

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S. No.	Journey performed by	Exemption
1	Air	Amount not exceeding the fare admissible for the class of travel to which the employee is entitled by the shortest route.
2	Any other mode :	
	(i) Where rail service is available	Amount not exceeding air-conditioned first-class rail fare by the shortest route to the place of destination
	(ii) Where rail service is not available	
	a) and public transport does not exist, and no specific rates prescribed by Directorate of transport	Amount calculated at the rate of ₹ 30 per Km for the distance of journey by the shortest route shall be admissible
	b) but public transport exists.	Amount not exceeding the first class or deluxe class fare by the shortest route to the place of destination

Provident Funds - Exemption & Taxability provisions				
Particulars	**Recognized PF**	**Unrecognized PF**	**Statutory PF**	**Public PF**
Employer's Contribution	Nil, except as specified in section 17(1)(h)	Not taxable at the time of contribution	Fully exempt	N.A. (as there is only assessee's own contribution)
Employee's Contribution	Eligible for deduction u/s 123, where an employee exercises the option under section 202(4) of shifting out of the default tax regime	Not eligible for deduction	Eligible for deduction u/s 123, where an employee exercises the option under section 202(4) of shifting out of the default tax regime	Eligible for deduction u/s 123, where an employee exercises the option under section 202(4) of shifting out of the default tax regime
Interest Credited on Employer's Contribution	Amount in excess of 9.5% p.a. is taxable as "salary" u/s 16	Not taxable at the time of credit of interest	Fully exempt	N.A.

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Interest Credited on Employee's Contribution	Amount in excess of 9.5% p.a. is taxable as "salary" u/s 16(i) [Refer detailed discussion for taxability of interest towards contribution above threshold limit]	Not taxable at the time of credit of interest	Exempt upto certain limit of contribution [Refer detailed discussion for taxability of interest towards contribution above threshold limit]	Fully exempt
Amount withdrawn on retirement/ termination	Exempt under Schedule II (Table Sl No. 4) from tax subject to certain conditions detailed in the note below.	Employer's contribution and interest thereon is taxable as salary. Employee's contribution is not taxable. Interest on employee's contribution is taxable under income from other source.	Fully exempt under schedule II (Table Sl No. 3) subject to the taxability of interest on employee's contribution in excess of specified threshold limit of ₹ 2,50,000/ ₹ 5,00,000.	Fully exempt under schedule II (Table Sl No. 3)

Note - *The following are the conditions -*

(i) employee served a continuous period of 5 years or more; or

(ii) retires before rendering 5 years of service because of ill health, contraction or discontinuance of employer's business or reason beyond the control of the employee; or

(iii) on cessation of employment, the employee obtains employment with any other employer, to the extent the accumulated balance in RPF is transferred to his RPF account maintained by the new employer.

(iv) The entire balance standing to the credit of the employee is transferred to his NPS account referred to in section 124 and notified by the Central Government

Further, the same would be exempted subject to the taxability of interest on employee's contribution in excess of specified threshold limit of ₹ 2,50,000/ ₹ 5,00,000 in a tax year.

Deductions from gross salary [Section 19(1)]	
(1)	**Professional tax [Table Sl No. 1]** Any sum paid by the assessee on account of tax on employment is allowable as deduction.

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	In case professional tax is paid by employer on behalf of employee, the amount paid shall be included in gross salary as a perquisite and then deduction can be claimed. **Note -** Deduction would be available to an assessee only if he exercises the option under section 202(4) of shifting out of the default tax regime.		
(2)	**Standard deduction [Table Sl No. 2]** upto ₹ 75,000 under default tax regime u/s 202(1). upto ₹ 50,000 under normal provisions of the Act.		
(3)	**Gratuity [Table Sl No. 3,4,5 & 6]**		
	Category of employee	**Deduction**	
	Central Government employees/ Members of Civil Services/ local authority employees etc.	Fully deductible	
	Other employees	Least of the following is deductible:	
		(i)	Gratuity actually received
		In case of employees covered by the Payment of Gratuity Act, 1972	
		(ii)	15/26 x last drawn salary x number of completed years or part in excess of six months
		(iii)	₹ 20,00,000
		In case of employees not covered by the Payment of Gratuity Act, 1972	
		(ii)	1/2 x average salary of last 10 months x number of completed years of service (fraction to be ignored).
		(iii)	₹ 20,00,000
(4)	**Pension [Table Sl No. 7, 8 & 9]**		
	Uncommuted pension	Government & Non-Government employees	No deduction
	Commuted pension	Employees of Central Government/ local authorities/ Statutory corporation/ members of Civil	Fully deductible

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		services/ All-India services/ Defence Services	
		Other Employees	**If the employee is in receipt of gratuity** 1/3 x (commuted pension received ÷ commutation %) x 100 **If the employee is not in receipt of gratuity** 1/2 x (commuted pension received ÷ commutation %) x 100
(5)	**Retrenchment Compensation [Table Sl No. 10 & 11]**		
	Least of the following is deductible: (i) Compensation actually received (ii) ₹ 5,00,000 (iii) 15 days average pay × Completed years of service and part thereof in excess of 6 months		
(6)	**Voluntary Retirement Compensation [Table Sl No. 12]**		
	Central and State Government, Public sector company, any other company, local authority, co-operative society, IIT etc.	Least of the following is deductible:	
		(i)	Compensation actually received
		(ii)	₹ 5,00,000
		(iii)	A= **3 x N X S** **N** = Number of completed years of service **S** = Salary at the time of retirement
		(iv)	**B = M x S** **M=** Balance months of service left before the date of his retirement on superannuation **S** = Salary at the time of retirement
(7)	**Leave Salary [Table Sl No. 13 & 14]**		
	Received during service	Government & Non-Government	No deduction
		Government	Fully deductible

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	Received at the time of retirement, (whether on superannuation or otherwise)	Non-Government	Least of the following is deductible : (i) ₹ 25,00,000 (ii) Leave salary actually received (iii) Cash equivalent of leave salary in respect of the period of earned leave at the credit of the employee (maximum 30 days for every year of service) (iv) 10 months' salary (based on average monthly salary for the 10 months immediately preceding retirement)

Meaning of Salary

S. No.	Calculation of exemption of Allowance/Terminal benefit/Valuation of perquisite	Meaning of salary
1	Gratuity (in case of non-Government employees covered by the Payment of Gratuity Act, 1972)	Basic salary and dearness allowance.
2	a) Gratuity (in case of non-Government employee not covered by Payment of Gratuity Act, 1972) b) Leave Salary c) House Rent Allowance d) Recognized Provident Fund e) Voluntary Retirement Compensation	Basic salary and dearness allowance, if provided in terms of employment, and commission calculated as a fixed percentage of turnover.
3	Rent free accommodation and Accommodation provided to an employee at a concessional rate	All pay, allowance, bonus or commission or any monetary payment by whatever name called but excludes- (1) Dearness allowance not forming part of computation of superannuation or retirement benefit (2) Employer's contribution to the provident account of the employee; (3) allowances which are exempted from

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		the payment of tax; (4) value of the perquisites specified in section 17(1); (5) any payment or expenditure specifically excluded under section 17(2) i.e., payment of medical insurance premium specified therein. (6) lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, leave encashment, voluntary retirement benefits, commutation of pension and similar payments.

Relief when salary is paid in arrears or in advance [Section 157

Particulars	Amount
Tax on the total income including arrears/advance salary received during a tax year	XXX
Less: Relief under section 157 [Refer Working Note Below]	XXX
Net Tax Liability	**XXX**

Working Note - Computation of Relief u/s 157 Relief =A-B, If A>B, where A= C-D; B = Aggregate of E; E = F-G	
Step 1	**Calculate A = C-D** A= tax on additional salary or additional family pension for the relevant tax year C= tax on total income of the relevant tax year D= tax on total income **as reduced** by additional salary or additional family pension
Step 2	**Calculate E = F – G** E = tax on the additional salary or additional family pension **for each tax year** ascertained in Step-1. F= tax payable on total income of such tax year as increased by amount relating to such tax year G= tax payable on total income of each tax year
Step 3	B= Aggregate of E i.e., aggregate of tax on additional salary or additional family pension for all tax years.

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TEST YOUR KNOWLEDGE

1. *Mr. Mohit is employed with XY Ltd. on a basic salary of ₹ 10,000 p.m. He is also entitled to dearness allowance @100% of basic salary, 50% of which is included in salary as per terms of employment. The company gives him house rent allowance of ₹ 6,000 p.m. which was increased to ₹ 7,000 p.m. with effect from 01.01.2027. He also got an increment of ₹ 1,000 p.m. in his basic salary with effect from 01.02.2027. Rent paid by him during the tax year2026-27 is as under:*

   April and May, 2026- Nil, as he stayed with his parents

   June to October, 2026 - ₹ 6,000 p.m. for an accommodation in Ghaziabad

   November, 2026 to March, 2027 - ₹ 8,000 p.m. for an accommodation in Delhi

   Compute his gross salary for tax year 2026-27, assuming he exercises the option under section 202(4) of shifting out of the default tax regime.

2. *Ms. Rakhi is an employee in a private company. She receives the following medical benefits from the company during the tax year 2026-27:*

	Particulars	***₹***
1	*Reimbursement of following medical expenses incurred by Ms. Rakhi*	
	(A) On treatment of her self-employed daughter in a private clinic	*4,000*
	(B) On treatment of herself by family doctor	*8,000*
	(C) On treatment of her mother-in-law dependent on her, in a nursing home	*5,000*
2	*Payment of premium on Mediclaim Policy taken on her health*	*7,500*
3	*Medical Allowance*	*2,000 p.m.*
4	*Medical expenses reimbursed on her son's treatment in a government hospital*	*5,000*
5	*Expenses incurred by company on the treatment of her minor son abroad including stay expenses*	*1,05,000*

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6	*Expenses in relation to foreign travel of Rakhi and her son for medical treatment* ***Note** - Limit specified by RBI for expenditure on medical treatment and stay abroad is USD 2,50,000 per financial year under liberalized remittance scheme.*	*1,20,000*

Examine the taxability of the above benefits and allowances in the hands of Rakhi.

3. *Mr. X is employed with AB Ltd. on a monthly salary of ₹ 25,000 per month and an entertainment allowance and commission of ₹ 1,000 p.m. each. The company provides him with the following benefits:*

   (i) A company owned accommodation is provided to him in Delhi. Furniture costing ₹ 2,40,000 was provided on 1.8.2026.

   (ii) A personal loan of ₹ 5,00,000 on 1.7.2026 on which it charges interest @ 6.75% p.a. The entire loan is still outstanding (Assume SBI rate of interest on 1.4.2026 was 12.75% p.a.)

   (iii) His son is allowed to use a motor cycle belonging to the company. The company had purchased this motor cycle for ₹ 60,000 on 1.5.2023. The motor cycle was finally sold to him on 1.8.2026 for ₹ 30,000.

   (iv) Professional tax paid by Mr. X is ₹ 2,000.

   Compute the income from salary of Mr. X for the tax year 2026-27 assuming Mr. X exercises the option under section 202(4) of shifting out of the default tax regime.

4. *Mr. Balaji, employed as Production Manager in Beta Ltd., furnishes you the following information for the year ended 31.03.2027:*

   (i) Basic salary upto 31.10.2026 ₹ 50,000 p.m.

   Basic salary from 01.11.2026 ₹ 60,000 p.m.

   ***Note** - Salary is due and paid on the last day of every month.*

   (ii) Dearness allowance @ 40% of basic salary.

   (iii) Bonus equal to one month salary. Paid in October 2026 on basic salary plus dearness allowance applicable for that month.

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(iv) Contribution of employer to recognized provident fund account of the employee@16% of basic salary.

(v) Professional tax paid ₹ 2,500 of which ₹ 2,000 was paid by the employer.

(vi) Facility of laptop and computer was provided to Balaji for both official and personal use. Cost of laptop ₹ 45,000 and computer ₹ 35,000 were acquired by the company on 01.12.2026.

(vii) Motor car owned by the employer (cubic capacity of engine exceeds 1.60 litres) provided to the employee from 01.11.2026 meant for both official and personal use. Repair and running expenses of ₹ 45,000 from 01.11.2026 to 31.03.2027, were fully met by the employer. The motor car was self-driven by the employee.

(viii) Leave travel concession given to employee, his wife and three children (one daughter aged 7 and twin sons aged 3). Cost of air tickets (economy class to which the employee is entitled)) reimbursed by the employer ₹ 30,000 for adults and ₹ 45,000 for three children. Balaji is eligible for availing exemption this year to the extent it is permissible in law.

Compute the salary income chargeable to tax in the hands of Mr. Balaji for the tax year 2026-27 assuming he exercises the option under section 202(4) of shifting out of the default tax regime.

5. *From the following details, find out the salary chargeable to tax for the tax year 2026-27 assuming he exercises the option under section 202(4) of shifting out of the default tax regime -*

Mr. X is a regular employee of Rama & Co., in Gurgaon. He was appointed on 1.1.2026 in the basic pay scale of ₹ 20,000 - ₹ 1,000 - ₹ 30,000. He is paid 10% D.A. & Bonus equivalent to one month pay based on salary of March every year. He contributes 15% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. DA forms part of pay for retirement benefits.

He is provided free housing facility which has been taken on rent by the company at ₹ 10,000 per month. He is also provided with following facilities:

(i) Facility of laptop costing ₹ 50,000.

(ii) Company reimbursed the medical treatment bill of his brother of ₹ 25,000, who is dependent on him.

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(iii) *The monthly salary of ₹ 1,000 of a house keeper is reimbursed by the company.*

(iv) *A gift voucher of ₹ 20,000 on the occasion of his marriage anniversary.*

(v) *Conveyance allowance of ₹ 1,000 per month is given by the company towards actual reimbursement of conveyance spent on official duty.*

(vi) *He is provided personal accident policy for which premium of ₹ 5,000 is paid by the company.*

(vii) *He is getting telephone allowance @ ₹ 500 per month.*

6. *You are required to compute the income from salary of Mr. Raja under default tax regime from the following particulars for the year ended 31-03-2027:*

(i) *He retired on 31-12-2026 at the age of 60, after putting in 25 years and 9 months of service, from a private company at Delhi.*

(ii) *He was paid a salary of ₹ 25,000 p.m. and house rent allowance of ₹ 6,000 p.m. He paid rent of ₹ 6,500 p.m., during his tenure of service.*

(iii) *On retirement, he was paid a gratuity of ₹ 3,50,000. He was covered by the payment of Gratuity Act, 1972. He had not received any other gratuity at any point of time earlier, other than this gratuity.*

(iv) *He had accumulated leave of 15 days per annum during the period of his service; this was encashed by him at the time of his retirement. A sum of ₹ 3,15,000 was received by him in this regard. Employer allowed 30 days leave per annum.*

(v) *He is receiving ₹ 5,000 as pension. On 1.2.2027, he commuted 60% of his pension and received ₹ 3,00,000 as commuted pension.*

(vi) *The company presented him with a gift voucher of ₹ 14,000 on his retirement. His colleagues also gifted him a mobile phone worth ₹ 50,000 from their own contribution.*

7. *Ms. Akansha, a salaried employee, furnishes the following details for the financial year 2026-27:*

Particulars	***₹***
Basic salary	*6,20,000*
Dearness allowance	*4,20,000*

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Commission	*75,000*
Entertainment allowance	*9,000*
Medical expenses reimbursed by the employer	*18,000*
Profession tax (of this, 50% paid by employer)	*4,000*
Health insurance premium paid by employer	*8,000*
Life insurance premium of Akansha paid by employer	*26,000*
Laptop provided for use at home. Actual cost of Laptop to employer Children of the assessee are also using the Laptop at home]	*45,000*
Employer company owns a Maruti Suzuki Swift car, which was provided to the assessee, both for official and personal use. Driver was also provided. (Engine cubic capacity more than 1.6 litres). All expenses are met by the employer	
Annual credit card fees paid by employer [Credit card is not exclusively used for official purposes; details of usage are not available]	*7,000*

You are required to compute the income chargeable under the head Salaries for the tax year 2026-27 if she pays tax under default tax regime.

8. *Mr. Kunal (age 27 years) is an employee in a private company posted in Delhi. He was appointed on 01.02.2025 in the scale of ₹ 60,000 - ₹ 1,000 - ₹ 70,000. He furnishes the following information for the tax year 2026-27:*

   (i) Dearness allowance @25% of basic salary (60% of DA forms part of retirement benefits)

   (ii) Bonus equal to one month's salary. Paid in November 2026 on basic salary applicable for that month.

   (iii) Leave encashment for tax year 2026-27 of ₹ 10,000.

   (iv) He also received a motor car on 01.12.2026 (cubic capacity of engine exceeds 1.60 litres) along with chauffeur for both official and personal purpose. The motor car is owned by his employer and all expenses are met by the employer.

   (v) His employer granted him a loan of ₹ 2,00,000 on 1st June, 2026 which is repayable in equal quarterly installments over 2 years starting from 1st October, 2026. The State Bank of India (SBI) lending rate for such loans

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is 9.5% per annum as on 01.04.2026, while the employer recovers interest @5.5% per annum from the employee.

(vi) His employer gave him a rent-free accommodation (fully furnished) in Delhi from 01.04.2026. This house is owned by the employer.

(vii) The furniture and appliances provided with the house were bought by the employer at an aggregate cost of ₹ 1,50,000 on 01.01.2025. Electricity and water bills of ₹ 5,000 p.m. for the said house were paid by the employer.

(viii) His colleagues gifted him a mobile phone worth ₹ 45,000 from their own contribution on account of his marriage.

You are required to compute the income chargeable under the head Salaries in the hands of Mr. Kunal for the tax Year 2026-27 assuming that he wants to pay tax under default tax regime under section 202(1).

ANSWERS

1. Computation of gross salary of Mr. Mohit for tax year 2026-27

Particulars	₹
Basic salary [(₹ 10,000 × 10) + (₹ 11,000 × 2)]	1,22,000
Dearness Allowance (100% of basic salary)	1,22,000
House Rent Allowance **(See Note below)**	21,300
Gross Salary	**2,65,300**

Note: Computation of Taxable House Rent Allowance (HRA)

Particulars	April-May (₹)	June-Oct (₹)	Nov-Dec (₹)	Jan (₹)	Feb-March (₹)
Basic salary per month	10,000	10,000	10,000	10,000	11,000
Dearness allowance (included in salary as per terms of employment) (50% of basic salary)	5,000	5,000	5,000	5,000	5,500

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Salary per month for the purpose of computation of house rent allowance	15,000	15,000	15,000	15,000	16,500
Relevant period (in months	2	5	2	1	2
Salary for the relevant period (Salary per month × relevant period)	30,000	75,000	30,000	15,000	33,000
Rent paid for the relevant period	Nil	30,000 (₹ 6,000×5)	16,000 (₹ 8,000×2)	8,000 (₹ 8,000×1)	16,000 (₹ 8,000×2)
House rent allowance (HRA) received during the relevant period **(A)**	12,000 (₹ 6,000×2)	30,000 (₹ 6,000×5)	12,000 (₹ 6,000×2)	7,000 (₹ 7,000×1)	14,000 (₹ 7,000×2)
Least of the following is exempt [Sch III, Table Sl No. 11]	N.A.				
1. Actual HRA received	-	30,000	12,000	7,000	14,000
2. Rent paid (–) 10% of salary	-	22,500	13,000	6,500	12,700
3. 40% of salary (Residence at Ghaziabad – June to Oct, 2026)	-	30,000 (40% × ₹ 75,000)	15,000 (50% × ₹ 30,000)	7,500 (50% × ₹ 15,000)	16,500 (50% × ₹ 33,000)
50% of salary (Residence at Delhi– Nov, 26 - March, 27)					
Exempt HRA (B)	**Nil**	**22,500**	**12,000**	**6,500**	**12,700**
Taxable HRA [Actual HRA (–) Exempt HRA] **(A-B)**	12,000	7,500	Nil	500	1,300

Taxable HRA (total) = ₹ 12,000 + ₹ 7,500 + ₹ 500 + ₹ 1,300 = ₹ 21,300

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2. Tax treatment of medical benefits, allowances and Mediclaim premium in the hands of Ms. Rakhi for tax year 2026-27

	Particulars
1.	Reimbursement of medical expenses incurred by Ms. Rakhi (A) The amount of ₹ 4,000 reimbursed by her employer for treatment of her self-employed daughter in a private clinic is taxable perquisite. (B) The amount of ₹ 8,000 reimbursed by the employer for treatment of Ms. Rakhi by family doctor is taxable perquisite. (C) The amount of ₹ 5,000 reimbursed by her employer for treatment of her dependant mother-in-law in a nursing home is taxable perquisite. The aggregate sum of ₹ 17,000, specified in (A), (B) and (C) above, reimbursed by the employer is taxable perquisite
2.	Medical insurance premium of ₹ 7,500 paid by the employer for insuring health of Ms. Rakhi is a tax free perquisite under section 17(2)(c).
3.	Medical allowance of ₹ 2,000 per month i.e., ₹ 24,000 p.a. is a fully taxable allowance.
4.	As per section 17(2)(b), reimbursement of medical expenses of ₹ 5,000 on her son's treatment in a hospital maintained by the Government is a tax-free perquisite.
5. & 6.	As per section 17(2)(f), the following expenditure incurred by the employer would be excluded from perquisite subject to certain conditions – (i) Expenditure on medical treatment of the employee, or any member of the family of such employee, outside India including stay expenses **[₹ 1,05,000, in this case];** (ii) Expenditure on travel of the employee or any member of the family of such employee for medical treatment and one attendant who accompanies the patient in connection with such treatment **[₹ 1,20,000, in this case].** The conditions subject to which the above expenditure would be exempt are as follows – (i) The expenditure on medical treatment and stay abroad would be excluded from perquisite to the extent permitted by Reserve Bank of India;

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	(ii) The expenditure on travel would be excluded from perquisite only in the case of an employee whose gross total income, as computed before including the said expenditure, does not exceed the amount as may be prescribed (i.e., ₹8,00,000 as per Rule 19) Since the expenditure on medical treatment and stay abroad does not exceed the limit permitted by RBI, they would be fully exempt. However, the foreign travel expenditure of Ms. Rakhi and her minor son borne by the employer would be excluded from perquisite only if the gross total income of Ms. Rakhi, as computed before including the said expenditure, does not exceed ₹ 8,00,000.

3. Computation of Income from Salary of Mr. X for the tax year 2026-27

Particulars	₹	₹
Basic salary [₹ 25,000 × 12]		3,00,000
Commission [₹ 1,000 × 12]		12,000
Entertainment allowance [₹ 1,000 × 12]		12,000
Rent free accommodation **[Note 1]**	32,400	
Add: Value of furniture [₹ 2,40,000 × 10% p.a. for 8 months]	16,000	48,400
Interest on personal loan **[Note 2]**		22,500
Use of motorcycle [₹ 60,000 × 10% p.a. for 4 months]		2,000
Transfer of motorcycle **[Note 3]**		12,000
Gross Salary		**4,08,900**
Less : Deduction under section 19(1)		
Standard deduction	50,000	
Professional tax paid	2,000	52,000
Taxable Salary		**3,56,900**

Notes:

1. Value of rent-free unfurnished accommodation

= 10% of salary for the relevant period

= 10% of (₹ 3,00,000 + ₹ 12,000 + ₹ 12,000) = ₹ 32,400

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2. Value of perquisite for interest on personal loan

= [₹ 5,00,000 × (12.75% - 6.75%) for 9 months] = ₹ 22,500

3. Depreciated value of the motor cycle

= Original cost – Depreciation @ 10% p.a. for 3 completed years.

= ₹ 60,000 – (₹ 60,000 × 10% p.a. × 3 years) = ₹ 42,000.

Perquisite = ₹ 42,000 – ₹ 30,000 = ₹ 12,000.

4. Computation of Taxable Salary of Mr. Balaji for tax year 2026-27

Particulars		₹
Basic salary [(₹ 50,000 × 7) + (₹ 60,000 × 5)]		6,50,000
Dearness Allowance (40% of basic salary)		2,60,000
Bonus (₹ 50,000 + 40% of ₹ 50,000) (**See Note 1**)		70,000
Employer's contribution to recognised provident fund (**See Note 2**)		Nil
Professional tax paid by employer		2,000
Perquisite of Motor Car (**See Note 4**)		35,000
Gross Salary		**10,17,000**
Less: Deduction under section 19(1)		
Standard deduction	50,000	
Professional tax (**See Note 6**)	2,500	52,500
Taxable Salary		**9,64,500**

Notes:

1. Since bonus was paid in the month of October, the basic salary of ₹ 50,000 for the month of October is considered for its calculation.
2. Employer's contribution does not exceed ₹ 7,50,000 for the tax year, hence nothing shall be taxable.
3. As per Rule 15(7), facility of use of laptop and computer is a tax-free perquisite, whether used for official or personal purpose or both.
4. As per the provisions of Rule 15(3), in case a motor car (engine cubic capacity exceeding 1.60 liters) owned by the employer is provided to

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the employee without chauffeur for personal as well as office use, the value of perquisite shall be ₹ 7,000 per month. The car was provided to the employee from 01.11.2026, therefore the perquisite value has been calculated for 5 months.

5. Mr. Balaji can avail exemption under Schedule III (Table Sl No. 8) on the entire amount of ₹ 75,000 reimbursed by the employer towards Leave Travel Concession since the same was availed for himself, his wife and three children and the journey was undertaken by economy class airfare to which he is entitled. The restriction imposed for two children is not applicable in case of multiple births which take place after the first child.

   It is assumed that the Leave Travel Concession was availed for journey within India.

   He is eligible to claim benefit of exemption under Schedule III (Table Sl No. 8) since he has exercised the option under section 202(4) of shifting out of the default tax regime.

6. As per section 17(1)(f), a "perquisite" includes any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee. Therefore, professional tax of ₹ 2,000 paid by the employer is taxable as a perquisite in the hands of Mr. Balaji. As per section 19(1) (Table Sl No. 1), a deduction from the salary is provided on account of tax on employment i.e. professional tax paid during the year.

   Therefore, in the present case, the professional tax paid by the employer on behalf of the employee ₹ 2,000 is first included in the salary and deduction of the entire professional tax of ₹ 2,500 is provided from salary.

5. Computation of taxable salary of Mr. X for tax year 2026-27

Particulars	₹
Basic pay [(₹ 20,000×9) + (₹ 21,000×3)] = ₹ 1,80,000 + ₹ 63,000	2,43,000
Dearness allowance [10% of basic pay]	24,300
Bonus	21,000

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Employer's contribution to Recognized Provident Fund (not taxable, since the amount does not exceed ₹ 7,50,000)	Nil
Taxable allowances	
Telephone allowance	6,000
Taxable perquisites	
Rent-free accommodation **[See Note (i) below]**	29,430
Medical reimbursement	25,000
Reimbursement of salary of housekeeper	12,000
Gift voucher **[See Note (iv) below]**	20,000
Gross Salary	**3,80,730**
Less: Deduction under section 19(1) – Standard deduction	50,000
Salary income chargeable to tax	**3,30,730**

Notes:

(i) Where the accommodation is taken on lease or rent by the employer, the value of rent-free accommodation provided to employee would be actual amount of lease rental paid or payable by the employer or 10% of salary, whichever is lower.

For the purposes of valuation of rent free house, salary includes:

(i) Basic salary i.e., ₹ 2,43,000

(ii) Dearness allowance i.e. ₹ 24,300

(iii) Bonus i.e., ₹ 21,000

(iv) Telephone allowance i.e., ₹ 6,000

Therefore, salary works out to

₹ 2,43,000 + ₹ 24,300 + ₹ 21,000 + ₹ 6,000 = ₹ 2,94,300.

10% of salary = ₹ 2,94,300 × 10/100 = ₹ 29,430

Value of rent-free house = Lower of rent paid by the employer (i.e. ₹ 1,20,000) or 10% of salary (i.e., ₹ 29,430).

Therefore, the perquisite value is ₹ 44,145.

(ii) Facility of use of laptop is not a taxable perquisite.

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(iii) Conveyance allowance is exempt since it is based on actual reimbursement for official purposes.

(iv) The value of any gift or voucher or token in lieu of gift received by the employee or by member of his household below ₹ 15,000 in aggregate during the tax year is exempt. In this case, the gift voucher was received on the occasion of marriage anniversary and the sum is ₹ 15,000 or more. Therefore, the entire amount of ₹ 20,000 is liable to tax as perquisite.

(v) Premium of ₹ 5,000 paid by the company for personal accident policy is not liable to tax.

6. **Computation of income under the head "Salaries" of Mr. Raja for the tax year 2026-27 under default tax regime**

Particulars		₹
Basic Salary = ₹ 25,000 x 9 months		2,25,000
House Rent Allowance = ₹ 6,000 x 9 months [Fully taxable under default tax regime]		54,000
Gratuity		3,50,000
Uncommuted Pension received [₹ 5,000 x 1) + (₹ 5,000 x 2 x 40%)		9,000
Commuted Pension		3,00,000
Leave encashment		3,15,000
Gift Voucher [the value of any gift or voucher or token in lieu of gift received by the employee or by member of his household below ₹ 15,000 in aggregate during the tax year is exempt]		Nil
Mobile Phone received as gift from colleagues (Neither taxable under the head "Salaries" nor "Income from other sources", since taxability provisions under section 92(2)(m) are not attracted in respect of mobile phone as it is not included in the definition of "property" thereunder)		Nil
Gross Salary		**12,53,000**
Less: **Deduction under section 19(1)**	75,000	
- **Standard deduction** [Actual salary or ₹ 75,000, whichever is less]		

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- **Gratuity –** Deduction would be least of the following: (i) Actual gratuity received ₹ 3,50,000 (ii) 15 days salary for every year of completed service [15/26 x 25,000 x 26] = ₹ 3,75,000 (iii) Notified Limit ₹ 20,00,000	3,50,000	
- **Commuted pension:** 1/3 x (3,00,000 /60% x 100%)	1,66,667	
- **Leave salary –** Deduction would be least of the following: (i) ₹ 25,00,000 (ii) Leave salary actually received ₹ 3,15,000 (iii) A = 10 x B, = ₹2,50,000; B= ₹ 25,000 (being avg salary of last 10 months) (iv) Cash equivalent of leave salary in respect of period of earned leave at his credit (not exceeding 30 days) = 3,15,000 x 375/375 = ₹ 3,15,000 [Leave Due = Leave allowed – Leave taken] [750 days – 375 days = 375 days]	2,50,000	
		8,41,667
Taxable Salary		**4,11,333**

7. **Computation of income chargeable under the head "Salaries" of Ms. Akansha for tax year 2026-27 under default tax regime**

Particulars	₹
Basic Salary	6,20,000
Dearness allowance	4,20,000
Commission	75,000

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Entertainment allowance	9,000
Medical expenses reimbursed by the employer is fully taxable	18,000
Professional tax paid by the employer is a taxable perquisite since it is an obligation of the employee which is paid by the employer	2,000
Health insurance premium of ₹ 8,000 paid by the employer is an exempt perquisite [section 17(2)(d)]	Nil
Life insurance premium of Ms. Akansha paid by employer is a taxable perquisite as per section 17(1)(g)	26,000
Laptop provided for use at home is an exempt perquisite as per Rule 15(7)	Nil
Provision of motor car with driver (engine cubic capacity more than 1.6 litres) owned by employer to employee, the perquisite value would be ₹ 1,20,000 [₹ (7000+ 3000) ×12] as per Rule 15(3)	1,20,000
Annual credit card fees paid by employer is a taxable perquisite as per Rule 15(5) since the credit card is not exclusively used for official purposes and details of usage are not available	7,000
Gross Salary	**12,97,000**
Less: **Deductions under section 19(1)**	
- Standard Deduction	75,000
- Professional tax [Deduction not allowed under default tax regime]	Nil
Income chargeable under the head "Salaries"	**12,22,000**

8. Computation of income chargeable under the head "Salaries" of Mr. Kunal for tax year 2026-27 under default tax regime

Particulars	₹	₹
Basic Pay [₹ 61,000 x 10 + ₹ 62,000 x 2]		7,34,000
Dearness Allowance [₹ 7,34,000 x 25%]		1,83,500
Bonus		61,000
Leave encashment for tax year 2026-27		10,000

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Value of perquisite		
Perquisite of Motor Car [₹ 10,000 x 4]		40,000
As per the provisions of Rule 15(3), in case a motor car (engine cubic capacity exceeding 1.60 litres) owned by the employer is provided to employee with chauffeur for both official and personal use, the value of perquisite shall be ₹ 10,000 (₹ 7,000 + ₹ 3,000). The car was provided to employee from 01.12.2026, therefore the perquisite value has been calculated for 4 months.		
Perquisite of interest on loan **(Working Note Below)**		5,917
Value of Rent-free accommodation		
Value of Rent-free accommodation {10% of ₹ 9,15,100 i.e., [₹ 7,34,000, basic salary + ₹ 1,10,100 (₹ 1,83,500 x 60%, DA forming part of retirement benefit) + ₹ 10,000, leave encashment + ₹ 61,000, bonus]	91,510	
Add: Value of furniture [₹ 1,50,000 × 10% p.a.]	15,000	
	1,06,510	1,06,510
Facility of use of electricity and water [Electricity and water bills paid by the employer would be taxable as perquisite] [₹ 5,000 x 12]		60,000
Mobile phone received as gift from colleagues. (Not taxable under the head "Salaries")		Nil
Gross Salary		**12,00,927**
Less: Standard deduction under section 19(1) [Actual salary or ₹ 75,000, whichever is less]		**75,000**
Taxable Salary		**11,25,927**

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Working Note:

Perquisite of Interest on Loan

The value of the benefit with respect to concessional loan made to the employee by the employer shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India (SBI) as on the 1st day of the relevant tax year. This rate should be applied on the maximum outstanding monthly balance and the resulting amount should be reduced by the interest, if any, actually paid by him.

"Maximum outstanding monthly balance" means the aggregate outstanding balance for loan as on the last day of each month.

The perquisite value for computation is 9.5% - 5.5% = 4% p.a.

Month	Maximum outstanding balance as on last date of month (₹)	Perquisite value at 4% for the month (₹)
June, 2026	2,00,000	667
July, 2026	2,00,000	667
August, 2026	2,00,000	667
September, 2026	2,00,000	667
October, 2026	1,75,000	583
November, 2026	1,75000	583
December, 2026	1,75,000	583
January, 2027	1,50,000	500
February, 2027	1,50,000	500
March, 2027	1,50,000	500
Taxable Value of perquisite		**5,917**

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Q.NO.	ANSWERS	
1.	(c)	Income from Other Sources
2.	(b)	Exempt under Schedule IV
3.	(c)	Fully taxable
4.	(c)	₹15,000 p.m. plus DA thereon
5	(b)	Any member of the family as defined
6	(b)	Exempt to the extent computed as deduction under gratuity provisions
7	(c)	₹ 5,00,000
8	(c)	Income from Other Sources
9.	(b)	₹ 50,000
10.	(a)	Nil
11.	(c)	Nil
12	(b)	Only in the case of specified employees
13	(c)	₹ 3,200
14	(a)	₹ 75,000
15	(b)	Voluntary retirement compensation

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UNIT – 2: INCOME FROM HOUSE PROPERTY

LEARNING OUTCOMES

After studying this unit, you would be able to-

- **comprehend** when income is chargeable under the head "Income from house property";
- **appreciate** the meaning and tax treatment of composite rent;
- **determine** annual value of different categories of house property;
- **compute** income from house property for different categories of house property;
- **comprehend** and **apply** the tax treatment on recovery of unrealized rent and arrears of rent;
- **compute** income from co-owned property.

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2.1 STRUCTURED SECTIONAL LEARNING

Section	Particulars
2(7)	Meaning of Annual Value
2(25)	Meaning of child
20	Income from house property
21	Determination of annual value
22	Deductions from income from house property
23	Arrears of rent and unrealized rent received subsequently
24	Property owned by co-owners
25	Interpretation

2.2 CHARGEABILITY [SECTION 20]



The process of computation of income under the head "Income from house property" starts with the determination of annual value of the property. The concept of annual value and the method of determination is laid down in section 21.

The **annual value** of any property consisting of any **buildings or lands appurtenant thereto, owned by the assessee** is chargeable to tax under the head "Income from house property".

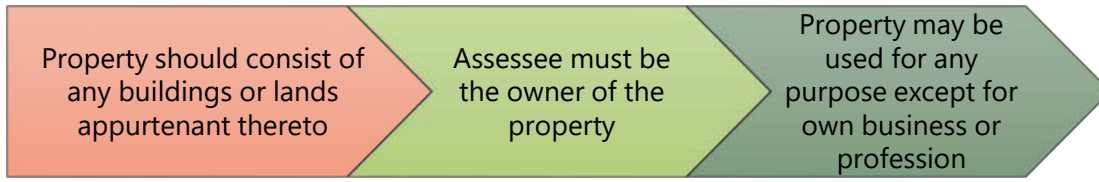
However, annual value of the portions of property that is occupied by the assessee for his business or profession, where the profits of such business or profession are chargeable to tax, shall not be taxed under the head "Income from house property"



Any income from letting out of a residential house or part of it by the owner shall always be chargeable under the head "Income from house property".

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2.3 CONDITIONS FOR CHARGEABILITY



(i) Property should consist of any buildings or lands appurtenant thereto.

(a) Buildings include not only residential buildings, but also factory buildings, offices, shops, godowns and other commercial premises.

(b) Land appurtenant means land connected with the building like garden, garage etc.



Income from letting out of vacant land is, however, taxable under the head "Income from other sources" or "Profits and gains of business or profession", as the case may be.

(ii) Assessee must be the owner of the property

(a) Owner is the person who is entitled to receive income from the property in his own right.

(b) The requirement of registration of the sale deed is not necessary.

(c) The person who owns the building need not also be the owner of the land upon which it stands. Thus, a building on leasehold land is also covered.

(d) Ownership includes both freehold and leasehold rights.

(e) As per section 25, the following persons, though not the legal owners of a property are included in the definition of "owner" for the purposes of sections 20 to 24 –

- **Transfer to a spouse** – In case of transfer of property by an individual to his or her spouse without adequate consideration, the person who transfers the property is considered as the owner of the transferred property.

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Exception *– In case of transfer to spouse under an agreement to live apart, the person who transfers the property will not be deemed to be the owner.*

- **Transfer to a minor child** – In case of transfer of property by an individual to his or her minor child without adequate consideration, the person who transfers the property is considered as the owner of the transferred property.

Exception *– In case of transfer to a minor married daughter, the person who transfers the property will not be deemed to be the owner.*



Child in relation to an individual includes a step child and an adopted child of that individual.



- **Holder of an impartible estate** – The impartible estate is a property which is not legally divisible. The holder of an impartible estate shall be deemed to be the individual owner of all properties comprised in the estate.
- **Member of a co-operative society etc.**– A member of a co-operative society, company or other AOP to whom a building or part thereof is allotted or leased under a House Building Scheme of a society/company/association, is considered as owner of that building or part thereof allotted to him although the co-operative society/company/ association is the legal owner of that building.
- **Person in possession of a property** – A person who is allowed to take or retain the possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 shall be considered as the owner of that house property. This would include cases where the –

(1) possession of property has been handed over to the buyer,

(2) sale consideration has been paid or promised to be paid to the seller by the buyer,

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(3) sale deed has not been executed in favour of the buyer, although certain other documents like power of attorney/agreement to sell/will etc. have been executed.

➢ **Person having right in a property** – A person who acquires any rights in or with respect to any building or its part

- by virtue of transfer of such property by way of sale or exchange or original or extendible lease for not less than 12 years; or
- accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease which has the effect of enabling the enjoyment of such property.

shall be considered as the owner of that house property.

Exception *– In case the person acquiring any rights by way of lease from month to month or for a period not exceeding one year, such person will not be considered as owner.*

(f) In case of recovery of unrealized rent and arrears of rent, ownership of that property is not relevant for taxing the amount under the head 'Income from house property'.

(iii) Use of property

The property may be used for any purpose, i.e., commercial or residential purpose, but it should not be used by the owner for the purpose of any business or profession carried on by him, the profit of which is chargeable to tax.

The income earned by an assessee engaged in the business of letting out commercial properties on rent would be taxable as business income[1].

[1] *Supreme Court ruling in Rayala Corporation (P) Ltd. v. Asstt. CIT (2016) 386 ITR 500*

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1.	*Which of the following conditions must be satisfied for income to be taxable under the head "Income from House Property"?*	
	(a)	*The property should consist of a building or land appurtenant thereto.*
	(b)	*The assessee should be the owner of such property.*
	(c)	*The property should not be used for the assessee's own business or profession.*
	(d)	*All of the above.*
2.	*Income earned from letting out a vacant plot of land is taxable under which of the following heads of income?*	
	(a)	*Income from House Property*
	(b)	*Income from Other Sources*
	(c)	*Profits and Gains of Business or Profession*
	(d)	*(b) or (c)*
3.	*Income from sub-letting of house property is taxable under which of the following heads of income?*	
	(a)	*Income from House Property*
	(b)	*Income from Other Sources*
	(c)	*Profits and Gains of Business or Profession*
	(d)	*(b) or (c)*

2.4 COMPOSITE RENT

(i) Meaning of composite rent: The owner of a property may sometimes receive rent in respect of building as well as –

(1) other assets like say, furniture, plant and machinery.

(2) for different services provided in the building, for e.g., –

(a) Lifts;

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(b) Security;

(c) Power backup;

The amount so received is known as **"composite rent".**

(ii) Tax treatment of composite rent

Where composite rent includes rent of building and charges for different services (lifts, security etc.), the composite rent has to be split up in the following manner-

(a) the sum attributable to use of property is to be assessed under section 20 as income from house property;

(b) the sum attributable to use of services is to be charged to tax under the head "Profits and gains of business or profession" or under the head "Income from other sources", as the case may be.

(iii) Manner of splitting up

If let out of building and other assets are inseparable

Where composite rent is received from letting out of building and other assets (like furniture etc.) and the two lettings are not separable i.e. the other party does not accept letting out of building without other assets, then the rent is taxable either as business income or income from other sources, as the case may be.

This is applicable even if the sum receivable for the two lettings is fixed separately.

If let out of building and other assets are separable

Where composite rent is received from letting out of building and other assets and the two lettings are separable i.e. letting out of one is acceptable to the other party without letting out of the other, then

(a) income from letting out of building is taxable under "Income from house property";

(b) Income from letting out of other assets is taxable under "Profits and gains of business or profession" or "Income from other sources", as the case may be.

This is applicable even if a composite rent is received by the assessee from his tenant for the two lettings.

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4.	*Ms. Riya let out a building and furniture separately. The tenant had the option to rent only the building without furniture. In this case*	
	(a)	*Entire rent is taxable as income from house property*
	(b)	*Entire rent is taxable as business income*
	(c)	*Income from building is taxable under the head "Income from House Property" and income from furniture separately under appropriate head*
	(d)	*Entire income is exempt*
5.	*Which of the following is the key test to determine taxability of composite rent?*	
	(a)	*Ownership of furniture*
	(b)	*Whether rent is received monthly*
	(c)	*Whether letting of building and assets is separable or inseparable*
	(d)	*Nature of tenant*

2.5 INCOME FROM HOUSE PROPERTY SITUATED OUTSIDE INDIA

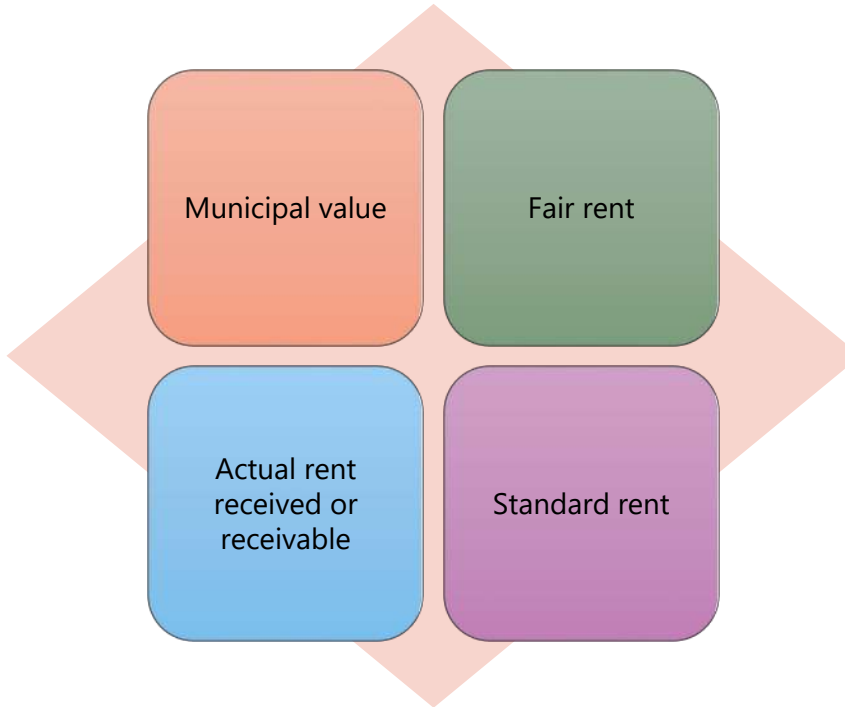
(i) In case of a resident in India (resident and ordinarily resident in case of individuals and HUF), income from house property situated outside India is taxable, whether such income is brought into India or not.

(ii) In case of a non-resident or resident but not ordinarily resident in India, income from a property situated outside India is taxable only if it is received in India.

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2.6 DETERMINATION OF ANNUAL VALUE [SECTION 21]

In determining the annual value, there are four factors which are normally taken into consideration. These are –



(i) **Municipal value:** Municipal value is the value determined by the municipal authorities for levying municipal taxes on house property.

(ii) **Fair rent:** Fair rent means rent which similar property in the same locality would fetch.

(iii) **Standard rent:** The standard rent (SR) is fixed under the Rent Control Act. The standard rent is the maximum rent, which would be permissible under the law to be charged to a tenant.

(iv) **Actual rent received or receivable:** The total rent that the owner has actually received or has the right to receive from the tenant for the period during which the property was let out during the tax year.

The Actual rent received or receivable would not include the rent which cannot be realized by the owner, subject to satisfaction of certain conditions as mentioned in the prescribed Rule.

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The conditions prescribed in Rule 21 are –

(a) the tenancy is *bona fide*;

(b) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;

(c) the defaulting tenant is not in occupation of any other property of the assessee; and

(d) 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 futile (useless).

As per section 21(1), the annual value of any property would be the higher of the following -

(a) the sum for which the property might reasonably be expected to let from year to year (Expected Rent); or

(b) the actual rent received or receivable by the owner, if the property or any part of it is let.



What is Expected Rent?

The Expected Rent (ER) is the higher of fair rent (FR) and municipal value (MV) but restricted to standard rent (SR).

Expected Rent (ER) as per section 21(1)(a) cannot exceed standard rent (SR) but it can be lower than standard rent, in a case where standard rent is more than the higher of MV and FR.



Let us assume FR is ₹ 5,000, MV is ₹ 6,000 and SR is ₹5,500. In such case, the higher of FR and MV is ₹6,000. ER would be equal to SR which is ₹ 5,500 since ER has to be restricted to ₹5,500.

However, if the SR would have been ₹7,000 instead of ₹5,500, ER would be ₹6,000 i.e., the higher of FR and MV.

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6. *Expected Rent is equal to _____.*

(a)	*Fair Rent*
(b)	*Municipal Value*
(c)	*Lower of Fair Rent or Municipal Value*
(d)	*Higher of Fair Rent or Municipal Value, subject to the maximum of Standard Rent*



7. *Mr. Arpit owns a house property in Delhi. The details relating to the property are as follows:*

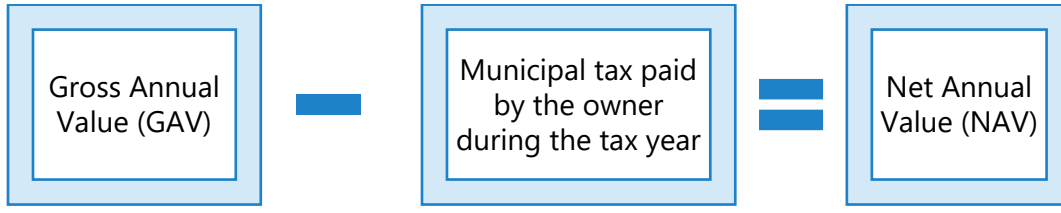
- *Municipal Value: ₹ 30,000*
- *Actual Rent Received: ₹ 25,000*
- *Fair Rent: ₹ 36,000*
- *Standard Rent: ₹ 28,000*

What will be the Gross Annual Value (GAV) of the house property?

(a)	*₹ 30,000*
(b)	*₹ 25,000*
(c)	*₹ 36,000*
(d)	*₹ 28,000*



After calculating the Gross Annual Value (GAV) of a property, the next step is to deduct the municipal taxes (including service taxes) that are **actually paid by the owner** during the tax year.



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(i) Property taxes (Municipal taxes)

(1) Property Taxes (Municipal Taxes) refer to the taxes levied by the local municipal authority (like Municipal Corporation, Municipality, or Panchayat) on owners of buildings or lands within its jurisdiction.

(2) Property taxes (including service taxes such as water tax, sewerage tax or any other similar tax) are allowable as deduction from the GAV subject to the following two conditions:

(a) It should be borne by the assessee (owner); and

(b) It should be actually paid during the tax year.

(3) If property taxes levied by a local authority for a particular tax year are not paid during that year, no deduction shall be allowed in the computation of income from house property for that year.

However, if in any subsequent year, the arrears of taxes are paid, then, the amount so paid is allowed as deduction in computation of income from house property for that year.

(4) In a nutshell, irrespective of the when such taxes are payable, the deduction in respect of such taxes will be allowed only in the year of actual payment by the owner.

(5) In case of property situated outside India, taxes levied by local authority of the country in which the property is situated is deductible[2].

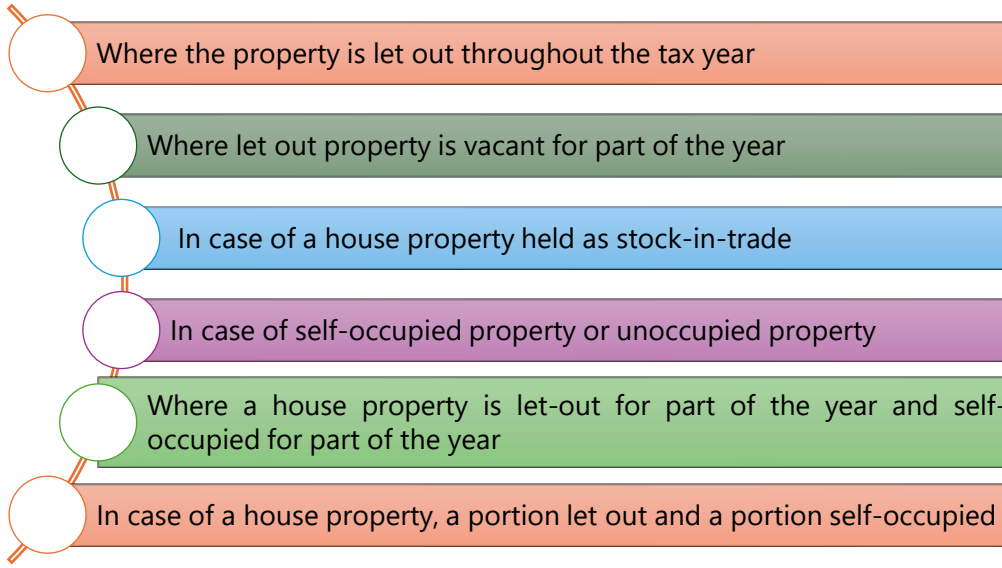
(6) In respect of self-occupied/unoccupied house property/properties for which "Nil" Annual Value benefit is claimed, deduction of municipal taxes paid is not allowable.

(ii) Determination of annual value for different types of house properties

The annual value has to be determined for different categories of properties. These could be –

[2] *CIT v. R. Venugopala Reddiar (1965) 58 ITR 439 (Mad)*

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(1) Where the property is let out throughout the tax year [Section 21(1)]

Where the property is let out for the whole year, then the GAV would be the higher of –

(a) Expected Rent (ER) and

(b) Actual rent received or receivable during the year

From the GAV computed above, municipal taxes paid by the owner during the tax year are to be deducted to arrive at the NAV.

ILLUSTRATION 1

Jayashree owns five houses in India, all of which are let-out. Compute the GAV of each house from the information given below –

Particulars	***House I (₹)***	***House II (₹)***	***House III (₹)***	***House IV (₹)***	***House V (₹)***
Municipal Value	*80,000*	*55,000*	*65,000*	*24,000*	*80,000*
Fair Rent	*90,000*	*60,000*	*65,000*	*25,000*	*75,000*
Standard Rent	*N.A.*	*75,000*	*58,000*	*N.A.*	*78,000*

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Actual rent received/ receivable	*72,000*	*72,000*	*60,000*	*30,000*	*72,000*

SOLUTION

As per section 21(1), Gross Annual Value (GAV) is the higher of Expected rent and actual rent received. Expected rent is higher of municipal value and fair rent but restricted to standard rent.

Computation of GAV of each house owned by Jayashree

	Particulars	House I (₹)	House II (₹)	House III (₹)	House IV (₹)	House V (₹)
(i)	Municipal value	80,000	55,000	65,000	24,000	80,000
(ii)	Fair rent	90,000	60,000	65,000	25,000	75,000
(iii)	**Higher of (i) & (ii)**	90,000	60,000	65,000	25,000	80,000
(iv)	Standard rent	N.A.	75,000	58,000	N.A.	78,000
(v)	**Expected rent [Lower of (iii) & (iv)]**	90,000	60,000	58,000	25,000	78,000
(vi)	Actual rent received/receivable	72,000	72,000	60,000	30,000	72,000
	GAV [Higher of (v) & (vi)]	**90,000**	**72,000**	**60,000**	**30,000**	**78,000**

(2) Where let out property is vacant for part of the year [Section 21(2)]

Where let out property is vacant for whole or part of the year and owing to vacancy, the actual rent received or receivable is lower than the ER, then the actual rent received or receivable will be the GAV of the property.



8.	*Calculate the Gross Annual value from the following details:* • *Municipal Value - ₹ 5,40,000;*

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	• *Fair rental value - ₹ 6,00,000;* • *Standard rent - ₹ 5,76,000;* • *Actual Rent Receivable - ₹ 49,000 p.m.* • *Vacancy: 1 month*		
	(a)	*₹ 6,00,000*	
	(b)	*₹ 5,39,000*	
	(c)	*₹ 5,40,000*	
	(d)	*₹ 5,76,000*	
9.	*Calculate the Gross Annual value from the following details:* • *Municipal Value - ₹ 5,40,000;* • *Fair rental value - ₹ 6,00,000;* • *Standard rent - ₹ 5,76,000;* • *Actual Rent Receivable - ₹ 46,000 p.m.* • *Vacancy: 1 month*		
	(a)	*₹ 6,00,000*	
	(b)	*₹ 5,06,000*	
	(c)	*₹ 5,40,000*	
	(d)	*₹ 5,76,000*	

(3) In case of a house property held as stock-in-trade [Section 21(5)]

(a) Annual value of house property will be charged under the head "Income from house property", where it is held by the assessee as stock-in-trade of a business.

(b) In some cases, such stock-in-trade property is not let wholly or partly at any time during the tax year.

(c) In such cases, the annual value of such property or part thereof shall be Nil.

(d) This benefit would be available up to **two** years from the end of the financial year in which certificate for completion of construction is obtained from the competent authority.

(e) Where the assessee is a builder/construction company, the house property would be its stock-in-trade, and rental income therefrom would be assessable under the head "Income from House

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Property". However, where the assessee is engaged in the business of letting out of commercial properties, income therefrom would be assessable under the head "Profits and gains of business or profession".

(4) In case of self-occupied property or unoccupied property [Section 21(6)]

(a) Where the property consisting of a house or any part thereof is self-occupied for **own residence** or **unoccupied due to any reason**, its Annual Value will be Nil.

(b) The house or any part thereof should not be actually let during any time of the tax year, and the owner should not derive any other benefit from it.

(b) The benefit of "Nil" Annual Value is available only in respect of two of such houses as specified by the assessee.

(c) The benefit of "Nil" Annual Value in respect of **two** self-occupied/ unoccupied house properties is available only to an individual/HUF.

(d) No deduction for municipal taxes is allowed in respect of such property/ properties as annual value means value determined after deduction of municipal taxes.

(e) Where the assessee uses more than **two** properties for self-occupation (other than for business or profession), then the income from any **two** properties, as specified by the assessee, shall be computed under the self-occupied property category and their annual value will be nil.

(f) The other self-occupied/ unoccupied properties shall be treated as "deemed let out properties".

(g) This option can be changed year after year in a manner beneficial to the assessee.

(h) In case of deemed let-out property, the ER shall be taken as the GAV.

(i) The question of considering actual rent received/ receivable does not arise. Consequently, no adjustment is necessary on account of property remaining vacant or unrealized rent.

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(j) Municipal taxes actually paid by the owner during the tax year, in respect of the deemed let out properties, can be claimed as deduction.

(5) Where a house property is let-out for part of the year and self-occupied for part of the year [Section 21(7)]

(a) If a single unit of a property is self-occupied and let-out during any time of the tax year, then the ER for the whole year shall be taken into account for determining the GAV.

(b) The ER for the whole year shall be compared with the **actual rent received or receivable for the let-out period** and whichever is higher shall be adopted as the GAV.

(c) However, municipal tax for the whole year is allowed as deduction provided it is paid by the owner during the tax year.



10. *Calculate the Gross Annual value from the following details:*

- *Municipal Value - ₹ 5,40,000;*
- *Fair rental value - ₹ 6,00,000;*
- *Standard rent - ₹ 5,76,000;*
- *Actual Rent Receivable - ₹ 49,000 p.m. upto February 2027.*
- *Self-occupied in March 2027.*

(a)	*₹ 6,00,000*
(b)	*₹ 5,06,000*
(c)	*₹ 5,40,000*
(d)	*₹ 5,76,000*



(6) In case of a house property, a portion let out and a portion self-occupied

(a) Income from any portion or part of a property which is let out shall be computed separately under the "let out property"

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category and the other portion or part which is self-occupied shall be computed under the "self-occupied property" category.

(b) There is no need to treat the whole property as a single unit for computation of income from house property.

(c) Municipal valuation/fair rent/standard rent, if not given separately, shall be apportioned between the let-out portion and self-occupied portion either on plinth area or built-up floor space or on such other reasonable basis.

(d) Property taxes, if given on a consolidated basis, can be bifurcated as attributable to each portion or floor or on a reasonable basis.



In the following circumstances notional income is charged to tax instead of real income:

- Where the assessee owns more than two house properties for the purpose of self-occupation, the annual value of any two of those properties, as specified by the assessee, will be nil and the other properties are deemed to be let-out and income has to be computed on a notional basis by taking the Expected Rent (ER) as the GAV.
- In the case of property let-out throughout the tax year, if the Expected Rent (ER) exceeds the actual rent received or receivable, then ER is taken as the GAV.
- In the case of let-out property which is vacant for part of the year, if the actual rent received or receivable for let out period is less than the Expected Rent (ER) for whole year not owing to vacancy, then ER for whole year is taken as the GAV.
- In case of a house property held as stock-in-trade by assessee (which is not let out), income has to be computed on a notional basis by taking the Expected Rent (ER) as the GAV after 2 years from the end of the financial year in which certificate for completion of construction is obtained from the competent authority.

ILLUSTRATION 2

Rajesh, a British national, is a resident and ordinarily resident in India during the tax year 2026-27. He owns a house in London, which he has let out at £ 10,000 p.m. The

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municipal taxes paid to the Municipal Corporation of London is £ 8,000 during the tax year 2026-27. The value of one £ in Indian rupee to be taken at ₹ 102. Compute Rajesh's Net Annual Value of the property for the tax year 2026-27.

SOLUTION

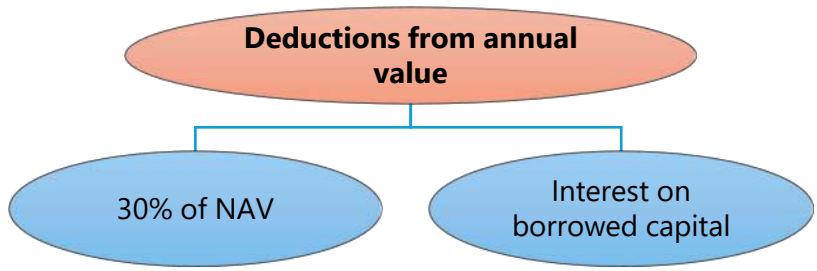
For the tax year 2026-27, Mr. Rajesh, a British national, is resident and ordinarily resident in India. Therefore, income received by him by way of rent of the house property located in London is to be included in the total income in India. Municipal taxes paid in London is be to allowed as deduction from the gross annual value.

Computation of Net Annual Value of the property of Mr. Rajesh for tax year 2026-27

Particulars	₹
Gross Annual Value (£ 10,000 × 12 × 102)	1,22,40,000
Less: Municipal taxes paid (£ 8,000 × 102)	8,16,000
Net Annual Value (NAV)	**1,14,24,000**

2.7 DEDUCTIONS FROM ANNUAL VALUE [SECTION 22]

The income under the head "Income from house property" shall be computed after making the following deductions:



Deductions provided under section 22 are exhaustive.

(1) 30% of NAV is allowed as deduction under section 22(1)(a)

(a) This is a fixed deduction and is allowed irrespective of the actual expenditure incurred.

(b) The assessee will not be entitled to deduction of 30%, in the following cases, as the annual value itself is nil.

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(i) In case of self-occupied properties; or

(ii) In case of property held as stock-in-trade and is not let wholly or partly at any time during the tax year, up to **2 years** from the end of the financial year in which certificate for completion of construction is obtained from the competent authority.

(2) Interest on borrowed capital is allowed as deduction u/s 22(1)(b) and (c)

(i) Deduction of interest on borrowed capital

Interest payable on loans borrowed for the purpose of acquisition, construction, repairs, renewal or reconstruction of the property can be claimed as deduction.

Interest payable on a fresh loan taken to repay the original loan raised earlier for the aforesaid purposes is also admissible as a deduction.

Interest for pre-construction or pre-acquisition period:

Where the loan is borrowed during any period prior to the tax year in which the property has been acquired or constructed, the interest payable for the said prior period can be claimed in 5 equal instalments for the said tax year and for each of the four immediately succeeding tax years.

If any amount of interest is already allowed as a deduction under any other provisions of this Act, the same has to be reduced while computing interest for pre-construction or pre-acquisition period.

Interest for the year in which construction is completed/ property is acquired:

Interest relating to the year of completion of construction/ acquisition of property can be **fully claimed** in that year irrespective of the date of completion/ acquisition.



Mr. Ram has taken a loan for construction of house property on 1.7.2023 and the construction is completed on 1.5.2026. Accordingly, the interest on loan from 1.7.2023 to 31.3.2026, being the pre-construction interest, can be claimed as deduction in 5 equal installments from tax year 2026-27 to tax year 2030-31.

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(ii) Deduction of interest in respect of self-occupied or unoccupied property where annual value is nil

(1) Under default tax regime under section 202(1)

There would be **no deduction** on account of interest on loan under section 22(1)(b) under default tax regime under section 202(1) in respect of the property(ies) referred to in section 21(6) i.e., self-occupied or unoccupied property.

(2) Under optional tax regime

In case the assessee has exercised the option under section 202(4) of shifting out of the default tax regime, the assessee will be allowed a deduction on account of interest **(including 1/5th of the accumulated interest of pre-construction period)** as under –

Conditions	Amount of Deduction
(a) Where the property is acquired or constructed with borrowed capital and such acquisition or construction is completed within 5 years from the end of the tax year in which the capital was borrowed (b) the assessee furnishes a certificate from the person to whom interest is payable on such capital	Actual interest payable in aggregate for **one or two self-occupied properties**, subject to maximum of **₹ 2,00,000**
In any other case	Actual interest payable in aggregate for **one or two self-occupied properties**, subject to a maximum of **₹ 30,000**.

Certificate to be furnished: For the purpose of claiming deduction of ₹ 2,00,000, the assessee should furnish a certificate from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable on capital borrowed and the interest payable on any new loan, where subsequent to the capital borrowed, the assessee has taken any such loan for repayment of whole or any part of such capital borrowed previously.

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ILLUSTRATION 3

Mr. Manas owns two house properties, one at Mumbai, wherein his family resides and the other at Delhi, which is unoccupied. For acquisition of house property at Mumbai, he has taken a loan of ₹ 30 lakhs@10% p.a. on 1.4.2025. He has not repaid any amount so far. In respect of house property at Delhi, he has taken a loan of ₹ 5 lakhs@11% p.a. on 1.10.2025 towards repairs. Compute the deduction which would be available to him under section 22(1)(b) for tax year 2026-27 in respect of interest payable on such loan if he exercises the option under section 202(4) of shifting out of the default tax regime.

SOLUTION

Mr. Manas can claim benefit of Nil Annual Value in respect of his house property at Mumbai and Delhi.

He is eligible for deduction under section 22(1)(b) since he has exercised the option under section 202(4) of shifting out of the default tax regime.

Computation of deduction u/s 22(1)(b) for tax year 2026-27

Particulars		₹
I	**Interest on loan taken for acquisition of residential house property at Mumbai**	
	₹ 30,00,000 x 10% = ₹ 3,00,000	
	Restricted to ₹ 2,00,000	2,00,000
II	**Interest on loan taken for repair of residential house property at Delhi**	
	₹ 5,00,000 x 11% = ₹ 55,000	
	Restricted to ₹ 30,000	30,000
Total interest		2,30,000
Deduction under section 22(1)(b) in respect of (I) and (II) above to be restricted to		2,00,000

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(iii) Deduction in respect of interest chargeable under this Act which is payable outside India

Interest chargeable under this Act which is payable outside India shall not be deducted if –

(a) tax has not been paid or deducted from such interest and

(b) in respect of such interest, there is no agent in India[3].

- **The ceiling limit would not apply to let-out/deemed let-out property:** The ceiling limit specified for self-occupied property as above in respect of interest on loan borrowed does not apply to a let out/ deemed let-out property irrespective of the regime under which he pays tax.



- **Interest allowable on accrual basis:** Deduction under section 22(1)(b)/(c) for interest is available on accrual basis. Therefore, interest accrued but not paid during the year can also be claimed as deduction.

  In case of let out/ deemed let out property, interest accrued is allowable as deduction without ceiling limit under both the tax regimes. However, in case of default tax regime u/s 202(1), the resultant loss from house property cannot be set off against income under any other head, whereas, under the optional tax regime, the resultant loss from house property can be set off against income from any other head to the extent of ₹ 2 lakhs.

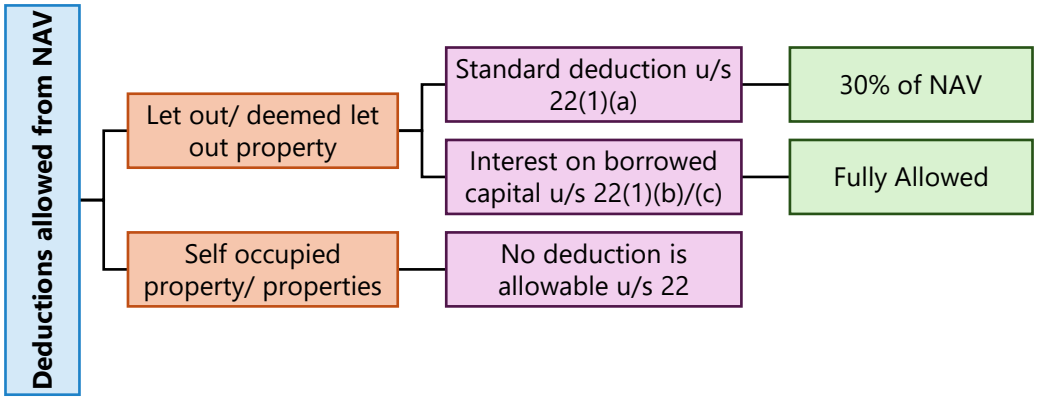
- **Unpaid purchase price would be considered as capital borrowed:** Where a buyer enters into an arrangement with a seller to pay the sale price in installments along with interest due thereon, the seller becomes the lender in relation to the unpaid purchase price and the buyer becomes the borrower. In such a case, unpaid purchase price can be treated as capital borrowed for acquiring property and interest paid thereon can be allowed as deduction under section 22.

- **Interest on unpaid interest is not deductible.**

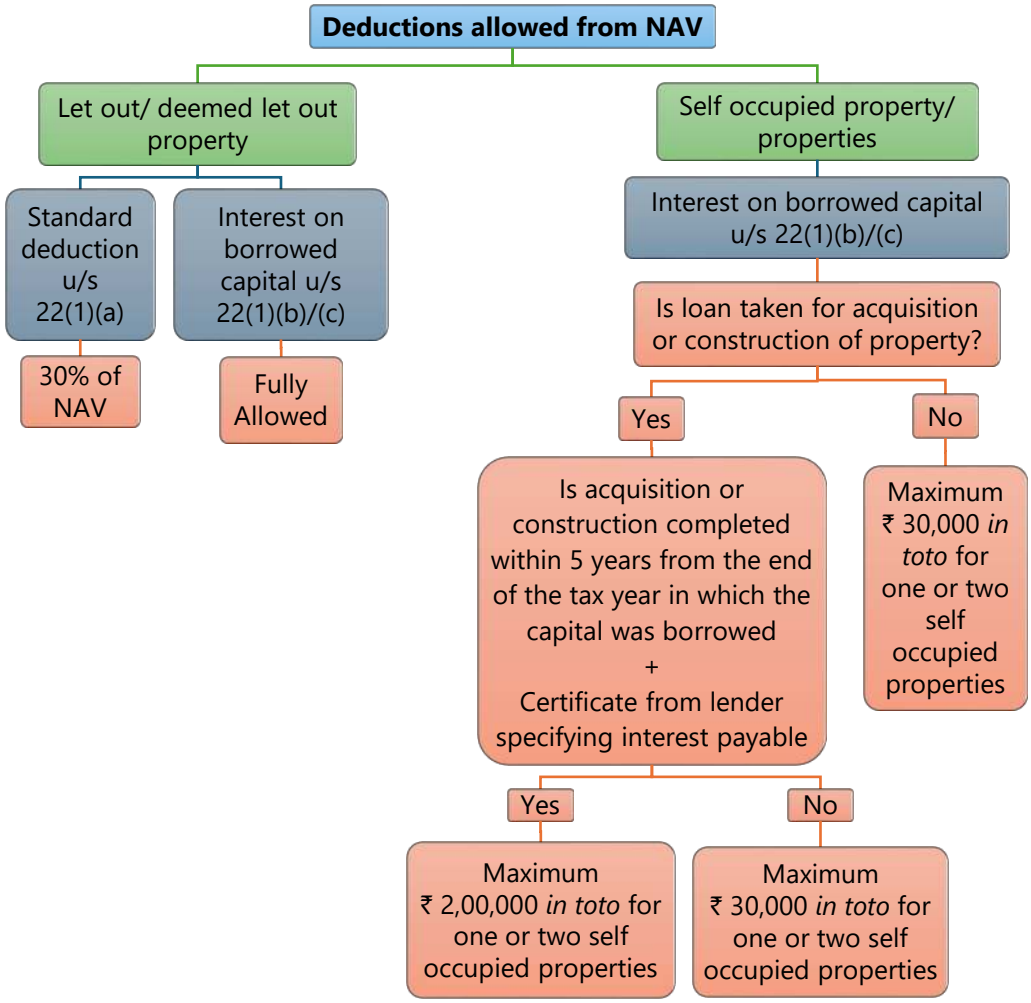
[3]As per section 306

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Deductions from Net Annual Value under default tax regime under section 202(1)



Deductions from Net Annual Value under optional tax regime



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11. *The maximum deduction under section 22(1)(b) for interest on borrowed capital for repairs of house property used for self-occupation under optional tax regime is:*

(a)	*₹ 30,000*
(b)	*₹ 2,00,000*
(c)	*₹ 50,000*
(d)	*₹ 60,000*



12. *Mr. Ram took a loan of ₹ 6,00,000 @10% p.a. on 1-7-2023 from a bank for construction of a house. The construction of house is completed on 30-6-2024. The entire loan is still outstanding as on 31.3.2027.*

The pre-construction period interest will be -

(a)	*₹ 60,000*
(b)	*Nil*
(c)	*₹ 75,000*
(d)	*₹ 45,000*



2.8 COMPUTATION OF "INCOME FROM HOUSE PROPERTY" FOR DIFFERENT CATEGORIES OF PROPERTY

(I) PROPERTY LET OUT THROUGHOUT THE TAX YEAR

Particulars	Amount
Computation of GAV	
Step 1 Compute ER	
ER = Higher of MV and FR, but restricted to SR	
Step 2 Compute Actual rent received/receivable	
Actual rent received/receivable *less* unrealized rent as per Rule 21	

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Step 3	Compare ER and Actual rent received/receivable		
Step 4	GAV is the higher of ER and Actual rent received/ receivable		
Gross Annual Value (GAV)			A
Less:	Municipal taxes (paid by the owner during the tax year)		B
Net Annual Value (NAV) = (A-B)			C
Less:	**Deductions u/s 22**		
	(a) 30% of NAV	D	
	(b) Interest on borrowed capital (actual without any ceiling limit)	E	F
Income from house property (C-F)			G

ILLUSTRATION 4

Anirudh has a property whose municipal valuation is ₹ 1,30,000 p.a. The fair rent is ₹ 1,10,000 p.a. and the standard rent fixed by the Rent Control Act is ₹ 1,20,000 p.a. The property was let out for a rent of ₹ 11,000 p.m. throughout the tax year. Unrealised rent was ₹ 11,000 and all conditions prescribed by Rule 21 are satisfied. He paid municipal taxes @10% of municipal valuation. Interest on borrowed capital was ₹ 40,000 for the year. Compute his income from house property for tax year 2026-27.

SOLUTION

Computation of Income from house property of Mr. Anirudh for tax year 2026-27

Particulars		Amount in ₹	
Computation of GAV			
Step 1	Compute ER		
	ER = Higher of MV of ₹ 1,30,000 p.a. and FR of ₹ 1,10,000 p.a., but restricted to SR of ₹ 1,20,000 p.a.	1,20,000	
Step 2	Compute actual rent received/receivable		
	Actual rent received/receivable *less* unrealized rent as per Rule 21 = ₹ 1,32,000 - ₹ 11,000	1,21,000	
Step 3	Compare ER of ₹ 1,20,000 and Actual rent received/receivable of ₹ 1,21,000		

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Step 4	GAV is the higher of ER and Actual rent received/receivable	1,21,000	
Gross Annual Value (GAV)			**1,21,000**
Less:	Municipal taxes (paid by the owner during the tax year) = 10% of ₹ 1,30,000		13,000
Net Annual Value (NAV)			**1,08,000**
Less:	**Deductions under section 22**		
	(a) 30% of NAV	32,400	
	(b) Interest on borrowed capital (actual without any ceiling limit)	40,000	72,400
Income from house property			**35,600**

(II) LET OUT PROPERTY VACANT FOR PART OF THE YEAR

Particulars		Amount
Computation of GAV		
Step 1	Compute ER	
	ER = Higher of MV and FR, but restricted to SR	
Step 2	Compute Actual rent received/receivable	
	Actual rent received/receivable for let out period *less* unrealized rent as per Rule 21	
Step 3	Compare ER and Actual rent received/receivable computed for the let-out period	
Step 4	If Actual rent is lower than ER owing to vacancy, then Actual rent is the GAV.	
	If Actual rent is lower than ER due to other reasons, then ER is the GAV.	
	However, in spite of vacancy, if the actual rent is higher than the ER, then Actual rent is the GAV.	
Gross Annual Value (GAV)		A
Less:	Municipal taxes (paid by the owner during the tax year)	B
Net Annual Value (NAV) = (A-B)		C
Less:	**Deductions under section 22**	
	(a) 30% of NAV D	

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	(b) Interest on borrowed capital (actual without any ceiling limit)	E	F
Income from house property (C-F)			G

ILLUSTRATION 5

Ganesh has a property whose municipal valuation is ₹ 2,50,000 p.a. The fair rent is ₹ 2,00,000 p.a. and the standard rent fixed by the Rent Control Act is ₹ 2,10,000 p.a. The property was let out for a rent of ₹ 20,000 p.m. However, the tenant vacated the property on 31.1.2027. Unrealised rent was ₹ 20,000 and all conditions prescribed by Rule 21 are satisfied. He paid municipal taxes @8% of municipal valuation. Interest on borrowed capital was ₹ 65,000 for the year. Compute the income from house property of Ganesh for tax year 2026-27.

SOLUTION

Computation of income from house property of Ganesh for tax year 2026-27

Particulars		Amount in ₹	
Computation of GAV			
Step 1	Compute ER		
	Higher of MV of ₹ 2,50,000 p.a. & FR of ₹ 2,00,000 p.a., but restricted to SR of ₹ 2,10,000 p.a.	2,10,000	
Step 2	Compute Actual rent received/receivable		
	Actual rent received/receivable for let out period *less* unrealized rent as per Rule 21 = ₹ 2,00,000 – ₹ 20,000	1,80,000	
Step 3	Compare ER & Actual rent received/receivable		
Step 4	In this case the actual rent of ₹ 1,80,000 is lower than ER of ₹ 2,10,000 owing to vacancy, since, had the property not been vacant the actual rent would have been ₹ 2,20,000 (₹ 1,80,000 + ₹ 40,000, being notional rent for February and March 2027). Therefore, actual rent is the GAV.	1,80,000	
Gross Annual Value (GAV)			**1,80,000**
Less:	Municipal taxes (paid by the owner during the tax year) = 8% of ₹ 2,50,000		20,000
Net Annual Value (NAV)			**1,60,000**

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Less:	**Deductions under section 22**		
	(a) 30% of NAV = 30% of ₹ 1,60,000	48,000	
	(b) Interest on borrowed capital (actual without any ceiling limit)	65,000	1,13,000
Income from house property			**47,000**

(III) SELF-OCCUPIED PROPERTIES OR UNOCCUPIED PROPERTIES

Particulars	Amount
Annual value under section 21(6)	Nil
Less: **Deduction under section 22**	
Interest on borrowed capital [Allowable only in case the assessee exercises the option under section 202(4) of shifting out of the default tax regime	E
(i) Interest on loan taken for acquisition or construction of house and same was completed within 5 years from the end of the tax year in which capital was borrowed, and certificate specifying the interest amount is furnished by the assessee, interest paid or payable *in toto* for one or two self-occupied properties subject to a maximum of ₹ 2,00,000 (including apportioned pre-construction interest).	
(ii) In any other case, interest paid or payable *in toto* for one or two self-occupied properties subject to a maximum of ₹ 30,000.	
Income from house property	-E
However, aggregate interest on borrowed capital allowable under (i) and (ii) cannot exceed ₹ 2,00,000	

ILLUSTRATION 6

Poorna has one house property at Indira Nagar in Bengaluru. She stays with her family in the house. The rent of similar property in the neighbourhood is ₹ 25,000 p.m. The municipal valuation is ₹ 2,80,000 p.a. Municipal taxes paid is ₹ 8,000. The house construction began in April 2020 with a loan of ₹ 20,00,000 taken from SBI Housing Finance Ltd. @9% p.a. on 1.4.2020. The construction was completed on 30.11.2022. The accumulated interest up to 31.3.2022 is ₹ 3,60,000. On 31.3.2027, Poorna paid ₹ 2,40,000 which included ₹ 1,80,000 as interest. There was no principal repayment prior to this date. Compute Poorna's income from house property for tax

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year 2026-27 assuming that she has exercised the option under section 202(4) of shifting out of the default tax regime.

SOLUTION

Computation of income from house property of Smt. Poorna for tax year 2026-27

Particulars		Amount in ₹
Annual Value of house used for self-occupation under section 21(6)		Nil
Less:	**Deduction under section 22**	
	Interest on borrowed capital	
	Interest on loan was taken for construction of house and same was completed within the specified time - interest paid or payable subject to a maximum of ₹ 2,00,000 (including apportioned pre-construction interest) will be allowed as deduction.	
	In this case the total interest is ₹ 1,80,000 + ₹ 72,000 (Being 1/5th of ₹ 3,60,000) = ₹ 2,52,000. However, the interest deduction is restricted to ₹ 2,00,000.	2,00,000
Loss from house property		**(2,00,000)**

(IV) HOUSE PROPERTY LET-OUT FOR PART OF THE YEAR AND SELF-OCCUPIED FOR PART OF THE YEAR

Particulars		Amount
Computation of GAV		
Step 1	Compute ER for the whole year	
	ER = Higher of MV and FR, but restricted to SR	
Step 2	Compute Actual rent received/receivable	
	Actual rent received/receivable for the period let out *less* unrealized rent as per Rule 21	
Step 3	Compare ER for the whole year with the actual rent received/receivable for the let-out period	

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Step 4	GAV is the higher of ER computed for the whole year and Actual rent received/receivable computed for the let-out period		
Gross Annual Value (GAV)			A
Less:	Municipal taxes (paid by the owner during the tax year)		B
Net Annual Value (NAV) = (A-B)			C
Less:	**Deductions under section 22**		
	(a) 30% of NAV	D	
	(b) Interest on borrowed capital (actual without any ceiling limit)	E	F
Income from house property (C-F)			G

ILLUSTRATION 7

Smt. Rajalakshmi owns a house property at Adyar in Chennai. The municipal value of the property is ₹ 5,00,000, fair rent is ₹ 4,20,000 and standard rent is ₹ 4,80,000. The property was let-out for ₹ 50,000 p.m. up to December 2026. Thereafter, the tenant vacated the property, and Smt. Rajalakshmi used the house for self-occupation. Rent for the months of November and December 2026 could not be realized in spite of the owner's efforts. All the conditions prescribed under Rule 21 are satisfied. She paid municipal taxes @12% during the year. She had paid interest of ₹ 25,000 during the year for amount borrowed for repairs for the house property. Compute her income from house property for the tax year 2026-27.

SOLUTION

Computation of income from house property of Smt. Rajalakshmi for tax year 2026-27

Particulars	Amount in ₹	
Computation of GAV		
Step 1 Compute ER for the whole year		
ER = Higher of MV of ₹ 5,00,000 and FR of ₹ 4,20,000, but restricted to SR of ₹ 4,80,000	4,80,000	
Step 2 Compute Actual rent received/receivable		
Actual rent received/receivable for the period let out *less* unrealized rent as per Rule 21 =	3,50,000	

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	(₹ 50,000 × 9) - (₹ 50,000 × 2) = ₹ 4,50,000 - ₹ 1,00,000		
Step 3	Compare ER for the whole year with the actual rent received/receivable for the let-out period i.e. ₹ 4,80,000 and ₹ 3,50,000		
Step 4	GAV is the higher of ER computed for the whole year and Actual rent received/receivable computed for the let-out period	4,80,000	
Gross Annual Value (GAV)			**4,80,000**
Less:	Municipal taxes (paid by the owner during the tax year) = 12% of ₹ 5,00,000		60,000
Net Annual Value (NAV)			**4,20,000**
Less:	**Deductions under section 22**		
	(a) 30% of NAV = 30% of ₹ 4,20,000	1,26,000	
	(b) Interest on borrowed capital	25,000	1,51,000
Income from house property			**2,69,000**

Note - *In this case, it may be noted that GAV is the higher of Expected rent and Actual rent, since the Actual rent is lower than the Expected rent due to self-occupation and not vacancy.*

(V) DEEMED TO BE LET OUT PROPERTY

Particulars			Amount
Gross Annual Value (GAV) ER is the GAV of house property ER = Higher of MV and FR, but restricted to SR			A
Less: Municipal taxes (paid by the owner during the tax year)			B
Net Annual Value (NAV) = (A-B)			C
Less: **Deductions under section 22**			
	(a) 30% of NAV	D	
	(b) Interest on borrowed capital (actual without any ceiling limit)	E	F
Income from house property (C-F)			G

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ILLUSTRATION 8

Ganesh has three houses, all of which are self-occupied. The particulars of the houses for the tax year 2026-27 are as under:

Particulars	*House I*	*House II*	*House III*
Municipal valuation p.a.	*₹ 3,00,000*	*₹ 3,60,000*	*₹ 3,30,000*
Fair rent p.a.	*₹ 3,75,000*	*₹ 2,75,000*	*₹ 3,80,000*
Standard rent p.a.	*₹ 3,50,000*	*₹ 3,70,000*	*₹ 3,75,000*
Date of completion/purchase	*31.3.2000*	*31.3.2002*	*01.5.2019*
Municipal taxes paid during the year	*12%*	*8%*	*6%*
Interest on money borrowed for repair of property during the current year	*-*	*₹ 55,000*	
Interest for current year on money borrowed in April, 2019 for purchase of property			*₹ 1,75,000*

Compute Ganesh's income from house property for tax year 2026-27 and suggest which houses should be opted by Ganesh to be assessed as self-occupied so that his tax liability is minimum.

SOLUTION

Let us first calculate the income from each house property assuming that they are deemed to be let out.

Computation of income from house property of Ganesh for the tax year 2026-27

Particulars	Amount in ₹		
	House I	House II	House III
Gross Annual Value (GAV)			
ER is the GAV of house property			
ER = Higher of MV and FR, but restricted to SR	3,50,000	3,60,000	3,75,000
Less: Municipal taxes (paid by the owner during the tax year)	36,000	28,800	19,800
Net Annual Value (NAV)	**3,14,000**	**3,31,200**	**3,55,200**

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Less: **Deductions under section 22**			
(a) 30% of NAV	94,200	99,360	1,06,560
(b) Interest on borrowed capital	-	55,000	1,75,000
Income from house property	**2,19,800**	**1,76,840**	**73,640**

Ganesh can opt to treat any two of the above house properties as self-occupied.

Under default tax regime under section 202(1)

OPTION 1 (House I and II– self-occupied and House III – deemed to be let out)

If House I and II are opted to be self-occupied, the income from house property shall be –

Particulars	Amount in ₹
House I (Self-occupied)	Nil
House II (Self-occupied) (No interest deduction)	Nil
House III (Deemed to be let-out)	73,640
Income from house property	**73,640**

OPTION 2 (House I and III – self-occupied and House II – deemed to be let out)

If House I and III are opted to be self-occupied, the income from house property shall be –

Particulars	Amount in ₹
House I (Self-occupied)	Nil
House II (Deemed to be let-out)	1,76,840
House III (Self-occupied) (No interest deduction)	Nil
Income from house property	**1,76,840**

OPTION 3 (House II and III –self-occupied and House I – deemed to be let out)

If House II and III are opted to be self-occupied, the income from house property shall be –

Particulars	Amount in ₹
House I (Deemed to be let-out)	2,19,800

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House II (Self-occupied) (No interest deduction)	-
House III (Self-occupied) (No interest deduction)	-
Income from house property	**2,19,800**

Since Option 1 is most beneficial, Ganesh should opt to treat House I and II as self-occupied and House III as deemed to be let out. His income from house property would be ₹ 73,640 for the tax year 2026-27 under default tax regime under section 202(1).

If Mr. Ganesh has exercised the option under section 202(4) of shifting out of the default tax regime

OPTION 1 (House I and II– self-occupied and House III – deemed to be let out)

If House I and II are opted to be self-occupied, the income from house property shall be –

Particulars	Amount in ₹
House I (Self-occupied)	Nil
House II (Self-occupied) (Interest deduction restricted to ₹ 30,000)	(30,000)
House III (Deemed to be let-out)	73,640
Income from house property	**43,640**

OPTION 2 (House I and III – self-occupied and House II – deemed to be let out)

If House I and III are opted to be self-occupied, the income from house property shall be –

Particulars	Amount in ₹
House I (Self-occupied)	Nil
House II (Deemed to be let-out)	1,76,840
House III (Self-occupied)	(1,75,000)
Income from house property	**1,840**

OPTION 3 (House II and III – self-occupied and House I – deemed to be let out)

If House II and III are opted to be self-occupied, the income from house property shall be –

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Particulars		Amount in ₹
House I (Deemed to be let-out)		2,19,800
House II (Self-occupied) (Interest deduction restricted to ₹ 30,000)	(30,000)	
House III (Self-occupied) (No interest deduction)	(1,75,000)	
(Total interest deduction restricted to ₹ 2,00,000)		(2,00,000)
Income from house property		**19,800**

Since Option 2 is most beneficial in this case, Ganesh should opt to treat House I and III as self-occupied and House II as deemed to be let out. His income from house property would be ₹ 1,840 for the tax year 2026-27 under the optional tax regime.

(VI) HOUSE PROPERTY, A PORTION LET OUT AND A PORTION SELF-OCCUPIED

ILLUSTRATION 9

Prem owns a house in Madras. During the tax year 2026-27, 2/3rd portion of the house was self-occupied and 1/3rd portion was let out for residential purposes at a rent of ₹ 8,000 p.m. Municipal value of the property is ₹ 3,00,000 p.a., fair rent is ₹ 2,70,000 p.a. and standard rent is ₹ 3,30,000 p.a. He paid municipal taxes @10% of municipal value during the year. A loan of ₹ 25,00,000 was taken by him during the year 2022 for acquiring the property. Interest on loan paid during the tax year 2026-27 was ₹ 1,20,000. Compute Prem's income from house property for the tax year 2026-27 assuming that he has exercised the option of shifting out of the default tax regime.

What would be Prem's income from house property under the default tax regime?

SOLUTION

There are two units of the house. Unit I with 2/3rd area is used by Prem for self-occupation throughout the year and no other benefit is derived from that unit, hence it will be treated as self-occupied and its annual value will be Nil. Unit 2 with 1/3rd area is let-out throughout the tax year and its annual value has to be determined as per section 21(1).

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Computation of income from house property of Mr. Prem for tax year 2026-27 under the optional tax regime

Particulars	Amount in ₹	
Unit I (2/3rd area – self-occupied)		
Annual Value		Nil
Less: **Deduction under section 22(1)(b)**		
2/3rd of ₹ 1,20,000		**80,000**
Income from Unit I (self-occupied)		**(80,000)**
Unit II (1/3rd area – let out)		
Computation of GAV		
Step I Compute ER		
ER = Higher of MV and FR, restricted to SR However, in this case, SR of ₹ 1,10,000 (1/3rd of ₹ 3,30,000) is more than the higher of MV of ₹ 1,00,000 (1/3rd of ₹ 3,00,000) and FR of ₹ 90,000 (1/3rd of ₹ 2,70,000). Hence the higher of MV and FR is the ER. In this case, it is the MV.	1,00,000	
Step 2 Compute actual rent received/ receivable ₹ 8,000×12 = ₹ 96,000	96,000	
Step 3 Compare ER and Actual rent received/receivable		
Step 4 GAV is the higher of ER and actual rent received/receivable i.e. higher of ₹ 1,00,000 and ₹ 96,000	1,00,000	
Gross Annual Value (GAV)		**1,00,000**
Less: Municipal taxes paid by the owner during the tax year relating to let-out portion		
1/3rd of (10% of ₹ 3,00,000) = ₹ 30,000/3 = ₹ 10,000		10,000
Net Annual Value (NAV)		**90,000**
Less: Deductions under section 22(1)		
(a) 30% of NAV = 30% of ₹ 90,000	27,000	
(b) Interest paid on borrowed capital (relating to let out portion) 1/3rd of ₹ 1,20,000	40,000	67,000
Income from Unit II (let-out)		**23,000**
Loss under the head "Income from house property" = (₹ 80,000) + ₹ 23,000 = (₹ 57,000)		

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Under the default tax regime, Prem would not be entitled to interest deduction of ₹ 80,000 under section 22(1)(b) in respect of self-occupied portion (Unit 1). Hence, income from house property would be ₹ 23,000, being income from Unit II, which is let out.

2.9 PROVISION FOR ARREARS OF RENT AND UNREALIZED RENT RECEIVED SUBSEQUENTLY [SECTION 23]

(i) As per section 23(1), the amount of arrears of rent received by assessee from a tenant or the amount of unrealised rent realised subsequently from a tenant shall be deemed to be income from house property in respect of the tax year in which such rent is received or realised.

(ii) The amount so deemed to be income from house property shall be included in the total income of the assessee under the head "Income from house property", whether the assessee is the owner of the property or not in that tax year.

(iii) Section 23(3) provides a deduction of 30% of arrears of rent or unrealised rent realised subsequently by the assessee.

Summary:

Arrears of Rent and unrealised rent realised subsequently	Taxable under the head "Income from house property"	Deduction
Taxable in the year of receipt/ realisation	Taxable even if assessee is not the owner of the property in the tax year of receipt/realisation	A deduction of 30% of rent received/ realized is allowed

ILLUSTRATION 10

Mr. Anand sold his residential house property in March, 2026.

In June, 2026, he recovered rent of ₹ 10,000 from Mr. Gaurav, to whom he had let out his house for two years from April 2020 to March 2022. He could not realise

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two months' rent of ₹ 20,000 from him and to that extent his actual rent was reduced while computing income from house property for year 2022-23.

Further, he had let out his property from April, 2022 to February, 2026 to Mr. Satish. In April, 2024, he had increased the rent from ₹ 12,000 to ₹ 15,000 per month and the same was a subject matter of dispute. In September, 2026, the matter was finally settled and Mr. Anand received ₹ 69,000 as arrears of rent for the period April 2024 to February, 2026.

Would the recovery of unrealised rent and arrears of rent be taxable in the hands of Mr. Anand, and if so in which year?

SOLUTION

Since the unrealised rent was recovered in the tax year 2026-27, the same would be taxable in the tax year 2026-27 under section 23, irrespective of the fact that Mr. Anand was not the owner of the house in that year. Further, the arrear of rent was also received in the tax year 2026-27, and hence the same would be taxable in the tax year 2026-27 under section 23, even though Mr. Anand was not the owner of the house in that year. A deduction of 30% of unrealised rent recovered and arrears of rent would be allowed while computing income from house property of Mr. Anand for tax year 2026-27.

Computation of income from house property of Mr. Anand for tax year 2026-27

Particulars		₹
(i)	Unrealised rent recovered	10,000
(ii)	Arrears of rent received	69,000
		79,000
Less:	Deduction@30%	23,700
Income from house property		**55,300**

2.10 TREATMENT OF INCOME FROM CO-OWNED PROPERTY [SECTION 24]

(i) Where property is co-owned with definite and ascertainable share, then the co-owners shall not be assessed as an AOP.

(ii) The income of each such co-owner should be computed separately as per their respective share and included in his individual assessment.

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(iii) Where the house property owned by co-owners is self-occupied by each of the co-owners, the annual value of the property of each co-owner will be Nil and each co-owner shall be entitled to a deduction of ₹ 30,000/ ₹ 2,00,000, as the case may be, under section 22(1)(b)/(c) on account of interest on borrowed capital if they exercise the option of shifting out of the default tax regime.

However, the aggregate deduction of interest to each co-owner in respect of interest payable on loan taken for co-owned house property and interest, if any, payable on loan taken for another self-occupied property owned by him cannot exceed ₹ 30,000/ ₹ 2,00,000, as the case may be.

(iv) Where the house property owned by co-owners is let out, the income from such property shall be computed as if the property is owned by one owner and thereafter the income so computed shall be apportioned amongst each co-owner as per their specific share.

(v) **Summary:**

Co-owned property [Section 24]	
Self-occupied property	**Let-out property**
The annual value of the property of each co-owner will be Nil and each co-owner shall be entitled to a deduction of ₹ 30,000/ ₹ 2,00,000, as the case may be, on account of interest on borrowed capital if they exercise the option of shifting out of the default tax regime. However, if the co-owner owns another self-occupied/unoccupied property, the aggregate interest from the co-owned property and the other self-occupied property cannot exceed ₹ 30,000/₹ 2,00,000, as the case may be. As mentioned earlier, no interest deduction in respect of self-occupied property would be allowable to the co-owners under the default tax regime.	The income from such property shall be computed as if the property is owned by one owner and thereafter the income so computed shall be apportioned amongst each co-owner as per their specific share.

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ILLUSTRATION 11

Ms. Aparna co-owns a residential house property in Calcutta along with her sister Ms. Dimple, where her sister's family resides. Both of them have equal share in the property and the same is used by them for self-occupation. Interest is payable in respect of loan of ₹ 50,00,000@10% taken on 1.4.2025 for acquisition of such property. In addition, Ms. Aparna owns a flat in Pune in which she and her parents reside. She has taken a loan of ₹ 3,00,000@12% on 1.10.2025 for repairs of this flat. Compute the deduction which would be available to Ms. Aparna and Ms. Dimple under section 22(1)(b) for tax year 2026-27, if both exercise the option of shifting out of the default tax regime.

SOLUTION

Computation of deduction u/s 22(1)(b) available to Ms. Aparna for tax year 2026-27

	Particulars	₹
I	Interest on loan taken for acquisition of residential house property at Calcutta	
	₹ 50,00,000 x 10% = ₹ 5,00,000	
	Ms. Aparna's share = 50% of ₹ 5,00,000 = ₹ 2,50,000	
	Restricted to ₹ 2,00,000	2,00,000
II	Interest on loan taken for repair of flat at Pune	
	₹ 3,00,000 x 12% = ₹ 36,000	
	Restricted to ₹ 30,000	30,000
Total interest		2,30,000
Deduction under section 22(1)(b) in respect of (I) and (II) above to be restricted to		2,00,000

Computation of deduction u/s 22(1)(b) available to Ms. Dimple for tax year 2026-27

Particulars	₹
Interest on loan taken for acquisition of residential house property at Calcutta	
₹ 50,00,000 x 10% = ₹ 5,00,000	
Ms. Dimple's share = 50% of ₹ 5,00,000 = ₹ 2,50,000	
Restricted to ₹ 2,00,000	2,00,000

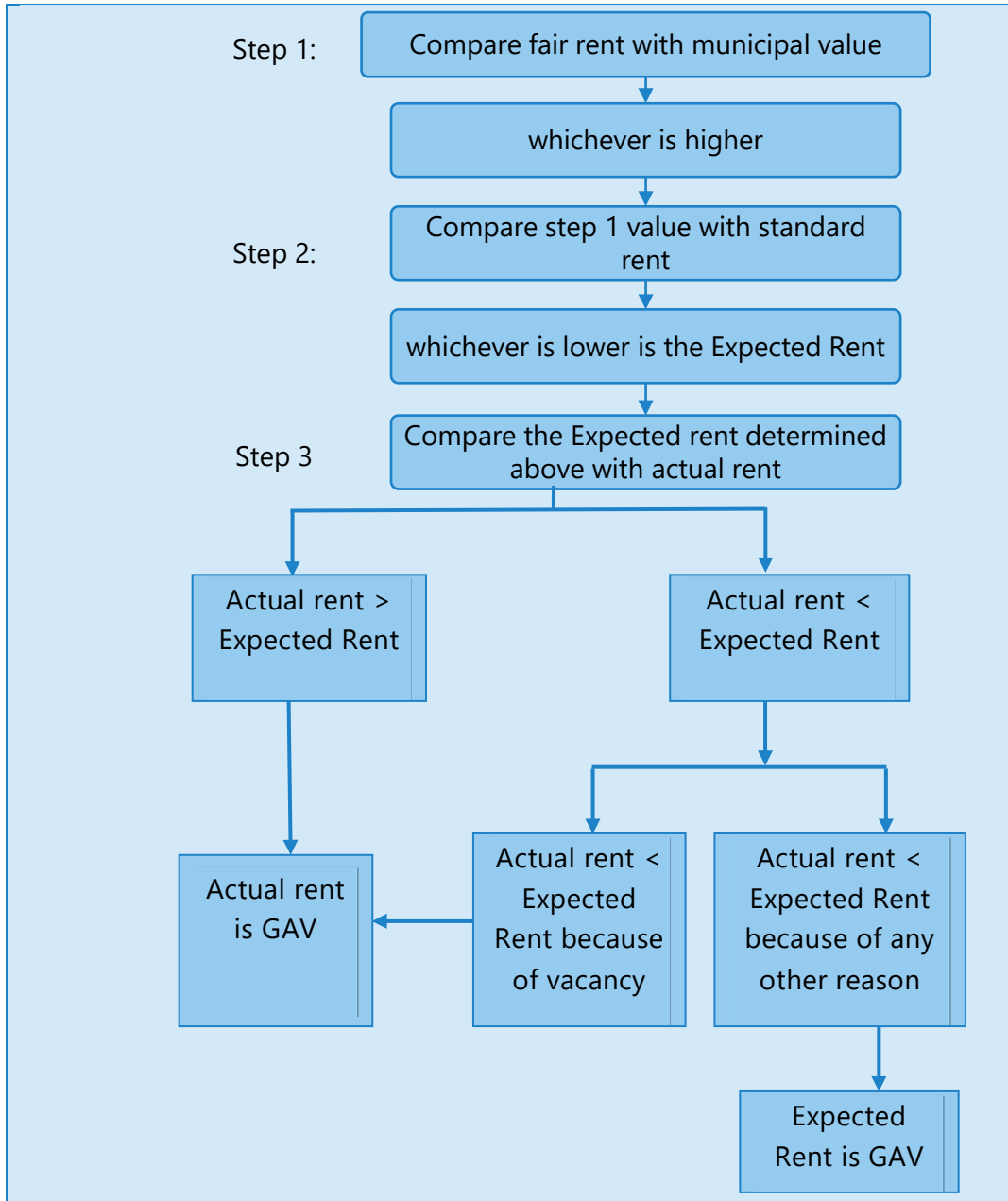
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LET US RECAPITULATE

Section	Contents
20	**Basis of Charge** The annual value of any property consisting of any buildings or lands appurtenant thereto, owned by the assessee is chargeable to tax under the head "Income from house property". **(i) Property should consist of any buildings or lands appurtenant thereto** Income from letting out of **vacant land** is, however, taxable under the head "Income from other sources" or "Profits and gains of business or profession", as the case may be. **(ii) Assessee must be the owner of the property** The following persons, though not legal owners of a property, are included in the definition of "owner": (i) Transferor of the property, where the property is transferred to the spouse or to minor child except minor married daughter, without adequate consideration (ii) Holder of an impartible estate (iii) Member of a co-operative society etc. (iv) Person in possession of a property (v) Person having right in a property for a period not less than 12 years **(iii)** The property may be used for any purpose, but it should **not be used by the owner for the purpose of any business or profession carried on by him**, the profit of which is chargeable to tax. Further, the income earned by an assessee engaged in the business of letting out of commercial properties on rent would be taxable as business income.
21(1)/ 21(2)	**Annual Value of let-out property** Annual value is the amount arrived after deducting the municipal taxes **actually paid by the owner** during the tax year from the Gross Annual Value (GAV). The GAV of let-out property would be determined in the following manner:

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21(5)	**Annual value where the property held as stock-in-trade etc.** Where a property is held as stock-in-trade and is not let wholly or partly at any time during the tax year, the annual value of such property or part thereof shall be "Nil" up to **2 years** from the end of the financial year in which certificate for completion of construction is obtained from the competent authority.

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21(6)	**Annual Value of self-occupied property** Where the property is self-occupied for own residence or unoccupied due to any reason throughout the tax year, its Annual Value will be Nil, provided no other benefit is derived by the owner from such property. An assessee can claim benefit of "Nil" Annual Value in respect of two residential house properties self-occupied by him as specified by the assessee.
	Annual Value of deemed to be let-out property If more than two properties are so self-occupied/unoccupied, the assessee may claim benefit of Nil annual value in respect of any two properties at his option. The other property(s) would be deemed to be let out, in respect of which Expected Rent would be the GAV.
22	**Deductions from Annual Value** 1. 30% of Annual Value [Section 22(1)(a)] 2. **Interest on borrowed capital [Section 22(1)(b)]:** Interest payable on loans borrowed for the purpose of acquisition, construction, repairs, renewal or reconstruction can be claimed as deduction. 3. **Pre-construction interest [Section 22(1)(c)]:** Interest for the period prior to the tax year in which property is acquired or construction is completed. Pre-construction interest is allowable as deduction in 5 equal installments from the said tax year in which property is completed or acquired. **(a) Let out property:** Whole of the amount of interest on borrowed capital payable during the tax year and apportioned pre-construction interest without any ceiling limit would be allowed as deduction. **(b) Self-occupied property:** (i) Interest on loan taken for acquisition or construction of house, where such construction is completed within 5 years from the end of the tax year in which capital was borrowed and the assessee furnishes a certificate from the person to whom interest is payable on such capital, aggregate interest paid or payable for one or two self-occupied properties subject to a maximum of ₹ 2,00,000 (including apportioned pre-construction interest).

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	(ii) In any other case, aggregate interest paid or payable for one or two self-occupied properties subject to a maximum of ₹ 30,000 (including apportioned pre-construction interest). **Notes –** (1) Total amount of interest deduction under (i) and (ii) in respect of one or two self-occupied properties owned by the assessee cannot exceed ₹ 2,00,000. (2) Interest deduction in respect of self-occupied property(ies) would be available only if the assessee exercises the option of shifting out of the default tax regime. If the assessee pays tax under default tax regime under section 202(1), deduction under section 22(1)(b) in respect of interest on loan for self-occupied property is **not** allowed. **(c) Interest chargeable under this Act which is payable outside [Section 22(6)]:** Interest chargeable under this Act which is payable outside India shall not be deducted if – (a) tax has not been paid or deducted from such interest and (b) in respect of which, there is no agent in India
23	**Taxability of recovery of unrealised rent & arrears of rent received** (i) Taxable in the year of receipt/ realisation (ii) Deduction@30% of rent received/ realised (iii) Taxable even if assessee is not the owner of the property in the tax year of receipt/ realization
24	**Co-owned property** (i) **Self-occupied property:** The annual value of the property of each co-owner will be Nil and each co-owner shall be entitled to a deduction of ₹ 30,000/ ₹ 2,00,000, as the case may be, on account of interest on borrowed capital if they exercise the option of shifting out of the default tax regime. However, aggregate deduction of interest to each co-owner in respect of co-owned self-occupied property and any other self-occupied house property, if any, cannot exceed ₹ 30,000/ ₹ 2,00,000, as the case may be.

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	No deduction would be allowed in respect of interest on loan taken for purchase/construction/reconstruction/repairs of self-occupied property where the assessee pays tax under the default tax regime. (ii) **Let-out property:** The income from such property shall be computed as if the property is owned by one owner and thereafter the income so computed shall be apportioned amongst each co-owner as per their specific share.
Other important points	
(i)	The Actual rent received/receivable should not include the rent which cannot be realized by the owner i.e., unrealized rent while determining gross annual value in case let-out property, provided the conditions specified in Rule 21 are satisfied.
(ii)	If a portion of a property is let-out and a portion is self-occupied, then, the income will be computed separately for let out and self-occupied portion.

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TEST YOUR KNOWLEDGE

1. *Mr. Raman is a co-owner of a house property along with his brother holding equal shares in the property.*

Particulars	₹
Municipal value of the property	*1,60,000*
Fair rent	*1,50,000*
Standard rent under the Rent Control Act	*1,70,000*
Rent received	*15,000 p.m.*

The loan for the construction of this property is jointly taken and the interest charged by the bank is ₹ 25,000, out of which ₹ 21,000 has been paid. Interest on the unpaid interest is ₹ 450. To repay this loan, Raman and his brother have taken a fresh loan and interest charged on this loan is ₹ 5,000.

The municipal taxes of ₹ 5,100 have been paid by the tenant.

Compute the income from this property chargeable in the hands of Mr. Raman for the tax year 2026-27.

2. *Mr. X owns a residential house in Mumbai. The house has two identical units. First unit of the house is self-occupied by Mr. X and another unit is rented for ₹ 8,000 p.m. The rented unit was vacant for 2 months during the year. The particulars of the house for the tax year 2026-27 are as under:*

Standard rent	*₹ 1,62,000 p.a.*
Municipal valuation	*₹ 1,90,000 p.a.*
Fair rent	*₹ 1,85,000 p. a*
Municipal tax (Paid by Mr. X)	*5% of municipal valuation*
Light and water charges	*₹ 500 p.m.*
Interest on borrowed capital	*₹ 1,500 p.m.*
Lease money	*₹ 1,200 p.a.*
Insurance charges	*₹ 3,000 p.a.*
Repairs	*₹ 12,000 p.a.*

Compute income from house property of Mr. X for the tax year 2026-27 if he exercises the option of shifting out of the default tax regime.

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3. *Mr. Vikas owns a house property whose Municipal Value, Fair Rent and Standard Rent are ₹ 96,000, ₹ 1,26,000 and ₹ 1,08,000 (per annum), respectively. During the tax year 2026-27, one-third of the portion of the house was let out for residential purpose at a monthly rent of ₹ 5,000. The remaining two-third portion was self-occupied by him. Municipal tax @11% of municipal value was paid during the year.*

   The construction of the house began in June, 2019 and was completed on 31-5-2022. Vikas took a loan of ₹ 1,00,000 on 1-7-2019 for the construction of building. He paid interest on loan @ 12% per annum and every month such interest was paid. Interest certificate is also furnished by Mr. Vikas.

   Compute income from house property of Mr. Vikas for the tax year 2026-27 if he has exercised the option of shifting out of the default tax regime.

4. *Mrs. Rohini Ravi, a citizen of the U.S.A., is a resident and ordinarily resident in India during the tax year 2026-27. She owns a house property at Los Angeles, U.S.A., which is used as her residence. The annual value of the house is $20,000. The value of one USD ($) may be taken as ₹ 89.*

   She took ownership and possession of a flat in Chennai on 1.7.2026, which is used for self-occupation, while she is in India. The flat was used by her for 7 months only during the year ended 31.3.2027. The municipal valuation is ₹ 3,84,000 p.a. and the fair rent is ₹ 4,20,000 p.a. She paid the following to Corporation of Chennai:

Property Tax	*₹ 16,200*
Sewerage Tax	*₹ 1,800*

   She had taken a loan from Standard Chartered Bank in June, 2024 to purchase this flat. Interest on loan was as under:

Particulars	***₹***
Period prior to 1.4.2026	*49,200*
1.4.2026 to 30.6.2026	*50,800*
1.7.2026 to 31.3.2027	*1,31,300*

   She had a house property in Bengaluru, which was sold in March, 2023. In respect of this house, she received arrears of rent of ₹ 60,000 in March, 2027. This amount has not been charged to tax earlier.

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Compute the income chargeable from house property of Mrs. Rohini Ravi for the tax year 2026-27 if she has exercised the option of shifting out of the default tax regime.

Would your answer change if she pays tax under the default tax regime under section 202(1)?

5. *Two brothers Arun and Bimal are co-owners of a house property with equal share. The property was constructed during the financial year 2018-2019. The property consists of eight identical units and is situated at Cochin.*

During the tax year 2026-27, each co-owner occupied one unit for residence, and the balance of six units were let out at a rent of ₹ 12,000 per month per unit. The municipal value of the house property is ₹ 9,00,000 and the municipal taxes are 20% of municipal value, which were paid during the year. The other expenses were as follows:

		₹
(i)	*Repairs*	*40,000*
(ii)	*Insurance premium (paid)*	*15,000*
(iii)	*Interest payable on loan taken for construction of house*	*3,00,000*

One of the let-out units remained vacant for four months during the year.

Arun could not occupy his unit for six months as he was transferred to Chennai. He does not own any other house.

The other income of Mr. Arun and Mr. Bimal are ₹ 2,90,000 and ₹ 1,80,000 respectively, for the tax year 2026-27.

Compute the income under the head 'Income from House Property' and the total income of two brothers for the tax year 2026-27 if they pay tax under the default tax regime under section 202(1).

Also, show the computation of income under this head, if they both exercised the option of shifting out of the default tax regime.

6. *Mr. Roxx, a citizen of the Country Y, is a resident but not ordinarily resident in India during the tax year 2026-27. He owns two house properties in Country Y, one is used as his residence. Another house property is rented for a monthly rent of $ 18,000. Fair rent of the house property is $ 20,000. The value of one CYD ($) may be taken as ₹ 89.*

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He took ownership and possession of a flat in Delhi on 1.10.2026, which is used for self-occupation, while he is in India. The flat was used by him for 2 months at the time when he visited India during the tax year 2026-27. The municipal valuation is ₹4,58,000 p.a. and the fair rent is ₹3,60,000 p.a. He paid property tax of ₹13,800 and ₹2,800 as Sewerage tax to Municipal Corporation of Delhi.

He had taken a loan of ₹ 18,00,000 @9.5% from HDFC Bank on 1st August, 2024 for purchasing this flat. No amount is repaid by him till 31.03.2027.

He also had a house property in Bengaluru which is let out on a monthly rent of ₹ 40,000. The fair rent of which is ₹ 4,58,000 p.a. and Municipal value of ₹ 3,58,000 p.a. and Standard Rent of ₹ 4,20,000 p.a. He had taken a loan of ₹ 25,00,000 @ 10% from ABC Bank. Municipal tax of ₹ 5,400 is paid by him in respect of this house during the tax year 2026-27. Mr. Roxx furnished interest certificate issued by HDFC Bank and ABC Bank.

Compute the income chargeable from house property of Mr. Roxx for the tax year 2026-27 if he has shifted out of the default tax regime.

7. *Mr. Roy owns a house in Kolkata. During the tax year 2026-27, 3/4th portion of the house was self-occupied and 1/4th portion was let out for residential purposes at a rent of ₹ 12,000 p.m. The tenant vacated the property on 28th February, 2027. The property was vacant during March, 2027. Rent for the months of January 2027 and February 2027 could not be realised in spite of the owner's efforts. All the conditions prescribed under Rule 21 are satisfied.*

   Municipal value of the property is ₹4,50,000 p.a., fair rent is ₹4,70,000 p.a. and standard rent is ₹5,00,000. He paid municipal taxes @10% of municipal value during the year. A loan of ₹ 30,00,000 was taken by him during the year 2019 for acquiring the property. Interest on loan paid during the tax year 2026-27 was ₹ 1,51,000. Compute Roy's income from house property for the tax year 2026-27 if he has shifted out of the default tax regime.

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ANSWERS

1. Computation of income from house property of Mr. Raman for tax year 2026-27

Particulars	₹	₹
Gross Annual Value **(See Note 1 below)**		1,80,000
Less: Municipal taxes – paid by the tenant, hence not deductible		Nil
Net Annual Value (NAV)		1,80,000
Less: Deductions under section 22		
(i) 30% of NAV	54,000	
(ii) Interest on housing loan **(See Note 2 below)**		
- Interest on loan taken from bank	25,000	
- Interest on fresh loan to repay old loan for this property	5,000	84,000
Income from house property		**96,000**
50% share taxable in the hands of Mr. Raman **(See Note 3 below)**		**48,000**

Notes:

1. Computation of Gross Annual Value (GAV)

GAV is the higher of Expected rent and actual rent received. Expected rent is the higher of municipal value and fair rent, but restricted to standard rent.

Particulars	₹	₹	₹	₹
(a) Municipal value	1,60,000			
(b) Fair rent	1,50,000			
(c) Higher of (a) and (b)		1,60,000		
(d) Standard rent		1,70,000		
(e) Expected rent [lower of (c) and (d)]			1,60,000	
(f) Actual rent [₹ 15,000 x 12]			1,80,000	
(g) Gross Annual Value [higher of (e) and (f)]				1,80,000

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2. Interest on housing loan is allowable as a deduction under section 22 on accrual basis. Further, interest on fresh loan taken to repay old loan is also allowable as deduction. However, interest on unpaid interest is not allowable as deduction under section 22.

3. Section 24 provides that where property is co-owned with definite and ascertainable share, then the co-owners shall not be assessed as an AOP and the income of each such co-owner should be computed separately as per their respective share and included in his individual assessment. Therefore, 50% of the total income from the house property is taxable in the hands of Mr. Raman since he is an equal owner of the property.

2. Computation of Income from house property for tax year 2026-27

Particulars		₹	₹
(A)	**Rented unit (50% of total area – See Note below)**		
	Step I - Computation of Expected Rent		
	Municipal valuation (₹ 1,90,000 x ½)	95,000	
	Fair rent (₹ 1,85,000 x ½)	92,500	
	Standard rent (₹ 1,62,000 x ½)	81,000	
	Expected Rent is higher of municipal valuation and fair rent, but restricted to standard rent	81,000	
	Step II - Actual Rent		
	Rent received/receivable for the let-out period (₹ 8,000 x 10)	80,000	
	Step III – Computation of Gross Annual Value		
	The actual rent of ₹ 80,000 is lower than ER of ₹ 81,000 owing to vacancy, since, had the property not been vacant the actual rent would have been ₹ 96,000 (₹ 80,000 + ₹ 16,000, being notional rent for two months. Therefore, actual rent is GAV.	80,000	
	Gross Annual Value		**80,000**
	Less: Municipal taxes (5% of ₹ 95,000)		4,750
	Net Annual value		**75,250**
	Less: Deductions under section 22 -		
	(i) 30% of net annual value	22,575	

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	(ii) Interest on borrowed capital (₹ 750 x 12)	9,000	31,575
	Taxable income from let out portion		**43,675**
(B)	**Self occupied unit (50% of total area – See Note below)**		
	Annual value	Nil	
	Less: Deduction under section 22 -		
	Interest on borrowed capital (₹ 750 x 12)	9,000	9,000
Loss from self-occupied portion			**(9,000)**
Income from house property (₹ 43,675 - ₹ 9,000)			**34,675**

Note: No deduction will be allowed separately for light and water charges, lease money paid, insurance charges and repairs.

3. Computation of income from house property of Mr. Vikas for the tax year 2026-27

Particulars		₹	₹
Income from house property			
I.	**Self-occupied portion (Two third)**		
	Net Annual value		Nil
	Less: Deduction under section 22		
	Interest on loan **(See Note below)** (₹ 18,600 x 2/3) [Allowable since he has exercised the option of shifting out of the default tax regime]		12,400
	Loss from self-occupied property		**(12,400)**
II.	**Let-out portion (One third)**		
	Gross Annual Value		
	(a) Actual rent received (₹ 5,000 x 12) ₹ 60,000		
	(b) Expected rent ₹ 36,000		
	[Higher of municipal valuation (i.e., ₹ 96,000) and fair rent (i.e., ₹ 1,26,000) but restricted to standard rent (i.e., ₹ 1,08,000)] = ₹ 1,08,000 x 1/3		
	Higher of (a) or (b)	60,000	

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Less: Municipal taxes (₹ 96,000 x 11% x 1/3)	3,520	
Net Annual Value	**56,480**	
Less: Deductions under section 22		
(a) 30% of NAV	16,944	
(b) Interest on loan **(See Note below)** (₹ 18,600 x 1/3)	6,200	**33,336**
Income from house property		**20,936**

Note: Interest on loan taken for construction of building

Interest for the year (1.4.2026 to 31.3.2027) = 12% of ₹ 1,00,000 = ₹ 12,000

Pre-construction period interest = 12% of ₹ 1,00,000 for 33 months (from 1.07.2019 to 31.3.2022) = ₹ 33,000

Pre-construction period interest to be allowed in 5 equal annual installments of ₹ 6,600 from the year of completion of construction i.e., from Year 2022-23 till T.Y. 2026-27.

Therefore, total interest deduction under section 22 = ₹ 12,000 + ₹ 6,600 = ₹ 18,600.

4. **(i)** Since the assessee is a resident and ordinarily resident in India, her global income would form part of her total income i.e., income earned in India as well as outside India will form part of her total income.

She possesses a self-occupied house at Los Angeles as well as at Chennai. She can take the benefit of "Nil" Annual Value in respect of both the house properties.

As regards the Bengaluru house, arrears of rent will be chargeable to tax as income from house property in the year of receipt under section 23. It is not essential that the assessee should continue to be the owner. 30% of the arrears of rent shall be allowed as deduction.

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Accordingly, the income from house property of Mrs. Rohini Ravi for tax year 2026-27 will be calculated as under:

Particulars	₹	₹
1. Self-occupied house at Los Angeles		
Annual value		Nil
Less: Deduction under section 22		Nil
Chargeable income from this house property		**Nil**
2. Self-occupied house property at Chennai		
Annual value		Nil
Less: Deduction under section 22		
Interest on borrowed capital **(See Note below)**		1,91,940
		(1,91,940)
3. Arrears in respect of Bengaluru property (Section 23)		
Arrears of rent received	60,000	
Less: Deduction @ 30% u/s 23(3)	18,000	42,000
Loss under the head "Income from house property"		**(1,49,940)**

Note: Interest on borrowed capital

Particulars	₹
Interest for the current year (₹ 50,800 + ₹ 1,31,300)	1,82,100
Add: 1/5th of pre-construction interest (₹ 49,200 x 1/5)	9,840
Interest deduction allowable under section 22	**1,91,940**

Interest deduction under section 22 is allowable since she has exercised the option of shifting out of the default tax regime.

(ii) Yes, the answer would change if she pays tax under the default tax regime under section 202(1). Under the default tax regime, deduction under section 22(1) for interest is not available. Hence, she cannot claim

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deduction of ₹ 1,91,940 in respect of the Chennai house. Accordingly, income from house property would be ₹ 42,000.

5. (i) If Arun and Bimal pay tax under the default tax regime under section 202(1)

Computation of total income for the tax year 2026-27

Particulars	Arun (₹)	Bimal (₹)
Income from house property		
I. Self-occupied portion (25%)		
Annual value	Nil	Nil
Less: Deduction under section 22(1)	Nil	Nil
Loss from self occupied property	Nil	Nil
II. Let-out portion (75%) – See Working Note below	1,25,850	1,25,850
Income from house property	1,25,850	1,25,850
Other Income	2,90,000	1,80,000
Total Income	**4,15,850**	**3,05,850**

Working Note

Computation of Income from Let-Out Portion of House Property

Particulars	₹	₹
Let-out portion (75%)		
Gross Annual Value		
(a) Municipal value (75% of ₹ 9 lakh)	6,75,000	
(b) Actual rent [(₹ 12000 x 6 x 12) – (₹ 12,000 x 1 x 4)] = ₹ 8,64,000 - ₹ 48,000	8,16,000	
- whichever is higher		8,16,000
Less: Municipal taxes 75% of ₹ 1,80,000 (20% of ₹ 9 lakh)		1,35,000
Net Annual Value (NAV)		6,81,000

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Less: Deduction under section 22		
(a) 30% of NAV	2,04,300	
(b) Interest on loan taken for the house [75% of ₹ 3 lakh]	2,25,000	4,29,300
Income from let-out portion of house property		**2,51,700**
Share of each co-owner (50%)		**1,25,850**

(ii) If Arun and Bimal have exercised the option of shifting out of the default tax regime

Computation of total income for the tax year 2026-27

Particulars	Arun (₹)	Bimal (₹)
Income from house property		
I. Self-occupied portion (25%)		
Annual value	Nil	Nil
Less: Deduction under section 22(1)		
Interest on loan taken for construction ₹ 37,500 (being 25% of ₹ 1.5 lakh) [Allowable since they have exercised the option of shifting out of the default tax regime]	37,500	37,500
Loss from self-occupied property	(37,500)	(37,500)
II. Let-out portion (75%) – See Working Note above	1,25,850	1,25,850
Income from house property	88,350	88,350
Other Income	2,90,000	1,80,000
Total Income	**3,78,350**	**2,68,350**

6. Since Mr. Roxx, is a resident but not ordinarily resident in India, only the income in respect of properties situated in India would be taxable in his hands.

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Thus, the rental income which accrues or arises in Country Y from the let-out property and annual value of self-occupied property would not be taxable in his hands. However, income arising from properties in India are taxable in the hands of Mr. Roxx.

Accordingly, the income from house property of Mr. Roxx for tax year 2026-27 will be calculated as under:

	Particulars	₹	₹
A.	**Self-occupied house at Delhi**		
	Annual value		Nil
	Less: Deduction under section 22	Nil	
	Interest on borrowed capital **(See Note below)**		2,00,000
	Chargeable income from this house property		**(2,00,000)**
B.	**Let out house property at Bengaluru**		
	Expected rent, being higher of ₹ 3,58,000 municipal value and fair rent of ₹ 4,58,000 but restricted to Standard rent of ₹ 4,20,000	4,20,000	
	Actual rent [₹ 40,000 x 12]	4,80,000	
	Gross Annual Value, being higher of expected rent and actual rent		4,80,000
	Less: Municipal taxes		5,400
	Net Annual Value		4,74,600
	Less: Deduction under section 22		
	- 30% of net annual value [30% x ₹ 4,74,600]	1,42,380	
	- Interest on borrowed capital (actual allowable as deduction without any ceiling limit)	2,50,000	3,92,380
			82,220
	Loss under the head "Income from house property" (₹ 2,00,000 - ₹ 82,220)		**(1,17,780)**

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Note: Interest on borrowed capital

Particulars		₹
Interest for the current year [18,00,000 x 9.5%]		1,71,000
Add: 1/5th of pre-construction interest (₹ 2,85,000 x 1/5)		57,000
1.8.2024 to 31.03.2025 – (₹ 18,00,000 x 9.5% x 8/12)	1,14,000	
1.4.2025 to 31.03.2026 – (₹ 18,00,000 x 9.5%)	1,71,000	
		2,28,000
Interest deduction allowable under section 22, restricted to		**2,00,000**

7. There are two units of the house. Unit I with 3/4th area is used by Mr. Roy for self-occupation throughout the year and no benefit is derived from that unit, hence, it will be treated as self-occupied and its annual value will be nil. Unit 2 with 1/4th area is let-out during the tax year and its annual value has to be determined as per section 21(1).

Computation of Income from house property of Mr. Roy for the tax year 2026-27

Particulars	₹	
Unit I (3/4th area – self-occupied)		
Annual Value		Nil
Less: Deduction under section 22(1)(b) 3/4th of ₹ 1,51,000		1,13,250
Income from Unit I (self-occupied)		**(1,13,250)**
Unit II (1/4th area – let out)		
Computation of GAV		
Step 1 – Computation of Expected Rent (ER)		
ER = Higher of municipal value (MV) and fair rent (FR), but restricted to standard rent (SR).	1,17,500	
However, in this case, standard rent of ₹ 1,25,000 (1/4th of ₹ 5,00,000) is more than the higher of MV of ₹ 1,12,500 (1/4th of ₹ 4,50,000) and FR of ₹ 1,17,500 (1/4th of ₹ 4,70,000). Hence the higher of MV and FR is the ER. In this case, it is the fair rent.		

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Step 2 – Computation of actual rent received/ receivable		
₹ 12,000 × 9 = 1,08,000	1,08,000	
[The property was let-out for 11 months. However, rent for 2 months i.e., January and February, 2027 could not be realized. Actual rent should not include any amount of rent which is not capable of being realized. Therefore, actual rent has been computed for 9 months]		
Step 3 - Compare ER & Actual rent received/receivable		
Step 4 – Computation of GAV		
The actual rent of ₹ 1,08,000 is lower than expected rent of ₹ 1,17,500 owing to vacancy, since had the property not been vacant in March 2027, the actual rent would have been ₹ 1,20,000 (i.e. ₹ 1,08,000 + ₹ 12,000), which is higher than the ER of ₹ 1,17,500. Therefore, actual rent is GAV.	1,08,000	
Gross Annual Value (GAV)		**1,08,000**
Less: Municipal taxes paid by the owner during the tax year relating to let-out portion		
1/4th of (10% of ₹ 4,50,000) =₹ 45,000/4 = ₹ 11,250		11,250
Net Annual Value (NAV)		**96,750**
Less: Deductions under section 22		
(a) 30% of NAV = 30% of ₹ 96,750	29,025	
(b) Interest paid on borrowed capital (relating to let out portion) [1/4th of ₹ 1,51,000]	37,750	66,775
Income from Unit II (let-out)		**29,975**
Loss under the head "Income from house property" (- ₹ 1,13,250 + ₹ 29,975)		**-83,275**

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Q.NO.	ANSWERS	
1.	(d)	All of the above.
2.	(d)	(b) or (c)
3.	(d)	(b) or (c)
4.	(c)	Income from building is taxable under the head "Income from House Property" and income from furniture separately under appropriate head
5	(c)	Whether letting of building and assets is separable or inseparable
6	(d)	Higher of Fair Rent or Municipal Value, subject to the maximum of Standard Rent
7	(d)	₹ 28,000
8.	(b)	₹ 5,39,000
9.	(d)	₹ 5,76,000
10.	(d)	₹ 5,76,000
11.	(a)	₹ 30,000
12.	(d)	₹ 45,000

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UNIT – 3: PROFITS AND GAINS OF BUSINESS OR PROFESSION

LEARNING OUTCOMES

After studying this unit, you would be able to-

- **comprehend** the meaning of "business" and "profession" and the scope of income chargeable to tax under this head;
- **comprehend** the meaning of speculative transaction and the tax treatment of loss incurred in speculation business;
- **identify** the expenditures/payments which are admissible as deduction, **comprehend** the conditions to be satisfied to avail such deductions, the limits, if any, specified in respect thereof;
- **compute** the deductions available while computing business income applying the relevant provisions under default tax regime under section 202(1);
- **compute** the deductions available while computing business income applying the relevant provisions under normal provisions of the Act;
- **identify** the expenditures/payments which are not admissible as deduction;
- **identify** the deductions allowable only on actual payment;
- **examine** when certain receipts are deemed to be income chargeable to tax under this head;
- **identify** the assessees who are required to compulsorily maintain books of account and get them audited;
- **apply** the presumptive tax provisions under the Act to compute income from eligible business or profession;
- **compute** the business income by applying the charging and deeming provisions and allowing permissible deductions;
- **compute** the business income in cases where income is partly agricultural and partly business in nature.

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Proforma for computation of income under the head "Profits and gains of business or profession" under default tax regime under section 202(1)

Particulars		Amount (₹)	Amount (₹)
Net profit as per statement of profit and loss			**A**
Add:	**Expenses debited to statement of profit and loss but not allowable**		
	♦ Depreciation as per books of account	xxx	
	♦ Income-tax [disallowed u/s 35(a)(i)]	xxx	
	♦ 30% of sum payable to residents on which tax is not deducted at source or has not been paid upto the due date specified u/s 263(1), after deduction, disallowed under section 35(b)(i) [The same is allowable in the year in which the tax is deducted and remitted]	xxx	
	♦ Any expenditure incurred, in respect of which payment is made for goods, services or facilities to a related person, to the extent the same is excessive or unreasonable, in the opinion of the A.O, having regard to its FMV [disallowed u/s 36(2)]	xxx	
	♦ Any expenditure incurred in respect of which payment or aggregate of payments to a person exceeding ` 10,000 in a single day is made not through specified banking or online mode [disallowed u/s 36(4)]	xxx	
	♦ Certain sums payable by the assessee which have not been paid during the relevant T.Y. in which the liability was incurred on or before the due date of filing of return u/s 263(1) in respect of that T.Y. [disallowed u/s 37]	xxx	
	♦ Sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of MSME Development Act, 2006 [disallowed u/s 37]	xxx	
	♦ Personal expenses [not allowable as per section 34]	xxx	
	♦ Capital expenditure [not allowable as per section 34]	xxx	

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	♦ Repairs of capital nature [not allowable as per Sections 28]	xxx	
	♦ Amortization of preliminary expenditure u/s 44/ expenditure incurred under voluntary retirement scheme under section 52(1) (Table: Sl. No. 2) [4/5th of such expenditure to be added back]	xxx	
	♦ Family planning expenses not allowable in the case of a person other than a company	xxx	
	♦ Fine or penalty paid for infringement or breach of law [However, penalty in the nature of damages for delay in completion of a contract, being compensatory in nature, is allowable]	xxx	
	♦ All expenses related to income which is not taxable under this head e.g. municipal taxes in respect of residential house property	xxx	
	♦ Any sum paid by the assessee as an employer by way of contribution to pension scheme u/s 124 exceeding 14% of the salary of the employee	xxx	**B**
	(A + B)		**C**
Less:	**Expenditure allowable as deduction but not debited to statement of profit and loss**		
	♦ Depreciation computed as per Rule 25 of Income-tax Rules, 2026	xxx	
	♦ 30% of expenditure disallowed in an earlier T.Y. due to non-deduction of tax at source/ non-remittance upto due date specified u/s 263(1) of that year, allowed this year on remittance (This item of adjustment is generally given under "Additional information" in the question)	xxx	
	♦ Amount disallowed in an earlier T.Y. as per section 37, due to non-payment on or before the due date u/s 263(1), allowed as deduction in this year on actual payment (This item of adjustment is generally given under "Additional information" in the question)	xxx	**D**
	(C - D)		**E**

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Less:	**Income credited in statement of profit and loss but not taxable/taxable under any other head**		
	♦ Dividend income	xxx	
	♦ Agricultural income exempt under schedule II (Table: Sl. No. 1)	xxx	
	♦ Interest on securities/savings bank account/FD taxable under the head "Income from other sources"	xxx	
	♦ Profit on sale of capital asset taxable under the head "Capital Gains"	xxx	
	♦ Rent from house property taxable under the head "Income from house property"	xxx	
	♦ Winnings from lotteries, horse races, games etc. taxable under the head "Income from other sources"	xxx	
	♦ Gifts exempt or taxable under the head "Income from other sources"	xxx	
	♦ Income-tax refund not taxable	xxx	
	♦ Interest on income-tax refund taxable under the head "Income from other sources"	xxx	**F**
	(E - F)		**G**
Add:	**Income chargeable under this head/ Deemed Income [If the same is given as additional information and has not already been credited to Statement of Profit & Loss]**		
	♦ Salary, remuneration, interest received by a partner from the firm to the extent the same is deductible in the hands of the firm as per section 35(e)	xxx	
	♦ Bad debt allowed as deduction u/s 31(2) in an earlier T.Y., now recovered [deemed as income u/s 38(1)(d)]	xxx	
	♦ Remission or cessation of a trading liability [deemed as income u/s 38(1)(a)]	xxx	**H**
Profits and gains from business or profession (G + H)			**I**

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Proforma for computation of income under the head "Profits and gains of business or profession" under optional tax regime taking business income computed under default tax regime under section 202(1) as the starting point

Particulars	Amount (₹)	Amount (₹)
Profits and gains from business or profession as per section 202(1)		**A**
Less: **Expenditure allowable as deduction**		
♦ Additional depreciation@20% of actual cost of new P & M acquired by an assessee engaged in the business of manufacture or production of any article or thing or generation, transmission or distribution of power (10% of actual cost, if put to use for less than 180 days in the year of acquisition) [Balance additional depreciation can be claimed in the next year i.e., T.Y.2027-28]	xxx	
♦ Balance additional depreciation @10% of actual cost of P & M acquired and installed during the T.Y. 2025-26 and put to use for less than 180 days in that year	xxx	**B**
Profits and gains from business or profession as per normal provisions of the Act (A – B)		**C**

Note - An assessee carrying on specified business and exercising the option under section 202(4) to shift out of the default tax regime, is eligible for deduction u/s 46 in respect of capital expenditure (other than land, goodwill and financial instruments) incurred for such business, subject to fulfillment of specified conditions. However, if he pays tax under default tax regime under section 202(1), he would **not** be eligible for deduction u/s 46.

The table in the next page depicts the allowability of deduction for expenditure incurred for in-house scientific research related to the business of the assessee and contribution to outsiders for scientific research/social science/statistical research under the default tax regime and optional tax regime.

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Deduction for expenditure incurred for in-house scientific research related to business and contribution to outsiders for scientific research/social science/statistical research

Nature of Expenditure/ contribution for scientific research/social science/ statistical research		Under the default tax regime u/s 202			Under the optional tax regime as per the normal provisions of the Act		
		Allowability of deduction	Treatment while computing income under the head "PGBP"		Allowability of deduction	Treatment while computing income under the head "PGBP"	
			If debited to Profit & Loss A/c	If given as additional information		If debited to Profit & Loss A/c	If given as additional information
I. In house research expenditure on scientific research related to assessee's business							
45(1)(a)(ii)/(b)	Revenue expenditure	Allowable as deduction	No adjustment required, since it is already debited to profit and loss A/c	To be deducted while computing income under the head "PGBP"	Allowable as deduction	No adjustment required, since it is already debited to profit and loss A/c	To be deducted while computing income under the head "PGBP"
45(1)(a)(i)/(c)	Any capital expenditure (other than cost of acquisition of land)						

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Nature of Expenditure/ contribution for scientific research/social science/ statistical research		Under the default tax regime u/s 202			Under the optional tax regime as per the normal provisions of the Act		
		Allowability of deduction	Treatment while computing income under the head "PGBP"		Allowability of deduction	Treatment while computing income under the head "PGBP"	
			If debited to Profit & Loss A/c	If given as additional information		If debited to Profit & Loss A/c	If given as additional information
II. Contribution to outsiders							
45(3)(a)(i)	Notified approved research association/university/ college/other institution for scientific research	Not allowable as deduction	To be added back while computing income under the head "PGBP"	No adjustment required	Allowable as deduction	No adjustment required, since it is already debited to profit and loss A/c	To be deducted while computing income under the head "PGBP"
45(3)(a)(ii)	Notified approved research association/university/ college/other institution for research in social science or statistical research						
45(3)(b)	Approved notified company for scientific research						
45(3)(c)	Approved National Laboratory/ University/ IIT/specified person to be used for scientific research undertaken under an approved programme						

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3.1 STRUCTURED SECTIONAL LEARNING

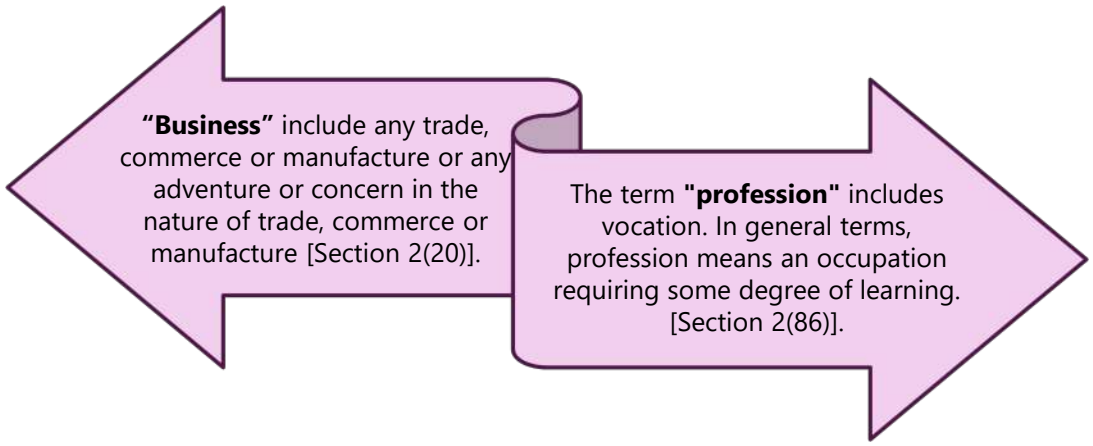
Section	Particulars
2(17)	Meaning of block of assets
2(20)	Meaning of business
2(59)	Meaning of interest
2(86)	Meaning of profession
2(94)	Meaning of relative
2(105)	Meaning of stamp duty value
26	Income under head "Profits and gains of business or profession"
27	Manner of computing profits and gains of business or profession
28	Rent, rates, taxes, repairs and insurance
29	Deductions related to employee welfare
30	Deduction on certain premium
31	Deduction for bad debt and provision for bad and doubtful debt
32	Other deductions
33	Deduction for depreciation
34	General conditions for allowable deductions
35	Amounts not deductible in certain circumstances
36	Expenses or payments not deductible in certain circumstances
37	Certain deductions allowed on actual payment basis only
38	Certain sums deemed as profits and gains of business or profession
39	Computation of actual cost
41	Written down value of depreciable asset
42	Capitalising impact of foreign exchange fluctuation
44	Amortisation of certain preliminary expenses
45	Expenditure on scientific research
46	Capital expenditure of specified business
52	Amortisation of expenditure for scheme of voluntary retirement
53	Full value of consideration for transfer of assets other than capital assets in certain cases

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58	Special provision for computing profits and gains of business or profession on presumptive basis in case of certain residents
62	Maintenance of books of account
63	Tax audit
66	Interpretation
276	Method of accounting
278	Taxability of certain income

3.2 MEANING OF 'BUSINESS' AND 'PROFESSION'

The income chargeable to tax under this head is in respect of the profits and gains of any business or profession, carried on by an assessee at any time during the tax year.



Particulars	Explanation
Examples of Profession	Painter, doctor, lawyer, architect, auditor, author, astrologer etc. are persons who can be said to be carrying on a profession and not business.
Meaning of Business	Business generally involves continuous exercise of an activity with a profit motive. Even a single trade venture may also be treated as business.
Tax treatment of business, profession and vocation	For income-tax purposes, it is generally immaterial whether a person carries on a business, profession or vocation, since profits from all are taxed under the same head "Profits and Gains of Business or

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	Profession". However, differences exist in provisions relating to tax audit and presumptive taxation, where threshold limits and rates vary for business and profession.

Meaning of 'Profits'

(i) **Profits in cash or in kind:** Profits may be realised in money or in money's worth, i.e., in cash or in kind. Where profit is realised in any form other than cash, the cash equivalent of the receipt on the date of receipt must be taken as the value of the income received in kind.

(ii) **Capital receipts:** Capital receipts are not generally to be taken into account while computing profits under this head.

(iii) **Voluntary receipts:** Payment voluntarily made by persons who were under no obligation to pay anything at all would be income in the hands of the recipient, if they were received in the course of a business or by the exercise of a profession or vocation. Thus, any amount paid to a lawyer by a person who was not a client, but who has been benefited by the lawyer's professional service to another would be assessable as the lawyer's income.

(iv) **Income from distinct businesses:** The profits of each distinct business must be computed separately but the tax chargeable under this section is not on the separate income of every distinct business but on the aggregate profits of all the businesses carried on by the assessee.

(v) **Computation of profits:** Profits should be computed after deducting the losses and expenses incurred for earning the income in the regular course of the business, profession, or vocation unless the loss or expenses is expressly or by necessary implication, disallowed by the Act. The charge is not on the gross receipts but on the profits and gains.

(vi) **Legality of income:** The illegality of a business, profession or vocation does not exempt its profits from tax. The revenue is not concerned with the taint of illegality in the income or its source. Thus, income tax is not restricted in its application to lawful business only.

However, expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law would not be allowable as deduction while computing profits of such business.

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Mr. X carries on an illegal betting business and earns a profit of ₹ 10,00,000 during the tax year. Even though the business is illegal, the income earned from such activity is still taxable under the head "Profits and Gains of Business or Profession".

3.3 METHOD OF ACCOUNTING



Under section 276(1), income chargeable under the heads "Profits and gains of business or profession" or "Income from other sources" shall be computed as per either the cash or mercantile system of accounting regularly employed by the assessee.

However, as per section 278, certain income would be taxable in the following manner:

(i) **interest** received by an assessee **on compensation or on enhanced compensation**, shall be deemed to be the **income of the year in which it is received** [Such income is taxable under the head "Income from other sources"]

(ii) income referred to in section 2(49)(w) i.e., **assistance in the form of a subsidy or grant** or cash incentive or duty drawback or waiver or concession or reimbursement, by whatever name called, by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee shall be deemed to be the **income of the tax year in which it is received**, if not charged to income tax for any earlier tax year.

Under section 276(2), the Central Government is empowered to notify in the Official Gazette from time to time, income computation and disclosure standards (ICDSs) to be followed by any class of assessees or in respect of any class of income. The Central Government had, vide Notification No. S.O.3079(E) dated 29.9.2016, notified ten ICDSs.

The notified ICDSs have to be followed by all assessees (other than an individual or a Hindu undivided family who is not required to get his accounts of the tax year audited in accordance with the provisions of section 63) following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head "Profits and gains of business or profession" or "Income from other sources".

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The ten notified ICDSs are:

ICDS I	:	Accounting Policies
ICDS II	:	Valuation of Inventories
ICDS III	:	Construction Contracts
ICDS IV	:	Revenue Recognition
ICDS V	:	Tangible Fixed Assets
ICDS VI	:	The Effects of Changes in Foreign Exchange Rates
ICDS VII	:	Government Grants
ICDS VIII	:	Securities
ICDS IX	:	Borrowing Costs
ICDS X	:	Provisions, Contingent Liabilities and Contingent Assets

Note: ICDSs would be dealt with in detail at Final Level.

3.4 INCOME CHARGEABLE UNDER THIS HEAD [SECTION 26]

The income referred to in section 26(2) shall be chargeable to tax as income under the head 'profits and gains of business or profession'. These incomes are as under:

(i) **Income from business or profession:** Income arising to any person by way of profits and gains from the business or profession carried on by him at any time during the tax year.

Exception

If an assessee is engaged in the business of letting out of residential houses, the income generated from letting out of a residential house or a part of it shall not be chargeable under the head "Profits and gains of business or profession" and would be chargeable under the head "Income from house property".

(ii) **Any compensation or other payment due to or received by** any person, by whatever name called,

(a) wholly or substantially managing the affairs -

(A) of an Indian company or

(B) in India, of any other company; or

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(b) holding an agency in India for any part of the business activities of any other person; or

(c) for any contract relating to business,

in connection with the termination of his management, office, agency or contract, as the case may be, or modification of terms and conditions relating thereto.

(iii) **Any compensation or payment due to or received by** any person, for vesting of the management of any property or business, in the Government including any corporation owned or controlled by the Government under any law in force.

(iv) **Income from specific services performed for its members by a trade, professional or business:** Income derived by any trade, professional or similar associations from specific services rendered by them to their members. It may be noted that this forms an exception to the general principle of mutuality governing the assessment of income of mutual associations such as chambers of commerce, stock brokers' associations etc.

As a result, a trade, professional or similar association performing specific services for its members is to be deemed as carrying on business in respect of these services and on that assumption the income arising therefrom is to be subjected to tax. For this purpose, it is not necessary that the income received by the association should definitely or directly be related to these services.

(v) **Incentives received or receivable by assessee carrying on export business:** Following incentives received or receivable by an assessee:

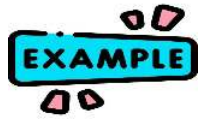
- Profits on sale of import licence,
- Cash assistance against export,
- Duty drawback,
- Duty remission, or
- any other export incentive



(vi) **Value of any benefit or perquisite:** The value of any benefit or perquisite arising from business or the exercise of any profession, whether –

- convertible into money or not or
- in cash or in kind or partly in cash and partly in kind.

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If a company provides rent free residential accommodation to a lawyer in consideration of professional services rendered by him to the company, the value of such accommodation would be assessable in the hands of the said lawyer as his income under the head "Profits and gains or business or profession".

(vii) Sum due to, or received by, a partner of a firm: Any interest, salary, bonus, commission or remuneration, by whatever name called, which is due to or received by a partner of a firm from such firm will be deemed to be income from business. However, if any interest, salary, bonus, commission or remuneration by whatever name called, or any part thereof has not been allowed as deduction under section 35(e) in the computation of the income of the firm, the income to be taxed in the hands of partner shall be reduced to the extent of the amount disallowed in the hands of firm.



A firm pays interest to a partner at 20% p.a. simple interest. The allowable rate of interest is 12% p.a. Hence, the excess 8% paid will be disallowed in the hands of the firm. Since excess interest has suffered tax in the hands of the firm due to disallowance, the same will not be taxed in the hands of the partner. However, the interest allowed to the extent of 12% p.a. in the hands of firm will be taxed in the hands of partner.



Exemption of share income of a partner [Schedule III (Table: Sl. No. 2)]

Table: Sl.No.2 of Schedule III exempts from tax a partner's share in the total income of the firm. In other words, the partner's share in the total income of the firm determined in accordance with the profit-sharing ratio will be exempt from tax.

(viii) Any sum whether received or receivable, in cash or kind, under an agreement:

(a) for not carrying out any activity in relation to any business or profession

However, the following sums received or receivable would not be chargeable to tax under the head "profits and gains from business or profession":

(i) any sum, received on account of transfer of the right to manufacture, produce or process any article or thing or right to

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carry on any business or profession, which is chargeable under the head "Capital gains".

(ii) any sum received as compensation from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, as per the terms of agreement entered into with the Government of India.

(b) for not sharing any know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services.

(ix) Any sum received under a Keyman insurance policy: Any sum received by the assessee, as an employer, under a Keyman insurance policy including the sum allocated by way of bonus on such policy will be taxable as income from business.

(x) Fair market value of inventory on its conversion/treatment as capital asset: Fair market value of inventory as on the date on which it is converted into or treated as a capital asset, determined in the prescribed manner, would be chargeable to tax as business income.

Conversion of stock in trade as capital asset

(xi) Sum received on account of capital asset referred under section 46: Any sum which is received or receivable, in cash or kind, when -

(i) a capital asset other than land or goodwill or financial instrument, is demolished, destroyed, discarded or transferred and

(ii) the whole of the expenditure on it has been allowed as a deduction under section 46 of the Income-tax Act, 2025 or under section 35AD of the Income-tax Act, 1961.

3.5 SPECULATION BUSINESS



Section 26(3) specifically provides that where an assessee carries on speculative business, that business of the assessee must be deemed as distinct and separate from any other business. This becomes necessary because section 113 provides that losses

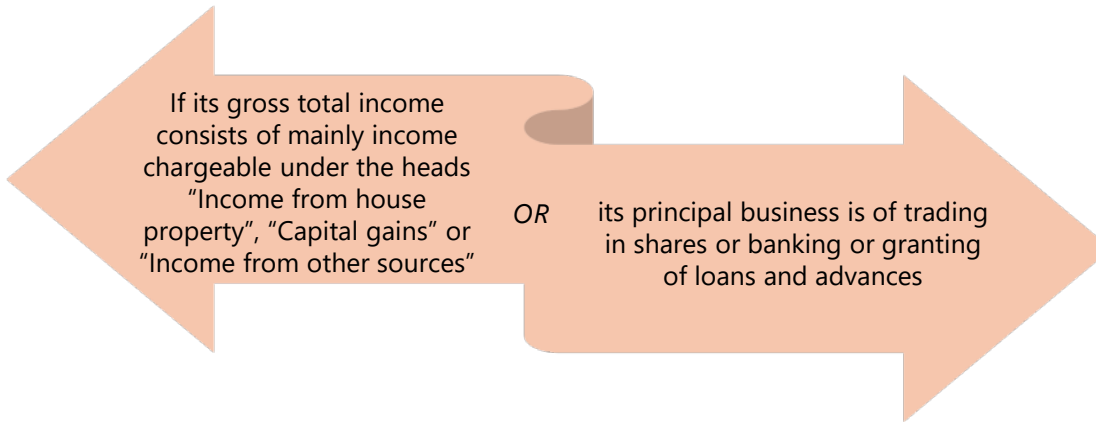
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in speculation business unlike other businesses, cannot be set-off against the profits of any business other than a speculation business.

Likewise, a loss in speculation business carried forward to a subsequent year can be set-off only against the profit and gains of any speculation business in the subsequent year. Profits and losses resulting from speculative transactions must, therefore, be treated as separate and distinct from profits and gains of business and profession from any other business.

As per section 113(5), where any part of the business of a company consists of purchase and sale of the shares of other companies, then such company shall be deemed to be carrying on speculation business to the extent to which the business consists of the purchase and sale of such shares.

However, this deeming provision under section 113(5) does **not** apply to the following companies –



Accordingly, if these companies as mentioned above carry on the business of purchase and sale of shares of other companies, they would not be deemed to be carrying on speculation business [Section 113(6)].

Meaning of Speculative Transaction

"Speculative transaction" means a transaction in which a contract for the purchase or sales of any commodity including stocks and shares is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips **other than the following transactions:**

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(i) **Hedging contract in respect of raw materials or merchandise:** A contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchandising business to guard against loss through future price fluctuations in respect of his contracts for the actual delivery of goods manufactured by him or merchandise sold by him.



(ii) **Hedging contract in respect of stocks and shares:** A contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuation.



(iii) **Forward contract:** A contract entered into by a member of a forward market or stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against any loss which may arise in the ordinary course of his business as a member.



(iv) **A specified derivative transaction:** A specified derivative transaction means any transaction in respect of

- trading in derivatives or
- trading in commodity derivatives (other than agricultural commodity derivatives) which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 or
- trading in agricultural commodity derivatives

if such transactions are carried out electronically on screen-based systems of a recognised stock exchange.

Accordingly, the above (i) to (iv) forms of transactions shall not be deemed to be speculative transactions.

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Examples of speculative and non-speculative transactions

Examples of speculative transaction	Examples of non-speculative transaction
Buying and selling shares without taking physical delivery.	Purchases of raw materials through a forward contract and takes actual delivery of goods on maturity of the contract.
Commodity contract for gold and settles the contract by payment of price difference without actual delivery of gold.	Hedging contract entered into by a cotton mill to guard against loss from price fluctuations in raw cotton.



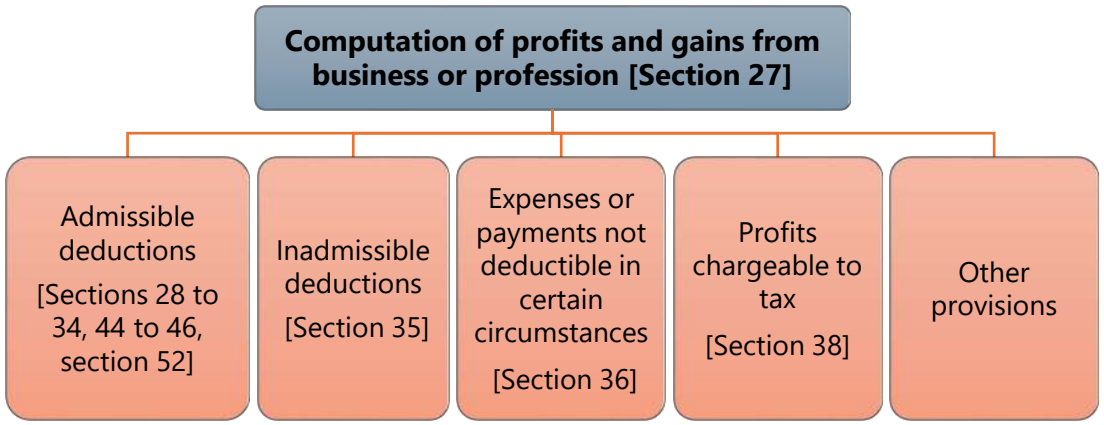
1.	*Income from letting out residential houses by a person engaged in such business is taxable under the head –*	
	(a)	*Income from Other Sources*
	(b)	*Capital Gains*
	(c)	*Income from House Property*
	(d)	*Profits and Gains of Business or Profession*
2.	*Salary, bonus, commission or remuneration due to or received by a working partner from the firm is taxable under the head*	
	(a)	*Income from Other Sources*
	(b)	*Capital Gains*
	(c)	*Income from House Property*
	(d)	*Profits and Gains of Business or Profession*
3.	*Loss from speculation business can be set off against –*	
	(a)	*Salary income only*
	(b)	*Any business income*
	(c)	*Capital gains only*
	(d)	*Profit from speculation business only*

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4.	*Hedging contract entered into to guard against price fluctuations in raw materials is –*	
	(a)	*Speculative transaction*
	(b)	*Gambling transaction*
	(c)	*Non-speculative transaction*
	(d)	*Capital transaction*

3.6 MANNER OF COMPUTING PROFITS AND GAINS OF BUSINESS OR PROFESSION [SECTION 27]

According to section 27, the profits and gains of any business or profession are to be as per the provisions contained in sections 28 to 60, except section 58. It must, however, be remembered that in addition to the specific allowances and deductions stated in sections 28 to 33, the Act further permits allowance of items of expenses under the residuary section 34(1), which extends the allowance to items of business expenditure not covered by sections 28 to 33, where these are allowable according to accepted commercial practices.



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3.7 ADMISSIBLE DEDUCTIONS [SECTIONS 28 TO 34, 44 TO 46 AND SECTION 52]

Rent, rates, taxes, repairs and insurance [Section 28]

Section 28 allows following deductions in respect of premises, machinery, plant or furniture used by the assessee for the purposes of his business or profession.

- **Insurance premium:** Any premium paid in respect of insurance against risk of damage or destruction thereof

  The premium may even take the form of contribution to a trade association which undertakes to indemnify and insure its members against loss; such premium or contribution would be deductible as an allowance under this section even if a part of it is returnable to the insured in certain circumstances.

  It does not matter if the payment of the claim will endure to the benefit of someone other than the owner.

- **Land revenue, local rates or municipal taxes paid**
- **Rent paid, when the premises are occupied by the assessee as tenant**
- **Amount paid for repairs to the premises:**
  - **When the premises are occupied by the assessee otherwise than as a tenant -** Amount paid on account of current repairs to the premises
  - **When the premises are occupied by the assessee as a tenant -** Amount paid on account of cost of repairs, where he has undertaken to bear the cost of repairs to the premises
- **Amount paid for repairs to machinery, plant or furniture -** The amount paid on account of current repairs to machinery, plant or furniture

  Note: *Cost of repairs and current repairs in the nature of capital expenditure is not allowed as deduction.*

- **Premises, building, machinery, plant or furniture used partly for business:** Where the premises, building, machinery, plant or furniture is partly used or not wholly and exclusively used for the purposes of the business or profession, then only a fair proportionate part of the expenses as determined

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by the Assessing Officer, having regard to the usage for the purposes of the business or profession, will be allowed as a deduction [Section 28(2)].

Usage of the asset: In order to claim this deduction, the assets must have been used for purposes of the assessee's own business the profits of which are being taxed. The word 'used' has to be read in a wide sense so as to include active as well as passive use.

Repairs exclude replacement or reconstruction: The term 'repairs' will include renewal or renovation of an asset but not its replacement or reconstruction.

The deduction allowable under this section is only of current repairs but not arrears of repairs for earlier years even though they may still rank for a deduction under section 34(1).

Deductions related to employee welfare [Section 29]

Section 29 allows following deductions in the case of an assessee, being an employer in relation to employee welfare:

(a) Contributions to provident fund and superannuation funds [Section 29(1)(a)]

Contribution to the employees' recognised provident fund or an approved superannuation fund is allowable subject to

- the limits laid down for recognizing the provident fund or approving superannuation fund and
- such specified conditions, for cases where the contributions are not made annually either as fixed amounts, or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or the contributions or to the number of members of the fund.

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(b) Employer's contribution for an employee under a Pension Scheme referred to in section 124 [Section 29(1)(b)]

(i) Section 29(1)(b) provides that the employer's contribution for an employee under a Pension Scheme as referred to in section 124 would be allowed as deduction while computing business income.

(ii) However, deduction would be restricted to **14% of the salary** of the employee in the tax year.

Salary, for this purpose, includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

ILLUSTRATION 1

X Ltd. contributes 20% of basic salary for each employee under a pension scheme referred to in section 124. Dearness Allowance is 40% of basic salary and it forms part of pay of the employees.

Compute the amount of deduction allowable under section 29(1)(b), if the basic salary of the employees aggregate to ₹ 10 lakhs.

SOLUTION

Computation of deduction u/s 29(1)(b)

Particulars	₹
Basic Salary	10,00,000
Dearness Allowance@40% of basic salary [DA forms part of pay]	4,00,000
Salary for the purpose of section 29(1)(b) (Basic Salary + DA)	**14,00,000**
Actual contribution (20% of basic salary i.e., 20% of ₹ 10 lakhs)	2,00,000
Permissible deduction under section 29(1)(b) [14% of (basic salary plus dearness pay) = 14% of ₹ 14,00,000 = ₹ 1,96,000]	**1,96,000**

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(c) Contribution towards an approved gratuity fund and provision for payment of gratuity [Section 29(1)(c), 29(1)(d) and 29(2)]

Following deductions are available with respect to the contribution towards gratuity:

Contribution to an approved gratuity fund is allowable u/s 29(1)(c) subject to the condition that the gratuity fund should be for exclusive benefit of the employees under an irrevocable trust.	Any provision made for the purpose of making contribution towards approved gratuity fund or for the purpose of payment of any gratuity that has become payable during the tax year is allowable u/s 29(1)(d).

However, by virtue of section 29(2) –

- No deduction shall be allowed for any provision made for the payment of gratuity to the employees on their retirement or termination for any reason unless it is covered by section 29(1)(d); and
- In case deduction has been allowed for any provision made u/s 29(1)(d), then no deduction shall be allowed on actual payment made from such provision.

(d) Amount received by assessee-employer as contribution from his employees towards their welfare fund to be allowed only if such amount is credited on or before due date of filing of return of income

Section 29(1)(e) provides that deduction in respect of any sum received by the employer as contribution from his employees towards any welfare fund of such employees (including employee's contribution to Provident Fund, Superannuation Fund and ESIC Contribution) will be allowed as deduction only if such sum is credited by the employer assessee to the employee's account in the relevant fund on or before the due date of filing of return of income under section 263(1) for the tax year.

📌 NOTE

Any sum received by the employer assessee from his employees as contribution to any PF or superannuation fund or any fund for the welfare of such employees shall be treated as income under clause (o) of section 2(49). The same is allowed as deduction in the hands of employer assessee, if the amount is deposited in the respective fund on or before the "due date of filing of return of income u/s 263(1)".

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No deduction will be allowed in respect of any sum paid by the assessee as an employer towards

- setting up or formation of,
- or as contribution to,

any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860, or other institution for any purpose.

However, where such sum is paid, for the purposes and to the extent provided in section 29(1)(a), 29(1)(b) or 29(1)(c), or as required by or under any other law in force, then deduction will not be denied.



5.	*Employees' contribution to PF received by employer is deductible only if deposited –*	
	(a)	*Before end of financial year*
	(b)	*Before audit completion*
	(c)	*On or before due date of filing return of income*
	(d)	*Before the due date as per PF Act*
6.	*X Ltd. contributes ₹ 3 lakh to pension scheme. Basic salary of employees is ₹ 12 lakh and DA forming part of pay is ₹ 3 lakh. Maximum deduction X Ltd. can claim for contribution to pension scheme is –*	
	(a)	*₹ 1,68,000*
	(b)	*₹ 2,10,000*
	(c)	*₹ 1,80,000*
	(d)	*₹ 3,00,000*

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Deduction on certain premium [Section 30]

Following premiums paid by the assessee are allowed as deduction:

(i) **Insurance premium for stock or stores [Section 30(a)]** - If insurance policy has been taken out against risk of damage or destruction of the stock or stores of the business or profession, the premia paid is deductible.

(ii) **Premium paid by employer for health insurance of employees [Section 30(c)]** - This clause seeks to allow a deduction to an employer in respect of premium paid by him through any mode of payment other than cash to effect or to keep in force an insurance on the health of his employees in accordance with a scheme framed by

(a) the General Insurance Corporation of India and approved by the Central Government; or

(b) any other insurer and approved by the IRDA.

Deduction for bad and doubtful debts [Section 31]

(i) **Deduction in respect of Bad Debts [Section 31(2)] -** Any amount of bad debt or part of it is allowed as deduction in the tax year in which such amount is written off as irrecoverable in the accounts of the assessee subject to the conditions that debt has been taken into account in computing the income of the assessee of the tax year in which such debt is written off, or of an earlier tax year, or should represent money lent by the assessee in the ordinary course of his business of banking or money lending carried on by the assessee.

Any bad debt written off as irrecoverable shall not include any provision for bad and doubtful debt, meaning thereby that for the purposes of section 31(2), the deduction for bad debts is available only when debt has been actually written off in the accounts and mere a provision for bad debts shall not be treated as actual write off of debt [Section 31(3)(a)].

The CBDT has, clarified vide Circular no. 12/2016, dated 30-05-2016, that claim for any debt or part of it in any tax year, shall be admissible, if it is written off as irrecoverable in the books of accounts of the assessee for that tax year and it fulfils the stipulated conditions.

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However, no such requirement is there in law that the assessee has to establish that the debt has, in fact, become irrecoverable.

(ii) Deduction of differential amount of debts due as bad debts in the year of recovery, to the extent of deficiency in recovery - If the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency can be claimed as deduction in the tax year in which the ultimate recovery is made.

(iii) Amount of debt taken into account in computing the income of the assessee on the basis of notified ICDSs[1] to be allowed as deduction in the tax year in which such debt or part thereof becomes irrecoverable [Section 31(3)]

(a) Under section 31(2), deduction is allowed in respect of the amount of any bad debt or part of it which is written off as irrecoverable in the accounts of the assessee for the tax year.

(b) Therefore, writing off in the books of account is an essential condition for claim of bad debts under section 31(2).

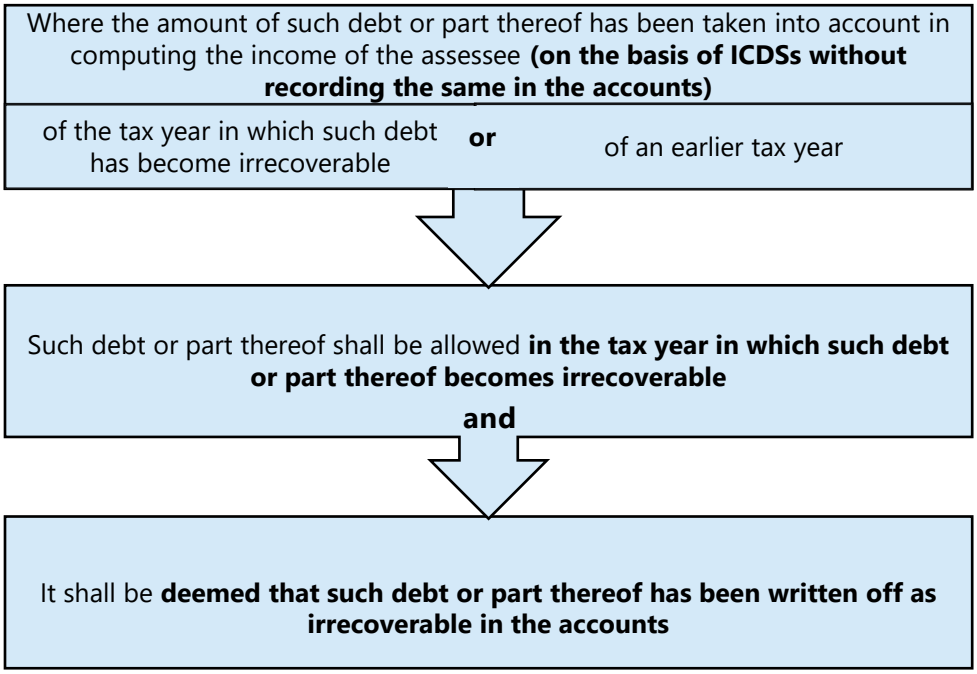
(c) In this regards, section 31(3)(b) provides that the amount of bad debt or part of it, which has been taken into account in computing the income of the assessee of the tax year in which such debt has become irrecoverable or of an earlier tax year on the basis of notified ICDSs without recording it in the accounts is to be allowed as deduction in the tax year in which such debt or part of it becomes irrecoverable and such bad debt or part of it shall be deemed to be written off as irrecoverable in the accounts for the purpose of section 31(2).

(d) If a debt, which has not been recognized in the books of account but has been taken into account in the computation of income as per the notified ICDSs, has become irrecoverable, it can still be claimed as bad debts under section 31(2) since **it shall be deemed that the debt has been written off as irrecoverable in the account.** This is because some ICDSs require recognition of income at an earlier point of time (prior to the point of time such income is recognised in the books of

[1] *Income Computation Disclosure Standards (ICDSs) will be discussed at Final Level.*

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account). Consequently, if the whole or part of such income, recognised at an earlier point of time for tax purposes, becomes irrecoverable, it can be claimed as bad debts on account of section 31(3)(b).



(iv) Recovery of a bad debt subsequently [Section 38(1)(d)] - If a deduction has been allowed in respect of a bad debt under section 31(2), and subsequently the amount recovered in respect of such debt exceeds than the difference between such debt and the amount allowed, the excess shall be deemed to be the profits and gains of business or profession and will be chargeable to income-tax in the tax year in which recovery is made.

It does not matter whether the business or profession in respect of which deduction has been made is in existence in that year or not.



For T.Y. 2025-26, bad debts of ₹ 40,000 was allowed by the Assessing Officer out of total bad debts of ₹ 75,000. Subsequently, ₹ 44,000 is recovered during T.Y. 2026-27.

Since Bad debt recovered i.e., ₹ 44,000 exceeds ₹ 35,000, being the difference between debt and debt allowed, the excess ₹ 9,000 would be deemed to be the profits and gains of business or profession of T.Y. 2026-27 and will be chargeable to income-tax in the T.Y. 2026-27 in which it is recovered.

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Other deductions [Section 32]

This section authorises deduction of certain specific expenses. The items of expenditure and the conditions under which such expenditures are deductible are:

(i) Bonus and Commission [Section 32(a)] - These are deductible in full provided the sum paid to the employees as bonus or commission shall not be payable to them as profits or dividends if it had not been paid as bonus or commission.

It is a provision intended to safeguard against a private company or an association escaping tax by distributing a part of its profits by way of bonus amongst the members, or employees of their own concern instead of distributing the money as dividends or profits.

(ii) Interest on borrowed capital [Section 32(b)] - Deduction of interest is allowed in respect of capital borrowed for the purposes of business or profession in the computation of income under the head "Profits and gains of business or profession".

Capital may be borrowed for several purposes like for acquiring a capital asset, or to pay off a trading debt or loss etc. The scope of the expression 'for the purposes of business' is very wide. Capital may be borrowed in the course of the existing business as well as for acquiring assets for extension of existing business.

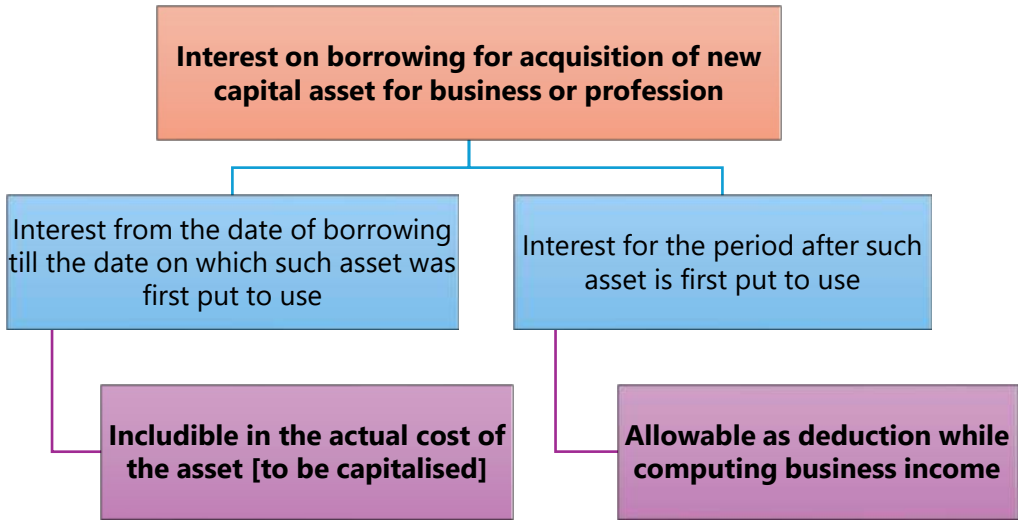
However as per section 32(b)(i), deduction in respect of any amount of interest, in respect of capital borrowed for acquisition of an asset, whether capitalised in the books of account or not, for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use shall not be allowed.

Meaning of interest [Section 2(59)]: "Interest" means interest payable in any manner for moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes service fee or any other charges for the moneys borrowed or debt incurred or for any credit facility that has not been utilized.

Section 39(4) (Table: Sl No. 13) provides that interest relatable to a period after the asset is first put to use cannot be capitalised. Interest in respect of

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capital borrowed for any period from the date of borrowing to the date on which the asset was first put to use should, therefore, be capitalised.



(iii) Discount on Zero Coupon Bonds (ZCBs) [Section 32(d)] – Section 32(d) provides deduction for the discount on ZCB on pro rata basis having regard to the period of life of the bond to be calculated in the manner prescribed where -

Term	Meaning
Discount	Difference of the amount received or receivable by an infrastructure capital company/ infrastructure capital fund/ public sector company/ scheduled bank on issue of the bond and the amount payable by such company or fund or bank on maturity or redemption of the bond.
Period of life of the bond	The period commencing from the date of issue of the bond and ending on the date of the maturity or redemption.

(iv) Expenses on family planning by a company [Section 32(i)] - Any expenditure of revenue nature bona fide incurred by a company for the purpose of promoting family planning amongst its employees will be allowed as a deduction in computing the company's business income;

- Where, the expenditure is of a capital nature, **one-fifth of such expenditure** will be deducted in the tax year in which it was incurred and the balance in each of the four immediately succeeding tax years.

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- This deduction is **allowable only to companies** and not to other assessees.
- The assessee would be **entitled to carry forward and set off** the unabsorbed part of the allowance in the same way as unabsorbed depreciation.
- The capital expenditure on promoting family planning will be treated in the same way as capital expenditure for scientific research for purposes of dealing with the profit or loss on the sale or transfer of the asset including a transfer on amalgamation.



An individual carrying on business or profession will not be allowed deduction of expenses incurred on promoting family planning amongst its employees.

(v) Amount of securities transaction tax and commodities transaction tax paid [Section 32(k)] – The amount of securities transaction tax and commodities transaction tax paid by the assessee during the year is allowed as deduction if

(a) the taxable securities transactions or taxable commodities transactions are entered into the course of the business during the tax year; and

(b) the income arising from such taxable securities transactions or taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Taxable commodities transaction

A 'taxable commodities transaction' means a transaction of sale of commodity derivatives or sale of commodity derivatives based on prices or indices of prices of commodity derivatives or option on commodity derivatives or option in goods in respect of commodities, other than agricultural commodities, traded in recognised stock exchange.

A "commodity derivative" means –

(a) A contract for delivery of goods which is not a ready delivery contract

(b) A contract for differences which derives its value from prices or indices of prices -

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(i) of such underlying goods; or

(ii) of related services and rights, such as warehousing and freight; or

(c) with reference to weather and similar events and activities having a bearing on the commodity sector.



7.	*Premium paid by an employer for health insurance of employees is deductible only if it is paid –*	
	(a)	*in cash*
	(b)	*through bearer cheque*
	(c)	*through any mode other than cash*
	(d)	*through post office*
8.	*S Ltd. borrowed capital for purchase of machinery on 1st July 2026. Machinery was first put to use on 1st January 2027. Interest for July to December 2026 shall –*	
	(a)	*be allowed as revenue expenditure*
	(b)	*be capitalized*
	(c)	*be ignored*
	(d)	*be treated as bad debt*
9.	*During T.Y. 2025-26, an assessee claimed bad debt deduction of ₹ 1,20,000. However, the Assessing Officer allowed only ₹ 80,000 as deduction for bad debt. In T.Y. 2026-27, ₹ 1,00,000 was recovered by the assessee from the debtor. Amount taxable as business income in year of recovery is –*	
	(a)	*₹ 60,000*
	(b)	*₹ 80,000*
	(c)	*₹ 1,00,000*
	(d)	*Nil*

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Depreciation [Section 33]

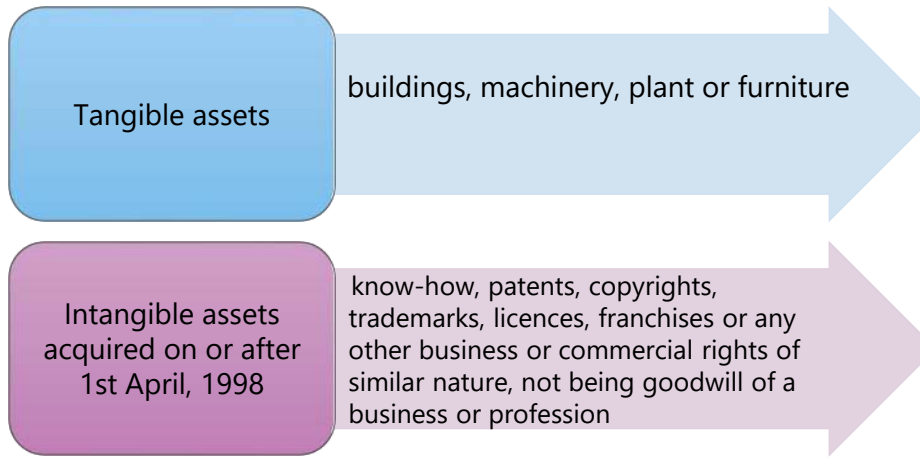
(1) Charge of depreciation mandatory: Section 33 allows a deduction in respect of depreciation resulting from the diminution or exhaustion in the value of certain capital assets.

Depreciation is mandatory

Section 33(7) provides that deduction on account of depreciation shall be made compulsorily, whether or not the assessee has claimed the deduction in computing his total income.

(2) Conditions to be satisfied for allowance of depreciation: The allowance of depreciation which is regulated by Rule 25 of the Income-tax Rules, 2026, is subject to the following conditions which are cumulative in their application.

(a) The assets in respect of which depreciation is claimed must belong to either of the following categories, namely –



- The depreciation in the value of any other capital assets cannot be claimed as a deduction from the business income.
- No depreciation is allowable on the cost of the land on which the building is erected because the term 'building' refers only to superstructure but not the land on which it has been erected.
- **Know-how [Section 33(12)(b)] -** 'Know-how' means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine,

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oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto)

- The term 'plant' as defined in section 66(17) includes ships, books, vehicles, scientific apparatus and surgical equipment used for the purposes of the business or profession but does not include tea bushes or livestock or buildings or furniture and fittings.
- The word 'plant' does not include an animal, human body or stock-in-trade. Thus, plant includes all goods and chattels, fixed or movable, which a businessman keeps for employment in his business with some degree of durability.
- The expression 'plant' includes part of a plant (e.g., the engine of a vehicle); machinery includes part of machinery and building includes a part of the building.
- Similarly, the term 'buildings' includes within its scope roads, bridges, culverts, wells and tubewells.

(b) The assets should be actually <u>used</u> by the assessee wholly and exclusively for purposes of his business or profession during the tax year - The asset must be put to use at any time during the tax year. The amount of depreciation allowance is not proportionate to the period of use during the tax year. If the asset is acquired during the tax year and is not put to use in the same year, then the depreciation shall not be allowed for such asset but the cost of such asset would be added to the block of asset.

Depreciation in case of lease or license

Depreciation would be allowable to the owner even in respect of assets which are actually worked or utilized by another person e.g., a lessee or licensee. The deduction on account of depreciation would be allowed under this section to the owner who has let on hire his building, machinery, plant or furniture provided that letting out of such assets is the business of the assessee. In other cases where the letting out of such assets does not constitute the business of the assessee, the deduction on account of depreciation would still be allowable under section 93(1)(c).

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Use includes passive use in certain circumstances: One of the conditions for claim of depreciation is that the asset must be "used for the purpose of business or profession". Depreciation is allowed when asset is actually put to use and not ready to use. However, in certain circumstances, Courts have held that, an asset can be said to be in use even when it is "kept ready for use".

Use includes both active use and passive use



Stand by equipment and fire extinguishers can be capitalized if they are 'ready for use'.

Likewise, machinery spares which can be used only in connection with an item of tangible fixed asset and their use is expected to be irregular, has to be capitalised. Hence, in such cases, the term "use" embraces both active use and passive use. However, such passive use should also be for business purposes.

(c) The assessee must own the assets, wholly or partly - Depreciation is allowed only to the owner of the asset. If the assessee has taken an asset on lease, he, being the lessee, cannot avail depreciation in respect of such asset. On the other hand, the lessor will be entitled to depreciation on such asset as he is the owner.



In this connection, students may note that section 33(6) provides that where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy, and any capital expenditure is incurred by the assessee for the purposes of the business or profession or the construction of any structure or doing of any work by way of renovation, extension or improvement to the building, then depreciation will be allowed as if the said structure or work is a building owned by the assessee.

Depreciation is allowable not only in respect of assets "wholly" owned by the assessee but also in respect of assets "partly" owned by him and used for the purposes of his business or profession.

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(3) Computation of Depreciation Allowance - Depreciation allowance will be calculated on the following basis:

(i) Power generation undertakings [Section 33(2)]: In the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost to the assessee as prescribed by Rule 25(3).



Rule 25(3) - As per this rule, the depreciation on the above-mentioned assets shall be calculated at the percentage of the actual cost at rates specified in Table in Appendix II of these rules. **However, the aggregate depreciation allowed in respect of any asset for different tax years shall not exceed the actual cost of the asset.** It is further provided that such an undertaking as mentioned above has the option of being allowed depreciation on the written down value of such block of assets as are used for its business at rates specified in Appendix I to these rules.

However, such option must be exercised before the due date for furnishing return under section 263(1)(c) for the tax year in which it begins to generate power.

It is further provided that any such option once exercised shall be final and shall apply to all subsequent tax years.

(ii) Block of assets: In the case of any block of assets, at such percentage of the written down value of the block, as may be prescribed by Rule 25(1).

Block of Assets: A "block of assets" is defined in section 2(17), as a group of assets falling within a class of assets comprising -

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature, not being goodwill of a business or profession,

in respect of which the same percentage of depreciation is prescribed.

Block of asset simply means "same class of assets with same rate of depreciation".

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When any building, machinery, plant or furniture is partly or not wholly and exclusively used for the business or profession of the assessee, the depreciation allowable would be restricted to a fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage of such asset for the purpose of the business or profession [Section 33(3)(b)].

(iii) Asset used for less than 180 days [Section 33(4)] - The deduction for depreciation under section 33(2) and 33(3) would be restricted to 50% of the prescribed rate, if such asset is

- acquired by the assessee during the tax year; and
- is put to use for the purposes of business or profession for less than 180 days in that tax year.

📌 NOTE

This restriction applies only to the year of acquisition and not for subsequent years.

(iv) Additional depreciation on Plant or Machinery acquired [Section 33(8) and 33(9)]: Apart from normal depreciation under section 33(3), an additional depreciation is also allowed to the assessee if the following conditions are satisfied:

Additional depreciation

- ♦ the assessee is engaged in the business of manufacture or production of any article or thing or in the business of generation or transmission or distribution of power.
- ♦ the assessee acquires and installs new machinery or plant
- ♦ the new machinery or plant is first put to use by the assessee for the purpose of business and
- ♦ the new machinery or plant (not being a ship or an aircraft)
  - was not used either within or outside India by any other person before its installation by the assessee

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- is not installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house
- is not in the nature of any office appliances or road transport vehicles
- is not an asset on which 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 tax year.

Rate of additional depreciation - Additional depreciation is allowed

- @20% of the actual cost of new machinery or plant in the tax year when it is acquired and put to use in that tax year.

10%, if put to use for < 180 days

- @10% of the actual cost, if the new machinery or plant is acquired at any time during the tax year and put to use for less than 180 days in the relevant tax year, and balance 10% of the actual cost shall be allowed in the immediately succeeding tax year.

NOTES

(1) Additional Depreciation is available only when assessee claims normal depreciation under section 33(3) i.e., in respect of Block of Assets. It is not available in case of assessee claiming normal depreciation based on actual cost of asset under section 33(2).

(2) In case of an individual, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person, additional depreciation is not allowable under the default tax regime under section 202(1). Additional depreciation would be allowable only if such person has exercised the option under section 202(4) of shifting out of the default tax regime and pays tax as per the optional tax regime under the regular provisions of the Act.

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Eligibility for grant of additional depreciation in the case of an assessee engaged in printing or printing and publishing [Circular No. 15/2016, dated 19-5-2016]

An assessee, engaged in the business of manufacture or production of an article or thing, is eligible to claim additional depreciation under section 33(8) in addition to the normal depreciation under section 33(3).

The CBDT has, vide this Circular, clarified that **the business of printing or printing and publishing amounts to manufacture or production** of an article or thing and is, therefore, eligible for additional depreciation.

(v) Terminal depreciation [Section 33(10)]: In case of any tangible asset of power concern as covered under section 33(2) above, the difference between the WDV and the moneys payable including the scrap value, if any, shall be allowed as deduction if –

- such asset is sold, discarded, demolished or destroyed in the tax year (other than the tax year in which it is first put into use),
- the moneys payable together with the amount of scrap value, if any, is less than the WDV and
- such deficiency is actually written off in the books of the assessee.



Mahapower Ltd. purchased an asset on 20.7.2022. The actual cost of the asset was ₹ 100 lakhs. Mahapower Ltd. claimed depreciation @5% on the actual cost of the asset. WDV of the asset as on 1.4.2026 is ₹ 80 lakhs. On 15.5.2026, Mahapower Ltd. sold the asset for ₹ 55 lakhs. Deduction allowed as terminal depreciation u/s 33(10) for T.Y. 2026-27 is ₹ 25 lakhs (₹ 80 lakhs - ₹ 55 lakhs) if the deficiency of ₹ 25 lakhs is actually written off in the books of Mahapower Ltd.

Meaning of the term "Moneys payable"

Meaning
In respect of any building, machinery, plant or furniture includes —
(a) any insurance, salvage or compensation moneys payable in respect thereof;
(b) where the building, machinery, plant or furniture is sold, the price for which it is sold.

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(4) Rates of depreciation – All assets have been divided into four main categories and rates of depreciation as prescribed by Rule 25(1) read with Appendix I of the Income-tax Rules, 2026 are given below:

PART A TANGIBLE ASSETS		
I	**Buildings**	
Block 1.	Buildings which are used mainly for residential purposes except hotels and boarding houses	5%
Block 2.	Buildings which are not used mainly for residential purposes and not covered by Block (1) above and (3) below	10%
Block 3.	Buildings for installing machinery and plant forming part of water supply project or water treatment system and which is put to use for the purpose of business of providing infrastructure facilities	40%
Block 4.	Purely temporary erections such as wooden structures	40%
II	**Furniture and Fittings**	
Block 1.	Furniture and fittings including electrical fittings ["Electrical fittings" include electrical wiring, switches, sockets, other fittings and fans, etc.]	10%
III	**Plant & Machinery**	
Block 1.	Motor cars other than those used in a business of running them on hire, acquired on or after 23.8.2019 but before 1.4.2020 and put to use before 1.4.2020	30%
Block 2.	Motor cars other than those used in a business of running them on hire, acquired or put to use on or after 1-4-1990 [Other than motor cars mentioned in Block 1 above]	15%
Block 3.	Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired on or after 23.8.2019 but before 1.4.2020 and put to use before 1.4.2020	45%
Block 4.	Motors buses, motor lorries, motor taxis used in the business of running them on hire [Other than motor cars mentioned in Block 3 above]	30%

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Block 5.	Moulds used in rubber and plastic goods factories	30%
Block 6.	Aeroplanes, Aeroengines	40%
Block 7.	Specified air pollution control equipments, water pollution control equipments, solid waste control equipment and solid waste recycling and resource recovery systems	40%
Block 8.	Plant & Machinery used in semi-conductor industry covering all Integrated Circuits (ICs) (other than mentioned in Block 7 Above)	30%
Block 9.	Life saving medical equipments	40%
Block 10.	Machinery and plant, acquired and installed on or after 1.9.2002 in a water supply project or a water treatment system and which is put to use for the purpose of business of providing infrastructure facility	40%
Block 11.	Containers made of glass or plastic used as re-fills	40%
Block 12	Energy Saving Devices (as specified)	40%
Block 13.	Renewable Energy Saving Devices (as specified) including the devices specified in (i) to (iii) below	40%
	(i) Electrically operated vehicles including battery powered or fuel-cell powered vehicles	40%
	(ii) Windmills and any specially designed devices which run on windmills installed on or after 1.4.2014	40%
	(iii) Any special devices including electric generators and pumps running on wind energy installed on or after 1.4.2014	40%
Block 14.	Windmills and any specially designed devices running on windmills installed on or before 31.3.2014 and any special devices including electric generators and pumps running on wind energy installed on or before 31.3.2014	15%
Block 15.	Computers including computer software (See Note below)	40%

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Block 16.	Books (annual publications or other than annual publications) owned by assessees carrying on a profession	40%
Block 17.	Books owned by assessees carrying on business in running lending libraries	40%
Block 18.	Plant & machinery (General rate)	15%
IV	**Ships**	
Block 1.	Ocean-going ships	20%
Block 2.	Vessels ordinarily operating on inland waters not covered by Block 3 below	20%
Block 3.	Speed boats operating on inland water	20%
PART B INTANGIBLE ASSETS		
Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, not being goodwill of a business or profession		25%

Note: *Students should refer to Income-tax Rules, 2026 for the detailed classification of assets under Rule 25 and the rates applicable thereto.*



10.	*A company acquired machinery during the tax year 2026-27 but did not put it to use till 31.3.2027. Depreciation for the tax year 2026-27 shall be –*	
	(a)	*Fully allowed*
	(b)	*Allowed at 50%*
	(c)	*Not allowed*
	(d)	*Allowed proportionately*
11.	*Additional depreciation is not allowable on –*	
	(a)	*New manufacturing machinery*
	(b)	*Office appliances*
	(c)	*New plant installed in factory*
	(d)	*New machinery for power generation*

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ILLUSTRATION 2

Mr. X, a proprietor engaged in manufacturing business, furnishes the following particulars:

	Particulars	***₹***
(1)	*Opening balance of plant and machinery as on 1.4.2026 (i.e., WDV as on 31.3.2026 after reducing depreciation for T.Y. 2025-26)*	*30,00,000*
(2)	*New plant and machinery purchased and put to use on 8.06.2026*	*20,00,000*
(3)	*New plant and machinery acquired and put to use on 15.12.2026*	*8,00,000*
(4)	*Computer acquired and installed in the office premises on 2.1.2027*	*3,00,000*

Compute the amount of depreciation and additional depreciation for the T.Y. 2026-27, if Mr. X has exercised the option of shifting out of the default tax regime. Assume that all the assets were purchased by way of account payee cheque.

SOLUTION

Computation of depreciation and additional depreciation for T.Y. 2026-27

Particulars	Plant & Machinery (15%)	Computer (40%)
Normal depreciation		
@15% on ₹ 50,00,000 **[See Working Notes 1 & 2]**	7,50,000	-
@7.5% (50% of 15%, since put to use for less than 180 days) on ₹ 8,00,000	60,000	-
@20% (50% of 40%, since put to use for less than 180 days) on ₹ 3,00,000	-	60,000
Additional Depreciation		
@20% on ₹ 20,00,000 (new plant and machinery put to use for more than 180 days)	4,00,000	-
@10% (50% of 20%, since put to use for less than 180 days) on ₹ 8,00,000	80,000	-
Total depreciation	**12,90,000**	**60,000**

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Working Notes:

(1) Computation of written down value of Plant & Machinery

Particulars	Plant & Machinery (₹)	Computer (₹)
Opening balance as on 1.4.2026	30,00,000	-
Add: Plant & Machinery purchased on 08.6.2026	20,00,000	-
Add: Plant & Machinery acquired on 15.12.2026	8,00,000	-
Computer acquired and installed in the office premises	-	3,00,000
Written down value as on 31.03.2027	**58,00,000**	**3,00,000**

(2) Composition of plant and machinery included in the WDV

Particulars	Plant & Machinery (₹)	Computer (₹)
Plant and machinery put to use for 180 days or more [₹ 30,00,000 (WDV) + ₹ 20,00,000 (purchased on 8.6.2026)]	50,00,000	
Plant and machinery put to use for < 180 days	8,00,000	-
Computers put to use for < 180 days	-	3,00,000
	58,00,000	**3,00,000**

Notes:

(1) Where an asset acquired during the tax year is put to use for less than 180 days in that tax year, the amount of deduction allowable as normal depreciation and additional depreciation would be restricted to 50% of amount computed in accordance with the prescribed percentage.

Therefore, normal depreciation on plant and machinery acquired and put to use on 15.12.2026 and computer acquired and installed on 02.01.2027, is restricted to 50% of 15% and 40%, respectively. The additional depreciation on the said plant and machinery is restricted to ₹ 80,000, being 10% (i.e., 50% of 20%) of ₹ 8 lakhs.

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Mr. X is eligible for additional depreciation since he has exercised the option of shifting out of the default tax regime.

(2) As per section 33(9)(b), the balance additional depreciation of ₹ 80,000 being 50% of ₹ 1,60,000 (20% of ₹ 8,00,000) would be allowed as deduction in the T.Y. 2027-28.

(3) As per section 33(8), additional depreciation is allowable in the case of any new machinery or plant acquired by an assessee engaged, inter alia, in the business of manufacture or production of any article or thing, @20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of, inter alia, any machinery or plant installed in office premises, residential accommodation or in any guest house.

Accordingly, additional depreciation is not allowable on computer installed in the office premises.

(5) Actual Cost [Section 39]

(a) Actual cost of an asset: The actual cost of an asset used for the purposes of the business or profession means the actual cost to the assessee, as reduced by the following amounts:

part of cost of asset, if any, met by any other person or authority, directly or indirectly	GST paid in respect of which credit of input tax has been claimed and allowed under the relevant law
excise duty or additional duty leviable u/s 3 of the Customs Tariff Act, 1975 in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944	subsidy, grant or reimbursement, by whatever name called, if any, relatable to the acquisition of the asset, received, directly or indirectly, by the assessee from - the Central Government - a State Government - any authority established under any law or - any other person

(b) Proportionate amount if the subsidy, grant or reimbursement is not directly related to the asset acquired: In a case where the subsidy, grant or reimbursement referred in above diagram is not directly relatable to the asset acquired, the amount of reduction shall be:

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$$A \times \left(\frac{B}{C}\right)$$

where,

A = total amount of subsidy, grant or reimbursement not directly relatable to the asset;

B = cost of the asset acquired for which actual cost is to be determined;

C = cost of all the assets in respect of or in reference to which the subsidy or grant or reimbursement is so received.

(c) Payment exceeding ₹ 10,000 made in a day otherwise than by specified banking or online mode not included actual cost: The payment or aggregate of payment exceeding ₹ 10,000 in a day for acquisition of an asset or part thereof, made to a person in a mode otherwise than by specified banking or online mode, shall be excluded from the actual cost of that asset.

Meaning of "Specified Banking or Online Mode" [Section 66(32)] - Specified Banking or Online Mode mean transaction by

- an account payee cheque or
- an account payee bank draft or
- use of electronic clearing system through a bank account or
- through such other electronic mode, as may be prescribed.

As per Rule 48 of the Income-tax Rules, 2026, "other electronic modes of payment" are the following:

- Credit Card;
- Debit Card;
- Net Banking;
- IMPS (Immediate Payment Service);
- UPI (Unified Payment Interface);
- RTGS (Real Time Gross Settlement);
- NEFT (National Electronic Funds Transfer);
- BHIM (Bharat Interface for Money) Aadhaar Pay, and
- Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC.

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(d) Actual cost in certain special situations [Section 39(4)]

S. No.	Specified circumstances	Actual cost to the assessee
1.	Where inventory is converted or treated as a capital asset	Fair market value of such inventory as on the date of its conversion into capital asset, as determined in the prescribed manner
2.	Where asset is acquired by the assessee by way of gift or inheritance	Actual cost to the previous owner minus depreciation allowable as if such asset was the only asset in the relevant block of assets. Further, any expenditure incurred by the assessee such as expenditure on freight, installation etc. of such asset would also be includible in the actual cost.
3.	Where a building being the property of the assessee, is put to use for the purpose of business or profession during the tax year	Actual cost of the building as reduced by the depreciation – ♦ that would have been allowable had the building been used for the purpose of business or profession from the date of acquisition and ♦ calculated at the rates in force on the date on which such asset was put to use for the purpose of business or profession.
4.	Where an asset, which previously belonged to the assessee and had been used by him for the purposes of his business or profession, is re-acquired by the assessee	(a) actual cost of the asset in the hands of assessee, when it was first acquired minus depreciation allowable to the assessee as if asset was the only asset in the relevant block of assets; or (b) the actual price for which such asset is re-acquired by the assessee, whichever is lower

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5.	Where an asset is acquired by the assessee from previous owner and subsequently asset is given back to the previous owner by way of lease, hire or otherwise and the asset was being used for the purpose of business or profession by the previous owner and depreciation has been claimed by the previous owner	Actual cost of the asset shall be the written down value of the said asset in the hands of the previous owner at the time of transfer by the previous owner.
6.	Where an asset is used in business after it ceases to be used for scientific research related to that business and a deduction is allowable u/s 33(3).	Actual cost of the asset as reduced by deduction allowed for the capital asset u/s 45(1)(a)(i) of the Income-tax Act, 2025 or u/s 35(1)(iv) of the Income-tax Act, 1961. **Note -** Actual cost of such asset would be Nil as already 100% deduction would have been claimed under above mentioned sections 45(1)(a)(i) /35(1)(iv)
7.	Where the assessee had acquired an asset outside India, as a non-resident, and the asset is brought by him to India and put to use in his business or profession in India.	Actual cost of the asset as reduced by the depreciation ♦ that would have been allowable had the asset been used for the purpose of business or profession in India since the date of its acquisition and ♦ calculated at the rate in force
8.	Where deduction u/s 46 (capital expenditure of specified business)	Actual cost shall be deemed to be nil.

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	was allowed or allowable in respect of the capital asset (i) to the assessee; or (ii) to any person and the assessee acquires or receives such asset through special modes of acquisition from such person.	
	As per section 39(7), special modes of acquisition mean acquisition: (a) by way of a gift or will or an irrevocable trust or (b) upon distribution on the liquidation of a company or (c) by way of distribution of capital assets on total or partial partition of a HUF or (d) by way of any transfer of a capital asset by a holding company to its 100% subsidiary company, being an Indian company or (e) by way of any transfer of a capital asset by a subsidiary company to its 100% holding company, being an Indian company or (f) by way of any transfer of a capital asset by the amalgamating company to an amalgamated company in a scheme of amalgamation, if the amalgamated company is an Indian company or (g) by way of any transfer of a capital asset by the demerged company to the resulting company in a scheme of demerger, if the resulting company is an Indian company or (h) by way of any transfer of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm (fulfilling the conditions prescribed) or (i) by way of any transfer of a capital asset or intangible asset by a private company or unlisted public company to a LLP as a result of conversion of the company into LLP (fulfilling the conditions prescribed) or	

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	(j) by way of any transfer of a capital asset or intangible asset by a sole proprietary concern to a company, where the sole proprietary concern is succeeded by a company (fulfilling the conditions specified).	
9.	Where deduction allowed u/s 46 in respect of a capital asset becomes deemed income as per section 46(9)(b) [on account of being used for a purpose other than specified business u/s 46].	Actual cost of the asset as reduced by the depreciation, ♦ that would have been allowable had the asset been used for the purpose of business since date of acquisition; and ♦ calculated at the rate in force
10.	Where any amount is paid or payable as interest in connection with the acquisition of an asset.	Actual cost shall not include so much of interest as is relatable to any period after such asset is first put to use.

(e) Acquisition of assets with the main purpose to reduce tax liability [Section 39(5) and 39(6)]

Where the asset is acquired by the assessee and before such acquisition, the asset was used by any other person for the purposes of his business and the Assessing Officer is satisfied that the main purpose of the transfer of the asset, directly or indirectly, was to reduce tax liability (by claiming depreciation with reference to an enhanced cost) , the actual cost of such asset shall be such an amount as may be determined by the Assessing Officer, having regard to all the circumstances of the case.

The determination of actual cost by the Assessing Officer shall be made with prior approval of the Joint Commissioner.

Provisions of this section shall apply irrespective of anything contained in the circumstances discussed above in section 39(4), except the case discussed at Sl. No. 5.

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ILLUSTRATION 3

A car purchased by Dr. Soman on 10.08.2022 for ₹ 5,25,000 for personal use is brought into professional use on 1.07.2026 by him, when its market value was ₹ 2,50,000.

Compute the actual cost of the car and the amount of depreciation for the T.Y. 2026-27 assuming the rate of depreciation to be 15%.

SOLUTION

As per section 39(4), the expression "actual cost" would mean the actual cost of asset to the assessee.

The purchase price of ₹ 5,25,000 is, therefore, the actual cost of the car to Dr. Soman. Market value (i.e. ₹ 2,50,000) on the date when the asset is brought into professional use is not relevant.

Therefore, amount of depreciation on car as per section 33 for the T.Y.2026-27 would be ₹ 78,750, being ₹ 5,25,000 x 15%.

Note: *Section 39(4) (Table Sl. No. 3) providing for reduction of notional depreciation from the date of acquisition of asset for personal use to determine actual cost of the asset is applicable only in case of building which is initially acquired for personal use and later brought into professional use. It is not applicable in respect of other assets.*

(6) Written down value [Section 41]

For the purposes of computation of income under the head "Profits and gains of business or profession", written down value means the following –

Situation	Amount of WDV
If the asset is acquired in the tax year	the actual cost to the assessee
If the asset is acquired before the tax year	Actual cost to the assessee less depreciation actually allowed under Income-tax Act 2025 or under Income-tax Act, 1961. Any depreciation carried forward u/s 33(11) is deemed to be depreciation actually allowed [Section 41(8)].

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In case of block of assets	The written down value of block of assets shall be: [(A-D) + B – C] - E		
	(A)	W.D.V. of the block of assets in the immediately preceding tax year (T.Y. 2025-26)	xxx
	(D)	Less: Depreciation actually allowed in respect of that block of assets in relation to the said immediately preceding tax year (i.e., in T.Y. 2025-26)	xxx
	Opening balance as on 1st April of the current T.Y. (i.e., on 1.4.2026)		xxx
	Increased by		
	(B)	Actual cost of any asset falling within that block, acquired during the tax year (i.e., T.Y. 2026-27)	xxx
	Reduced by		
	(C)	Money payable together with scrap value, if any, in respect of any asset falling within the block which is sold, transferred, demolished, destroyed or discarded during the tax year. However, such amount cannot exceed the amount in (A-D) + B.	xxx
	(E)	**In case of slump sale**, actual cost of the asset (-) depreciation allowable under the Income-tax Act, 2025 or under the Income-tax Act, 1961 as if such asset was the only asset in the relevant block of asset.	xxx
	W.D.V at the end of the year (i.e., as on 31.3.2027) on which depreciation is allowable		xxx

Depreciation provided in the books of account deemed to be depreciation actually allowed: Section 33 provides that depreciation shall be allowed at the prescribed percentage on the written down value (WDV) of any block of assets. Section 41 provides that written down value in the case of assets acquired before the tax year means the actual cost to the assessee less all

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depreciation actually allowed to him under the Income-tax Act, 2025 or the Income-tax Act, 1961.

Persons who were exempt from tax were not required to compute their income under the head "Profits and gains of business or profession". However, when the exemption is withdrawn subsequently, such persons became liable to income-tax and hence, were required to compute their income for income-tax purposes. In this regard, a question arises as to the basis on which depreciation is to be allowed in respect of assets acquired during the years when the person was exempt from tax.

Accordingly, section 41(9) provides that where an assessee was not required to compute his total income for the purposes of this Act for any tax year or tax years preceding the tax year under consideration,-

(a) the actual cost of an asset has to be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(b) the total amount of depreciation on such asset provided in the books of account of the assessee in respect of such tax year or years preceding the tax year under consideration shall be deemed to be the depreciation actually allowed under the Act and

(c) the depreciation actually allowed as above has to be adjusted by the amount of depreciation attributable to such revaluation of the asset.

Composite Income: Section 41(10) provides that where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the tax year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under the Income-tax Act, 2025 or under the Income-tax Act, 1961.

Rule 271 prescribes the taxability of income from the manufacture of tea. Under the said rule, income derived from the sale of tea grown and manufactured by seller shall be computed as if it were income derived from business, and 40% of such income shall be deemed to be income liable to tax.

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If the turnover is, say, ₹ 20 lakh, the depreciation ₹ 1 lakh and other expenses ₹ 4 lakh, then the income would be ₹ 15 lakh. Business income would be ₹ 6 lakh (being 40% of ₹ 15 lakh). In this case, ₹ 1 lakh, being the amount of depreciation would be deemed to have been actually allowed.

Accordingly, the WDV is required to be computed by deducting the full depreciation attributable to composite income i.e., ₹ 1 lakh.

(7) Carry forward and set off of depreciation [Section 33(11)]

Section 33(11) provides for carry forward of unabsorbed depreciation. Where the profits and gains chargeable for the tax year before allowing depreciation is less than such allowable depreciation, then

- if such profits and gains is not a loss, the deduction for depreciation shall be allowed to the extent of the available profits and gains
- if such profits and gains is a loss, no deduction for depreciation shall be allowed.

The depreciation which has not been allowed, i.e., the unabsorbed depreciation shall be added to the allowable depreciation for the succeeding tax year and total amount shall be deemed to be eligible for deduction in that year and so on for succeeding tax years. The effect of this provision is that the unabsorbed depreciation shall be carried forward indefinitely till it is fully set off.



Profits and gains from business or profession of Mr. X for T.Y. 2026-27, before charging depreciation of ₹ 20 lakhs, was ₹ 16 lakhs. In such a case, after setting off the depreciation, the unabsorbed depreciation of T.Y. 2026-27 would be ₹ 4 lakhs. If profits and gains of business or profession for T.Y. 2027-28 before depreciation is ₹ 11 lakhs and depreciation allowance u/s 33 for the said tax year is ₹ 5 lakhs, then, the unabsorbed depreciation of ₹ 4 lakhs for the T.Y. 2026-27 would be added to the depreciation allowance of ₹ 5 lakhs. Consequently, ₹ 9 lakhs would be allowed to be set off against the profits of ₹ 11 lakhs and the taxable profits for T.Y. 2027-28 would be ₹ 2 lakhs.

Order of set-off

However, in the order of set-off of losses under different heads of income, effect shall first be given to current year depreciation then brought forward business losses (including loss from speculation business) and only then to unabsorbed depreciation.

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The provisions in effect are as follows:

- Since the unabsorbed depreciation forms part of the current year's depreciation, it can be set off against any other head of income except "Salaries".
- The unabsorbed depreciation can be carried forward for indefinite number of tax years.
- Set-off will be allowed even if the same business to which it relates is no longer in existence in the year in which the set-off takes place.

Current depreciation to be deducted first - The Supreme Court, in *CIT v. Mother India Refrigeration (P.) Ltd. [1985] 23 Taxman 8*, has categorically held that current depreciation must be deducted first before deducting the unabsorbed carried forward business losses of the earlier years in giving set off while computing the total income of any particular year.

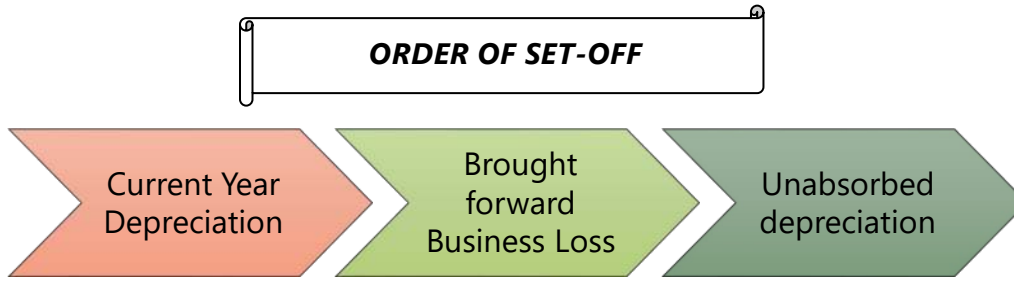


ILLUSTRATION 4

A newly qualified Chartered Accountant, Mr. Dhaval commenced practice and has acquired the following assets in his office during T.Y. 2026-27 at the cost shown against each item. Calculate the amount of depreciation that can be claimed from his professional income for T.Y.2026-27. Assume that all the assets were purchased by way of account payee cheque.

Sl. No.	Description	Date of acquisition	Date when put to use	Amount ₹
1.	Computer including computer software	27 Sept., 26	1 Oct., 26	35,000
2.	Computer UPS	2 Oct., 26	8 Oct., 26	8,500
3.	Computer printer	1 Oct., 26	1 Oct., 26	12,500

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4.	*Books (other than annual publications are of ₹ 12,000)*	*1 Apr., 26*	*1 Apr., 26*	*13,000*
5.	*Office furniture (Acquired from a practicing C.A.)*	*1 Apr., 26*	*1 Apr., 26*	*3,00,000*
6.	*Laptop*	*26 Sep., 26*	*8 Oct., 26*	*43,000*

SOLUTION

Computation of depreciation allowable for T.Y.2026-27

Asset		Rate	Depreciation (₹)
Block 1	Furniture **[See working note below]**	10%	30,000
Block 2	Plant (Computer including computer software, Computer UPS, Laptop, Printers and Books) **[See working note below]**	40%	34,500
Total depreciation allowable			**64,500**

Working Note:

Computation of depreciation

Block of Assets	₹
Block 1: Furniture – [Rate of depreciation - 10%]	
Put to use for more than 180 days [₹ 3,00,000@10%]	**30,000**
Block 2: Plant [Rate of depreciation- 40%]	
(a) Computer including computer software (put to use for more than 180 days) [₹ 35,000 @ 40%]	14,000
(b) Computer UPS (put to use for less than 180 days) [₹ 8,500 @20%] **[See note below]**	1,700
(c) Computer Printer (put to use for more than 180 days) [₹ 12,500 @40%]	5,000
(d) Laptop (put to use for less than 180 days) [₹ 43,000 @20%] **[See note below]**	8,600
(e) Books (being annual publications or other than annual publications) (Put to use for more than 180 days) [₹ 13,000 @40%]	5,200
	34,500

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Note - *Where an asset is acquired by the assessee during the tax year and is put to use for the purposes of business or profession for a period of less than 180 days, the deduction on account of depreciation would be restricted to 50% of the prescribed rate. In this case, since Mr. Dhaval commenced his practice in the T.Y. 2026-27 and acquired the assets during the same year, the restriction of depreciation to 50% of the prescribed rate would apply to those assets which have been put to use for less than 180 days in that year, namely, laptop and computer UPS.*

ILLUSTRATION 5

Mr. Gamma, a proprietor started a business of manufacture of tyres and tubes for motor vehicles on 1.1.2026. The manufacturing unit was set up on 1.5.2026. He commenced his manufacturing operations on 1.6.2026. The total cost of the plant and machinery installed in the unit is ₹ 120 crore. The said plant and machinery included second hand plant and machinery bought for ₹ 20 crore and new plant and machinery for scientific research relating to the business of the assessee acquired at a cost of ₹ 15 crore.

Compute the amount of depreciation allowable under section 33 of the Income-tax Act, 2025 in respect of the tax year 2026-27. Assume that all the assets were purchased by way of account payee cheque and Mr. Gamma has exercised the option under section 202(4) of shifting out of the default tax regime.

SOLUTION

Computation of depreciation allowable for the T.Y. 2026-27 in the hands of Mr. Gamma

Particulars		₹ in crore	
Total cost of plant and machinery		120.00	
Less: Used for Scientific Research **(Note 1)**		15.00	
		105.00	
Normal Depreciation at 15% on ₹ 105 crore			15.75
Additional Depreciation:			
Cost of plant and machinery		120.00	
Less: Second-hand plant and machinery **(Note 2)**	20.00		
Plant and machinery used for scientific research, the whole of the actual cost of which is allowable as deduction u/s 45(1)(a)(i) **(Note 2)**	15.00	35.00	
		85.00	
Additional Depreciation at 20%			17.00
Depreciation allowable for T.Y.2026-27			**32.75**

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Notes:

1. As per section 45(6), no depreciation shall be allowed in respect of plant and machinery purchased for scientific research relating to assessee's business, since deduction is allowable under section 45 in respect of such capital expenditure.

2. Mr. Gamma is entitled to additional depreciation since he has exercised the option under section 202(4) of shifting out of the default tax regime. As per section 33(8), additional depreciation is allowable in the case of any new machinery or plant acquired by an assessee engaged in, inter alia, the business of manufacture or production of any article or thing, at the rate of 20% of the actual cost of such machinery or plant.

   However, additional depreciation shall not be allowed in respect of, inter alia,–

   (i) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;

   (ii) 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 "Profit and gains of business or profession" of any one tax year.

   In view of the above provisions, additional depreciation cannot be claimed in respect of -

   (i) Second hand plant and machinery;

   (ii) New plant and machinery purchased for scientific research relating to assessee's business in respect of which the whole of the capital expenditure can be claimed as deduction under section 45(1)(a)(i) read with section 45(6).

(8) Balancing Charge

Section 38(1)(b) read with section 38(2)(b) provides for the manner of calculation of the amount which shall be chargeable to income-tax as income of the business of the tax year in which the moneys payable for the tangible asset on which depreciation has been claimed and allowed under section 33(2), i.e., in the case of power undertakings, becomes due.

The balancing charge will be computed where any tangible asset which is owned by the assessee is sold, discarded, demolished or destroyed and the

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moneys payable for such asset, together with the scrap value exceeds the written down value of such assets. The balancing charge amount will be –

- moneys payable for such asset together with the scrap value - WDV of such assets, where the moneys payable for such asset together with the scrap value < the actual cost of such asset
- Actual cost of such asset – WDV of such asset, in any other case.

Section 38(5) makes it clear that the provisions of section 38(1)(b) shall apply in a tax year even if the business is no longer in existence.



12.	*XYZ Power Ltd. sold a power generation asset for ₹ 18 lakh. The written down value (WDV) of the asset was ₹ 12 lakh and actual cost was ₹ 20 lakh. The balancing charge taxable under section 38(1)(b) shall be –*	
	(a)	*₹ 20 lakh*
	(b)	*₹ 18 lakh*
	(c)	*₹ 6 lakh*
	(d)	*₹ 8 lakh*
13.	*Mahashakti Power Ltd. sold machinery of a power undertaking for ₹ 55 lakh. Actual cost of the asset was ₹ 50 lakh and WDV was ₹ 30 lakh. The balancing charge taxable under section 38(1)(b) shall be –*	
	(a)	*₹ 25 lakh*
	(b)	*₹ 20 lakh*
	(c)	*₹ 30 lakh*
	(d)	*₹ 50 lakh*



Mahapower Ltd. purchased an asset on 20.7.2022. The actual cost of the asset was ₹ 100 lakhs. Mahapower Ltd. claimed depreciation @5% on the actual cost of the asset. WDV of the asset as on 1.4.2026 is ₹ 80 lakhs. On 15.5.2026, Mahapower Ltd. sold the asset

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for ₹ 90 lakhs. The balancing charge of ₹ 10 lakhs (₹ 90 lakhs - ₹ 80 lakhs) would be taxable as income u/s 38(1)(b).

Suppose, on 15.5.2026, Mahapower Ltd. sold the asset for ₹ 120 lakhs instead of ₹ 90 lakhs. The balancing charge of ₹ 20 lakhs (₹ 100 lakhs - ₹ 80 lakhs) would be taxable as income u/s 38(1)(b).

Amortisation of Preliminary Expenses [Section 44]

(1) **Nature of expenditure:** Section 44 provides for the amortisation of preliminary expenses incurred by Indian companies and other resident non-corporate taxpayers for the establishment of business concerns or the expansion of the business of existing concerns.

(2) **Applicable:** This section applies

(a) only to Indian companies and resident non-corporate assessees;

(b) in the case of new companies to expenses incurred before the commencement of the business;

(c) in the case of extension of an existing undertaking to expenses incurred till the extension is completed,

(d) in the case of the setting up of a new unit - expenses incurred till the new unit commences production or operation.

(3) **Amount eligible for deduction:** Such preliminary expenditure incurred shall be amortised over a period of 5 years. In other words, 1/5th of such expenditure is allowable as a deduction for each of the five successive tax years beginning with the tax year in which the business commences or, the tax year in which the extension of the undertaking is completed or the new unit commences production or operation, as the case may be.

(4) **Eligible expenses -** The following expenditure are eligible for amortisation:

(i) Expenditure in connection with–

(a) the preparation of feasibility report

(b) the preparation of project report;

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(c) conducting market survey or any other survey necessary for the business of the assessee;

(d) engineering services relating to the assessee's business;

The assessee has to furnish a statement containing the particulars of above expenditure within one month prior to the due date for furnishing the return of income as specified under section 263 in the prescribed form and manner for each tax year [Rule 27].

(ii) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up to conduct the business of assessee.

(iii) **Where the assessee is a company,** in addition to the above, expenditure incurred –

(a) by way of legal charges for drafting and printing of the Memorandum and Articles of Association of the company

(b) by way of fees for registering the company under the Companies Act; 2013,

(c) in connection with the issue, for public subscription, of the shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus; and

(iv) Such other items of expenditure (not being expenditure qualifying for any allowance or deduction under any other provision of the Act) as may be prescribed by the Board for the purpose of amortisation.

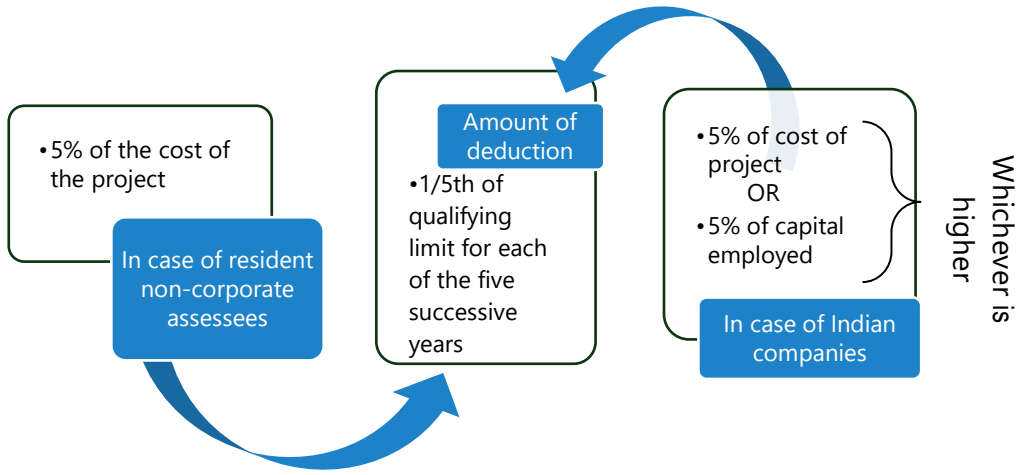
(5) Overall Limits - The maximum aggregate amount of the qualifying expenses that can be amortised is

In case of resident non-corporate assessee - 5% of the cost of the project

In the case of an Indian company – 5% of the cost of the project or 5% of the capital employed in the business of the company, at the option of the company.

The excess, if any, of the qualifying expenses shall be ignored.

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(6) Meaning of certain terms:

Terms	Meaning
Cost of the project	The actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on the development of land and buildings) **(i)** **In case of expenses incurred before the commencement of business:** The actual cost as shown in the books of the assessee as on the last day of the tax year in which the business of the assessee commences **(ii)** **In case of expenses incurred for extension of the business or setting up of a new unit:** The actual cost as shown in the books of the assessee as on the last day of the tax year in which either the extension of the undertaking is completed or, as the case may be, in so far as such fixed assets have been acquired or developed in connection with the extension of the undertaking or the setting up of the new unit.
Capital employed in the business of the company	**(i)** **In the case of new company**: the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the tax year in which the business of the company commences; **(ii)** **in the case of extension of the business or the setting up of a new unit**: the aggregate of the issued share capital, debentures, and long-term borrowings as on the last day of the tax year in which the extension of the

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	undertaking is completed or, as the case may be, the unit commences production or operation in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the undertaking or the setting up of the new undertaking or the setting up of the new unit of the company.

(7) Audit of accounts: In cases where the assessee is a person other than a company or a co-operative society, the deduction would be allowable only

- if the accounts of the assessee for the year or years in which the expenditure is incurred have been audited by an Accountant before the date specified in section 63 i.e., one month prior to the due date for furnishing the return of income u/s 263(1); and
- the assessee has furnished for the first year in which the deduction is claimed, the report of such audit by such date in the prescribed form duly signed and verified by such accountant and setting forth such other particulars as may be prescribed.

Particulars	Due date of filing of return	Specified Date
Assessees (other than a company) subject to tax audit	31st October of the financial year succeeding the relevant T.Y.	30th September of the financial year succeeding the relevant T.Y.
	For T.Y.2026-27, on or before 31st October, 2027	For T.Y.2026-27, on or before 30th September, 2027.

(8) No other deduction under any provision of the Act: It has been clarified that in case where a deduction under this section is claimed and allowed for any tax year in respect of any item of expenditure, the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of the Act for the same or any other tax year.

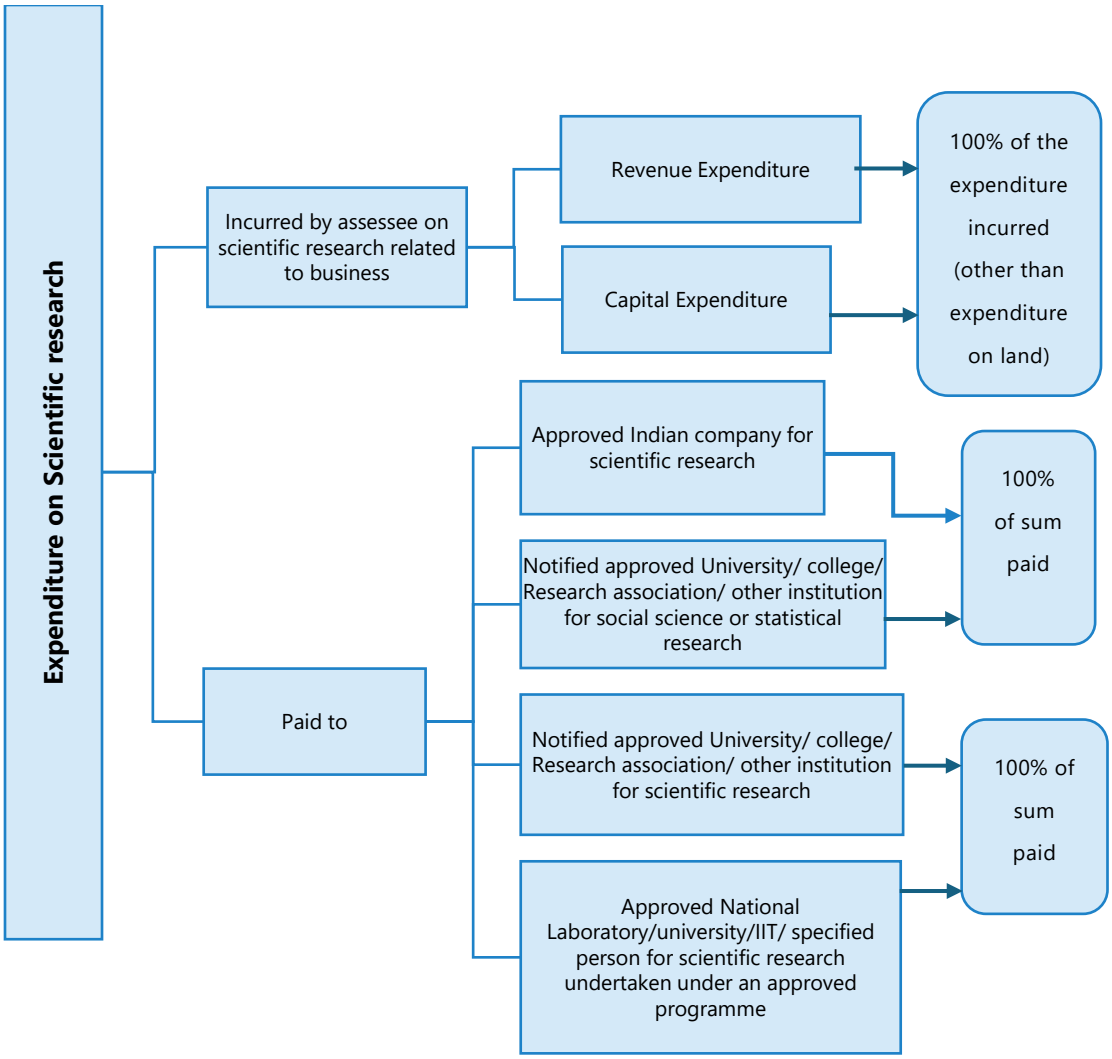
Expenditure on Scientific Research [Section 45]

This section allows a deduction in respect of any expenditure on scientific research (activities for extension of knowledge in the fields of natural or applied science, including agriculture, animal husbandry or fisheries) incurred in relation to the business of the assessee or contribution by the assessee for scientific research or

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social science or statistical research. However, it does include expenditure incurred in acquisition of rights in or arising out of scientific research.

The deduction allowable under this section is depicted in the diagram below:



(I) Incurred by assessee related to his business [Section 45(1)]:

(i) Revenue and capital expenditure: A deduction would be allowed for any expenditure, being in the nature of

- capital expenditure, but not on acquisition of land which is acquired as such or part of any property or
- revenue expenditure,

incurred on scientific research **related to the business of the assessee.**

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(ii) **Expenditure incurred on salary to research personnel and purchase of material prior to commencement of business:** A deduction would also be allowed in the tax year in which the business is commenced in respect of the aggregate of expenditure (not being in the nature of capital expenditure), related to business, incurred on –

- ♦ salary to an employee engaged in such scientific research or
- ♦ purchase of materials used in such scientific research,

where such expenditure is incurred within three years immediately preceding the commencement of business. The deduction will be limited to the extent certified by the prescribed authority as incurred on such research.

(iii) **Capital Expenditure prior to commencement of business:** Where any capital expenditure has been incurred prior to the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the tax year in which the business is commenced and will rank for deduction as expenditure for scientific research incurred during the tax year.

(iv) **Carry forward of deficiency:** Capital expenditure incurred on scientific research which cannot be absorbed by the business profits of the relevant tax year shall be treated in the same manner as unabsorbed deprecation u/s 33(11) i.e., it can be carried forward to the immediately succeeding tax year and shall be treated as the allowance for that year. In effect, this means that there is no time bar on the period of carry forward. It shall be accordingly allowable for that tax year against any head of income other than salaries [Section 45(7)].

(v) **No depreciation:** Section 45(6) clarifies that no depreciation will be admissible on any expenditure represented wholly or partly by an asset which has been allowed as a deduction under section 45 whether in the year in which deduction under section 45 was allowed or in any other tax year.

(vi) **Sale of asset representing expenditure of capital nature on scientific research:** Section 38(1)(c) seeks to tax the profits arising on

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the sale of an asset representing expenditure of a capital nature on scientific research.

Where the asset representing expenditure of a capital nature on scientific research is sold **without having been used for other purposes**, and the sale proceeds together with the total deductions allowed under section 45(1)(a)(i) exceed the amount of capital expenditure, the excess or the amount of deduction so made, whichever is less, will be charged to tax as income of the business of the tax year in which the asset was sold.



If capital expenditure incurred on building for scientific research in T.Y. 2026-27 is ₹ 3 lakhs, then deduction u/s 45(1)(a)(i) would have been ₹ 3 lakhs in that T.Y. If the asset is sold for ₹ 4 lakhs in T.Y.2027-28, ₹ 3 lakhs, being lower of sale proceeds of ₹ 4 lakhs together with total deduction of ₹ 3 lakhs – amount of capital expenditure of ₹ 3 lakhs and deduction u/s 45(1)(a)(i) of ₹ 3 lakhs, would be charged to tax u/s 38(1)(c) in the T.Y. 2027-28, being the year of sale.

NOTE

Deduction u/s 45(1) would be available to an assessee under the default tax regime u/s 202(1) as well as under the optional tax regime.

(II) Amount contributed or paid to [Section 45(3)]:

(i) Amount contributed or paid to research association, university, college or other institution: Under section 45(3)(a), a deduction is allowed in respect of any sum paid to -

- a research association having the object of undertaking scientific research or to a university, college or institution to be used for scientific research
- a research association having the object of undertaking research in social science or statistical research or to a university, college or institution to be used for research in any social science or statistical research.

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The above association university, college or other institution must be approved for this purpose and notified by the Central Government [Section 45(4)(b)].

(ii) Amount contributed or paid to approved Indian company for scientific research: A deduction is allowed in respect of any sum paid to a company.

Such deduction would be available only if

- the company is registered in India having the main object of scientific research and development and
- approved by the prescribed authority and should fulfill the other prescribed conditions [Section 45(3)(b)].

(iii) Amount contributed or paid to National Laboratory, etc.: A deduction is allowed under section 45(3)(c) in respect of any sum paid to a National Laboratory or University or Indian Institute of Technology or a specified person with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority.

Specified Person means a person who is approved by the prescribed authority.

No other deduction under the Act: No deduction will be allowed in respect of the sum under any other provision of the Income-tax Act, 2025.

Notes:

- ✓ *The expenditure under section 45(3) shall be allowed subject to such conditions and on furnishing of documents, as may be prescribed.*
- ✓ *Section 45(5) clarifies that the deduction to which an assessee (i.e. donor) is entitled on account of payment of any sum as above shall not be denied merely on the ground that subsequent to payment of such sum by the assessee, the approval granted to any of the aforesaid entities is withdrawn or the programme undertaken by entities as mentioned has been withdrawn.*

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NOTE

Deduction u/s 45(3) would be available to an individual, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person only if they exercise the option of shifting out of the default tax regime and pay tax as per the optional tax regime of the Act.

ILLUSTRATION 6

Mr. A furnishes the following particulars for T.Y.2026-27. Compute the deduction allowable under section 45 for T.Y.2026-27, while computing his income under the head "Profits and gains of business or profession", if.

(i) he is paying tax under default tax regime under section 202(1)

(ii) he has exercised the option under section 202(4) of shifting out of the default tax regime.

	Particulars	₹
1.	*Amount paid to notified approved Indian Institute of Science, Bengaluru, for scientific research*	*1,00,000*
2.	*Amount paid to IIT, Delhi for an approved scientific research programme*	*2,50,000*
3.	*Amount paid to X Ltd., a company registered in India which has as its main object scientific research and development, as is approved by the prescribed authority*	*4,00,000*
4.	*Expenditure incurred on in-house scientific research and development facility as approved by the prescribed authority related to his business*	
	(a) Revenue expenditure on scientific research	*3,00,000*
	(b) Capital expenditure (including cost of acquisition of land ₹ 5,00,000) on scientific research	*7,50,000*

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SOLUTION

(i) If Mr. A is paying tax under default tax regime under section 202(1)

Computation of deduction under section 45 for the T.Y.2026-27

Particulars	(₹)	Section	Allowability	Amount of deduction (₹)
Payment for scientific research				
Indian Institute of Science, Bengaluru	1,00,000	45(3)(a)	Not allowable under default tax regime	Nil
IIT, Delhi	2,50,000	45(3)(c)		Nil
X Ltd.	4,00,000	45(3)(b)		Nil
Expenditure incurred on in-house research and development facility				
Revenue expenditure	3,00,000	45(1)	Allowable under default tax regime	3,00,000
Capital expenditure (excluding cost of acquisition of land ` 5,00,000)	2,50,000	45(1)		2,50,000
Deduction allowable under section 45				**5,50,000**

(ii) If Mr. A has exercised the option under section 202(4) of shifting out of the default tax regime

Computation of deduction under section 45 for the T.Y.2026-27

Particulars	(₹)	Section	% of deduction	Amount of deduction (₹)
Payment for scientific research				
Indian Institute of Science	1,00,000	45(3)(a)	100%	1,00,000
IIT, Delhi	2,50,000	45(3)(c)	100%	2,50,000
X Ltd.	4,00,000	45(3)(b)	100%	4,00,000

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Expenditure incurred on in-house research and development facility				
Revenue expenditure	3,00,000	45(1)	100%	3,00,000
Capital expenditure (excluding cost of acquisition of land ₹ 5,00,000)	2,50,000	45(1)	100%	2,50,000
Deduction allowable under section 45				**13,00,000**

"Investment-linked tax incentives" for specified businesses [Section 46]

Section 46 provides deduction for the capital expenditure incurred, wholly and exclusively, for the purposes of such specified business carried on by him.

(1) Deduction for Capital Expenditure: 100% of the capital expenditure incurred, wholly and exclusively, for the specified business carried on the assessee would be allowed as deduction to the assessee, at his option, during the tax year in which such expenditure is incurred.

NOTE

Capital expenditure shall not include any expenditure

- for which the payment or aggregate of payments made to a person in a day exceeds ₹ 10,000 is not through specified banking or online mode
- incurred on the acquisition of any land, goodwill or financial instrument.

Meaning of "Specified Banking or Online Mode" [Section 66(32)] - Specified Banking or Online Mode mean transaction by

- an account payee cheque or
- an account payee bank draft or
- use of electronic clearing system through a bank account or
- through such other electronic mode, as may be prescribed.

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As per Rule 48 of the Income-tax Rules, 2026, "other electronic modes of payment" are the following:

- Credit Card;
- Debit Card;
- Net Banking;
- IMPS (Immediate Payment Service);
- UPI (Unified Payment Interface);
- RTGS (Real Time Gross Settlement);
- NEFT (National Electronic Funds Transfer);
- BHIM (Bharat Interface for Money) Aadhaar Pay, and
- Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC.

NOTE

In case of an individual/HUF/AoP/BoI carrying on specified business, deduction u/s 46 would be available only if such person exercises the option of shifting out of the default tax regime. If such person is paying concessional rates of tax under the default tax regime u/s 202(1), deduction u/s 46 would not be available.

(2) **Expenditure prior to commencement of operation:** Where the expenditure is incurred, wholly and exclusively, for the purpose of specified business prior to commencement of its operation and such expenditure is capitalised in the books of account as on the date of commencement of its operations, deduction would be allowed during the tax year in which the such business is commenced.

(3) **List of specified businesses:** Specified businesses, for which deduction of capital expenditure is allowed under this section, are as follows:

- setting-up and operating 'cold chain' facilities for specified products;
- setting-up and operating warehousing facilities for storing agricultural produce;

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- laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network;
- building and operating a hotel of two-star or above category, anywhere in India;
- building and operating a hospital, anywhere in India, with at least 100 beds for patients;
- developing and building a housing project under a notified scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government.
- developing and building a housing project under a notified scheme for affordable housing framed by the Central Government or State Government;
- production of fertilizer in India;
- setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962;
- bee-keeping and production of honey and beeswax;
- setting up and operating a warehousing facility for storage of sugar;
- laying and operating a slurry pipeline for the transportation of iron ore;
- setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the Board in accordance with the prescribed guidelines;
- developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility.

(4) Conditions to be fulfilled: For claiming deduction under section 46, the specified business should fulfill the following conditions –

(i)	it should not be set up by splitting up, or the reconstruction, of a business already in existence;
(ii)	it should not be set up by the transfer to the specified business of machinery or plant previously used for any purpose;

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	In order to satisfy this condition, the total value of the plant or machinery so transferred should not exceed 20% of the value of the total plant or machinery used in such specified business. For the purpose of this condition, machinery or plant would not be regarded as previously used if it had been used outside India by any person other than the assessee provided the following conditions are satisfied: (a) such plant or machinery was not, at any time prior to the date of its installation by the assessee, used in India; (b) the plant or machinery was imported into India from a foreign Country; and (c) no deduction on account of depreciation in respect of such plant or machinery has been allowed to any person at any time prior to the date of installation by the assessee.

(5) No deduction under section Chapter VIII-C: Where a deduction under this section is claimed and allowed in respect of the specified business for any tax year, no deduction under the provisions of Chapter VIII-C is permissible in relation to such specified business for the same or any other tax year.

(6) No deduction allowable under the Act in respect of expenditure for which deduction allowed under this section: The assessee cannot claim deduction in respect of such expenditure incurred for specified business under any other section in any tax year or under this section in any other tax year, if the deduction has been claimed and allowed to him under section 46.

(7) Date of Commencement of specified businesses:

S. No.	Specified business	Date of commencement of operations
1.	Laying and operating a cross country natural gas pipeline network for distribution, including storage facilities being an integral part of such network	on or after 1st April, 2007
2.	(a) building and operating anywhere in India, a hotel of two-star or above	on or after 1st April, 2010

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	category as specified by the Central Government (b) building and operating a hospital with at least 100 beds for patients (c) notified scheme for slum redevelopment or rehabilitation housing projects	
3.	(a) notified scheme for affordable housing projects and (b) production of fertilizer in a new plant or in a newly installed capacity in an existing plant	on or after 1st April, 2011
4.	(a) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962, (b) bee-keeping and production of honey and beeswax and (c) setting up and operating a warehousing facility for storage of sugar	on or after 1st April, 2012
5.	(a) laying and operating a slurry pipeline for the transportation of iron ore or (b) setting up and operating a semi-conductor wafer fabrication manufacturing unit	on or after 1st April, 2014
6.	developing or operating and maintaining or developing, operating and maintaining, any infrastructure facility	on or after 1st April, 2017
7.	In any other case, namely, setting and operating- (a) "cold-chain" facilities for specified products or (b) warehousing facilities for storing agricultural produce	on or after 1st April, 2009

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(8) Meaning of certain terms

Term	Meaning
Cold chain facility	A chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce.
Associated person	In relation to the assessee means a person— (i) who participates directly or indirectly or through one or more intermediaries in the management or control or capital of the assessee; (ii) who holds, directly or indirectly, shares carrying not less than 26% of the voting power in the capital of the assessee; (iii) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or (iv) who guarantees not less than 10% of the total borrowings of the assessee.
Infrastructure facility	(i) A road including toll road, a bridge or a rail system. (ii) A highway project including housing or other activities being an integral part of the highway project. (iii) A water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system. (iv) A port, airport, inland waterway, inland port or navigational channel in the sea.

(9) Set-off or carry forward and set-off of loss from specified business:

As per section 114, the loss of an assessee claiming deduction under section 46 in respect of a specified business can be set-off against the profit of another specified business, irrespective of whether the latter is eligible for deduction under section 46.

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Such loss can, however, be carried forward indefinitely for set-off against profits of the same or any other specified business but the assessee has to file return of income on or before the due date of filling return of income under section 263 for carry forward of losses from specified business.



A assessee can therefore, set-off the losses of a hospital or hotel which begins to operate after 1st April, 2010 and which is eligible for deduction section 46, against the profits of the existing business of operating a hospital (with atleast 100 beds for patients) or a hotel (of two-star or above category) started before 1st April, 2010, even if the latter is not eligible for deduction under section 46.

ILLUSTRATION 7

Mr. A commenced operations of the businesses of setting up a warehousing facility for storage of food grains, sugar and edible oil on 1.4.2026. He incurred capital expenditure of ₹ 80 lakh, ₹ 60 lakh and ₹ 50 lakh, respectively, on purchase of land and building during the period January, 2026 to March, 2026 exclusively for the above businesses, and capitalized the same in its books of account as on 1st April, 2026. The cost of land included in the above figures is ₹ 50 lakh, ₹ 40 lakh and ₹ 30 lakh, respectively. During T.Y. 2026-27, he incurred capital expenditure of ₹ 20 lakh, ₹ 15 lakh & ₹ 10 lakh, respectively, for extension/reconstruction of the building purchased and used exclusively for the above businesses.

The profits from the business of setting up a warehousing facility for storage of food grains, sugar and edible oil (before claiming deduction under section 46 and section 33) for the T.Y. 2026-27 is ₹ 16 lakhs, ₹ 14 lakhs and ₹ 31 lakhs, respectively. Also, assuming in respect of expenditure incurred, the payments are made by account payee cheque or use of ECS through bank account.

Compute the income under the head "Profits and gains of business or profession" for the T.Y.2026-27 and the loss to be carried forward, assuming that Mr. A is exercising the option under section 202(4) of shifting out of the default tax regime and has fulfilled all the conditions specified for claim of deduction under section 46 and wants to claim deduction under section 46 and has not claimed any deduction under Chapter VIII-C.

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SOLUTION

Computation of profits and gains of business or profession for T.Y.2026-27

Particulars	₹ (in lakhs)
Profit from business of setting up of warehouse for storage of edible oil (before providing for depreciation under section 33)	31
Less: Depreciation under section 33	
10% of ₹ 30 lakh, being (₹ 50 lakh – ₹ 30 lakh + ₹ 10 lakh)	3
Income chargeable under "Profits and gains from business or profession"	**28**

Computation of income/loss from specified business under section 46

	Particulars	Food Grains	Sugar	Total
		₹ (in lakhs)		
(A)	Profits from the specified business of setting up a warehousing facility (before providing deduction u/s 46)	16	14	30
	Less: Deduction under section 46			
(B)	Capital expenditure incurred prior to 1.4.2026 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2026 (excluding the expenditure incurred on acquisition of land) = ₹ 30 lakh (₹ 80 lakh – ₹ 50 lakh) and ₹ 20 lakh (₹ 60 lakh – ₹ 40 lakh)	30	20	50
(C)	Capital expenditure incurred during the T.Y. 2026-27	20	15	35
(D)	**Total capital expenditure (B + C)**	**50**	**35**	**85**
(E)	**Deduction under section 46**			
	100% of capital expenditure (food grains/ sugar)	50	35	85
	Total deduction u/s 46 for T.Y.2026-27	**50**	**35**	**85**

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(F)	**Loss from the specified business of setting up and operating a warehousing facility (after providing for deduction under section 46) to be carried forward as per section 114 (A-E)**	**(34)**	**(21)**	**(55)**

Notes:

(i) Deduction of 100% of the capital expenditure is available under section 46 for T.Y.2026-27 in respect of specified business of setting up and operating a warehousing facility for storage of sugar and setting up and operating a warehousing facility for storage of agricultural produce where operations are commenced on or after 01.04.2012 or on or after 01.04.2009, respectively.

(ii) However, since setting up and operating a warehousing facility for storage of edible oils is not a specified business, Mr. A is not eligible for deduction under section 46 in respect of capital expenditure incurred in respect of such business.

(iii) Mr. A can, however, claim depreciation@10% under section 33 in respect of the capital expenditure incurred on buildings. It is presumed that the buildings were put to use for more than 180 days during T.Y. 2026-27.

(iv) Loss from a specified business can be set-off only against profits from another specified business. Therefore, the loss of ₹ 55 lakh from the specified businesses of setting up and operating a warehousing facility for storage of food grains and sugar cannot be set-off against the profits of ₹ 28 lakh from the business of setting and operating a warehousing facility for storage of edible oils, since the same is not a specified business. Such loss can, however, be carried forward indefinitely for set-off against profits of the same or any other specified business provided Mr. A file his return of income on or before the due date as specified u/s 263(1).

ILLUSTRATION 8

Mr. Suraj, a proprietor, commenced operations of the business of a new three-star hotel in Madurai, Tamil Nadu on 1.4.2026. He incurred capital expenditure

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of ₹ 50 lakh during the period January, 2026 to March, 2026 exclusively for the above business, and capitalized the same in his books of account as on 1st April, 2026. Further, during the T.Y. 2026-27, he incurred capital expenditure of ₹ 2 crore (out of which ₹ 1.50 crore was for acquisition of land) exclusively for the above business.

Compute the income under the head "Profits and gains of business or profession" for the T.Y.2026-27, assuming that he has fulfilled all the conditions specified under section 46 and opted for claiming deduction under section 46; and has not claimed any deduction under Chapter VIII-C. He has exercised the option under section 202(4) of shifting out of the default tax regime.

The profits from the business of running this hotel (before claiming deduction under section 46) for the T.Y.2026-27 is ₹ 25 lakhs. Assume that he also has another existing business of running a four-star hotel in Coimbatore, which commenced operations fifteen years back, the profits from which are ₹ 120 lakhs for the T.Y. 2026-27. Also, assume that payments for capital expenditure were made by net banking.

SOLUTION

Computation of profits and gains of business or profession for T.Y. 2026-27

Particulars		₹
Profits from the specified business of new hotel in Madurai (before providing deduction under section 46)		25 lakhs
***Less*: Deduction under section 46**		
Capital expenditure incurred during the T.Y.2026-27 (excluding the expenditure incurred on acquisition of land) = ₹ 200 lakh – ₹ 150 lakh	50 lakhs	
Capital expenditure incurred prior to 1.4.2026 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2026	50 lakhs	
Total deduction under section 46 for T.Y.2026-27		100 lakhs
Loss from the specified business of new hotel in Madurai		**(75 lakhs)**

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Profit from the existing business of running a hotel in Coimbatore	120 lakhs
Net profit from business after set-off of loss of specified business against profits of another specified business under section 114	**45 lakhs**

(10) Other conditions contained under section 46

S. No.	Particulars	Condition
1.	**Audit of accounts**	The deduction shall be allowed to the assessee only if the accounts of the assessee for the relevant tax year have been audited by an accountant before the specified date referred to in section 63 and the assessee furnishes by that date the audit report in the prescribed form duly signed and verified by such accountant.
2.	**Asset to be used for specified business for eight years**	Section 46A(9)(a) provides that any asset in respect of which a deduction is claimed and allowed u/s 46 shall be used only for the specified business for a period of eight years beginning with the tax year in which such asset is acquired or constructed.
3.	**Asset is used for any other business other than specified business during 8 years**	Section 46(9)(b) provides that if any asset for which a deduction is claimed and allowed under section 46 is **used for any purpose other than the specified business** during 8 years beginning with the tax year in which such asset is acquired or constructed, the total amount of deduction so claimed and allowed in any tax year(s), as reduced by the amount of depreciation allowable under section 33, as if no deduction had been allowed under section 46, shall be deemed to be income of the assessee chargeable under the head "Profits and gains of business or profession" of the tax year in which the asset is so used.

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		In such a case, as per provisions of section 39(4) [Table Sl. No. 12(b)], the actual cost of such asset for the assesse shall be the actual cost as reduced by the depreciation calculated at the rate in force that would have been allowable had the asset been used for the purpose of business since the date of its acquisition.
4.	**Asset demolished, destroyed, discarded or transferred for which a deduction has been allowed**	If any asset on which a deduction under section 46[2] has been allowed, is demolished, destroyed, discarded or transferred, the sum received or receivable for the same is chargeable to tax under clause (k) of section 26(2). This does not take into account a case where asset on which deduction under section 46 has been allowed is used for any purpose other than the specified business by way of a mode other than the specified ones.

ILLUSTRATION 9

Mr. Arnav is a proprietor having two units – Unit A carries on specified business of setting up and operating a warehousing facility for storage of sugar; Unit B carries on non-specified business of operating a warehousing facility for storage of edible oil.

Unit A commenced operations on 1.4.2025 and it claimed deduction of ₹ 100 lakhs incurred on purchase of two buildings for ₹ 50 lakhs each (for operating a warehousing facility for storage of sugar) for T.Y.2025-26. However, in February, 2027, Unit A transferred one of its buildings to Unit B.

Examine the tax implications of such transfer in the hands of Mr. Arnav.

SOLUTION

Since the capital asset, in respect of which deduction of ₹ 50 lakhs was claimed, has been transferred by Unit A carrying on specified business to Unit B carrying on non-

[2] or section 35AD of the Income-tax Act, 1961

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specified business in the T.Y.2026-27, the deeming provision u/s 46(9)(b) is attracted during the T.Y.2026-27.

Particulars	₹
Deduction allowed u/s 46[3] for T.Y.2025-26	50,00,000
Less: Depreciation allowable for T.Y.2025-26 [10% of ₹ 50 lakhs]	5,00,000
Deemed income under section 46	**45,00,000**

Mr. Arnav, however, can claim depreciation u/s 33 on the building in Unit B for T.Y.2026-27. For the purpose of claiming depreciation on building in Unit B, the actual cost of the building would be:

Particulars	₹
Actual cost to the assessee	50,00,000
Less: Depreciation allowable for T.Y.2025-26 [10% of ₹ 50 lakhs]	5,00,000
Actual cost in the hands of Mr. Arnav in respect of building in its Unit B	**45,00,000**

Amortisation of expenditure incurred under voluntary retirement scheme [Section 52]

(1) **Nature of expenditure:** This section applies to an assessee who incurred during the tax year any expenditure in the form of payment to any employee in connection with his voluntary retirement, as per any scheme of voluntary retirement.

(2) **Amount of deduction:** The amount of **deduction allowable is one-fifth of the amount paid** for that tax year, and the balance in four equal installments in the four immediately succeeding tax years. The deduction would start from the tax year in which sum payment is made.

(3) **No deduction under any other provision of the Act:** No deduction shall be allowed in respect of the above expenditure under any other provision of the Act.

[3] Erstwhile section 35AD

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General conditions for allowable deductions [Section 34]

(1) **Revenue expenditure incurred for purposes of carrying on the business, profession or vocation -** This is a residuary section under which only business expenditure is allowable but not the business losses, e.g., those arising out of embezzlement, theft, destruction of assets, misappropriation by employees etc. The deduction is limited only to the amount actually expended and does not extend to a reserve created against a contingent liability.

(2) **Conditions for allowance**: By virtue of section 34(1), following conditions should be fulfilled in order that a particular item of expenditure may be deductible under this section:

(a) The expenditure should **not** be of the nature specified in **sections 28 to 33, 44 to 46 and 52**.

(b) It should **not** be in the nature of **any personal expenses** of the assessee.

(c) It should have been laid out or expended wholly and exclusively for the purposes of such business or profession.

(d) It should **not** be in the nature of **capital expenditure**.

(3) **Following expenditure are not considered as "laid out or expended wholly and exclusively for business or profession of the assessee" and accordingly are not allowed as deduction u/s 34(1):**

(a) an expenditure incurred for any purpose which is an offence or is prohibited by law; or

(b) an expenditure incurred on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013; or

(c) an expenditure incurred on advertisement in any souvenir, brochure, tract, pamphlet or the like, published by a political party.

An expenditure incurred for any purpose which is an offence or is prohibited by law, as mentioned in (a) above, shall include expenditure incurred for -

(i) any purpose which is an offence under, or is prohibited by, any law in force in or outside India; or

(ii) providing a benefit or perquisite in any form to a person, who may or may not be carrying on a business or exercising a profession, when its acceptance by the person is in violation of any law or rule or regulation or guideline governing the conduct of that person; or

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(iii) compounding an offence under any law in force in or outside India; or

(iv) settling proceedings initiated in relation to contravention under any law notified by the Central Government in this behalf.

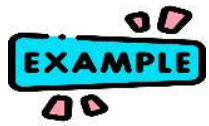
The Central Government has, vide notification no. 38/2025 dated 23.4.2025, notified that any expenditure incurred to settle proceedings initiated in relation to contravention or defaults under the following laws shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure –

(a) the Securities and Exchange Board of India Act, 1992;

(b) the Securities Contracts (Regulation) Act, 1956;

(c) the Depositories Act, 1996;

(d) the Competition Act, 2002.



Expenses incurred in providing freebies to medical practitioner by pharmaceutical and allied health sector industry are in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations. Hence, such expenditure is considered to be expenses prohibited by the law and not allowed in the hands of such pharmaceutical or allied health sector industry or other assessee which has provided aforesaid freebies.

(4) Expenditure incurred on Keyman insurance policy: CBDT Circular no. 762/1998 dated 18.02.1998 clarifies that the premium paid on the Keyman Insurance Policy is allowable as business expenditure.

The Punjab and Haryana High Court held that, "the Keyman Insurance Policy when obtained to secure the life of a partner to safeguard the firm against a disruption of the business is equally for the benefit of the partnership business which may be effected as a result of premature death of a partner. Thus, the premium on the Keyman Insurance Policy of partner of the firm is wholly and exclusively for the purpose of business and is allowable as business expenditure".

The CBDT accepted the view of the High Court, accordingly, vide Circular no. 38/2016 has clarified that, in case of a firm, premium paid by the firm on the

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Keyman Insurance Policy of a partner, to safeguard the firm against a disruption of the business, is an admissible expenditure under section 34.



14.	*XYZ Ltd. paid ₹ 25 lakh to employees under a voluntary retirement scheme during T.Y. 2026-27. Deduction allowable for T.Y. 2026-27 shall be –*	
	(a)	*₹ 25 lakh*
	(b)	*₹ 12.5 lakh*
	(c)	*₹ 5 lakh*
	(d)	*Nil*
15.	*Which of the following is an essential condition for deduction under section 34(1)?*	
	(a)	*Expenditure must be capital in nature*
	(b)	*Expenditure should be wholly and exclusively for business purposes*
	(c)	*Expenditure should create enduring benefit*
	(d)	*Expenditure must relate to personal use*

3.8 AMOUNTS NOT DEDUCTIBLE IN CERTAIN CIRCUMSTANCES [SECTION 35]

Section 35 provides for disallowance of certain expenses as follows:

Amounts are not deductible in the case of all assessees

(i) Taxes on income [Section 35(a)]

Section 35(a) provides for disallowance of following amounts:-

(a) tax paid on income,

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(b) tax paid by employer referred to in Schedule III (Table: Sl. No. 10) i.e., tax on non-monetary perquisites of employees, paid by the employer

Any surcharge or cess on such tax are treated as includible in tax and accordingly they are also not allowed as deduction.

Note: Tax paid on non-monetary perquisites on behalf of employees - In case of an employee, deriving income in the nature of perquisites (other than monetary payments), the amount of tax on such income paid by his employer is exempt from tax in the hands of that employee.

Section 35(a)(ii) provides that, such payment of tax is not allowed as deduction from the income of the employer. Thus, the payment of tax on non-monetary perquisites by an employer on behalf of employee will be exempt from tax in the hands of employee but will not be allowable as deduction in the hands of the employer.

(ii) Sum payable to a resident where there is a default of deduction of tax at source [Section 35(b)(i)]

Section 35(b)(i) provides that **30% of any sum payable to a resident**, on which tax is deductible at source under Chapter XIX-B, shall be disallowed if –

(i) such tax has not been deducted during the tax year; or

(ii) such tax, after deduction during the tax year, has not been paid upto the due date specified in section 263(1).

Where in respect of such sum, tax is deducted in any subsequent year or is deducted during the tax year but paid after the due date specified in section 263(1), 30% of such sum shall be allowed as deduction in computing the income of the tax year in which such tax has been paid.

Where the assessee is required to and fails to deduct the whole or any part of tax on any such sum but is not deemed as assessee in default under section 398(2) by reason that such payee –

(i) has furnished his return of income under section 263;

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(ii) has taken into account such sum for computing income in that return of income; and

(iii) has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed,

it would be deemed that the assessee has deducted and paid the tax on such sum on the date on which return of income has been furnished by the payee.

NOTE

Since the date of furnishing the return of income by the payee is taken to be the date on which the payer has deducted tax at source and paid the same, 30% of such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed under section 35(b)(i) in the year in which the said expenditure is incurred. However, 30% of such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the payee, since tax is deemed to have been deducted and paid by the payer in that year.



Tax on royalty paid to Mr. A, a resident, has been deducted during the tax year 2026-27, the same has to be paid by 31st August/ 31ts October 2027, as the case may be. Otherwise, 30% of royalty paid would be disallowed in computing the income for T.Y. 2026-27. If in respect of such royalty, tax deducted during T.Y.2026-27 has been paid after 31st August/ 31st October, 2027, 30% of such royalty disallowed in T.Y. 2026-27, would be allowed as deduction in the year of payment, i.e. T.Y. 2027-28.

Note - *Students are advised to read Chapter 7 on "Tax deduction or collection at source and advance tax" before solving this illustration.*

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ILLUSTRATION 10

Delta Ltd. credited the following amounts to the account of resident payees in the month of March, 2027 without deduction of tax at source. What would be the consequence of non-deduction of tax at source by Delta Ltd. on these amounts during the tax year 2026-27, assuming that the resident payees in all the cases mentioned below, have not paid the tax, if any, which was required to be deducted by Delta Ltd.?

	Particulars	***Amount in ₹***
(1)	*Salary to its employee, Mr. X (credited and paid in March, 2027)*	*14,00,000*
(2)	*Directors' remuneration (credited in March, 2027 and paid in April, 2027)*	*28,000*

Would your answer change if Delta Ltd. has deducted tax on directors' remuneration in April, 2027 at the time of payment and remitted the same in July, 2027?

SOLUTION

Non-deduction of tax at source on any sum payable to a resident on which tax is deductible at source as per the provisions of Chapter XIX-B would attract disallowance under section 35(b)(i).

Therefore, non-deduction of tax at source on any sum paid by way of salary on which tax is deductible under section 392 or any sum credited or paid by way of directors' remuneration on which tax is deductible under section 393(1) [Table: S.No.6(iii)(c)], would attract disallowance@30% under section 35(b)(i). Whereas in case of salary, tax has to be deducted at the time of payment, in case of directors' remuneration, tax has to be deducted at the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier. Therefore, in both cases, i.e., salary and directors' remuneration, tax is deductible in the T.Y. 2026-27, since salary was paid in that year and directors' remuneration was credited in that year. Therefore, the amount to be disallowed under section 35(b)(i) while computing business income for T.Y.2026-27 is as follows –

	Particulars	**Amount paid in ₹**	**Disallowance u/s 35(b)(i) @ 30% (₹)**
(1)	Salary [tax is deductible under section 392]	14,00,000	4,20,000

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(2)	Directors' remuneration [tax is deductible under section 393(1) [Table: S.No.6(iii)(c)], without any threshold limit]	28,000	8,400
Disallowance under section 35(b)(i)			**4,28,400**

If the tax is deducted on directors' remuneration in the next year i.e., T.Y.2027-28 at the time of payment and remitted to the Government, the amount of ₹ 8,400 would be allowed as deduction while computing the business income of T.Y. 2027-28.

Disallowance of any sum paid to a resident at any time during the tax year without deduction of tax under section 35(b)(i) [Circular No.10/2013, dated 16.12.2013]

There have been conflicting interpretations by judicial authorities regarding the applicability of provisions of section 35(b)(i), with regard to the amount not deductible in computing the income chargeable under the head 'Profits and gains of business or profession'. Some court rulings have held that the provisions of disallowance under section 35(b)(i) apply only to the amount which remained payable at the end of the relevant financial year and would not be invoked to disallow the amount which had actually been paid during the tax year without deduction of tax at source.

Departmental View: The CBDT's view is that the provisions of section 35(b)(i) would cover not only the amounts which are payable as on 31st March of a tax year but also amounts which are payable at any time during the year. The statutory provisions are amply clear and in the context of section 35(b)(i), the term "payable" would include "amounts which are paid during the tax year"

ILLUSTRATION 11

During the tax year 2026-27, the following payments/expenditure were made/ incurred by Mr. Raja, a resident individual (whose turnover during the year ended 31.3.2026 was ₹ 99 lakhs):

(i) Interest of ₹ 45,000 was paid to Rehman & Co., a resident partnership firm, without deduction of tax at source;

(ii) ₹ 15,00,000 was paid as salary to a resident individual without deduction of tax at source;

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(iii) Commission of ₹ 26,000 was paid to Mr. Vidyasagar, a resident, on 2.7.2026 without deduction of tax at source.

Briefly discuss whether any disallowance arises under the provisions of section 35(b)(i) assuming that the payees in all the cases mentioned above, have not paid the tax, if any, which was required to be deducted by Mr. Raja?

SOLUTION

Disallowance under section 35(b)(i) of the Income-tax Act, 2025 is attracted where the assessee fails to deduct tax at source as is required under the Act, or having deducted tax at source, fails to remit the same to the credit of the Central Government within the stipulated time limit.

(i) The obligation to deduct tax at source from interest paid to a resident arises under section 393(1) [Table: S.No. 5(iii)] in the case of an individual, whose total turnover exceeds ₹ 1 crore during the tax year immediately preceding the tax year, i.e., T.Y.2025-26. Thus, in present case, since the turnover of the assessee is less than ₹ 100 lakhs in T.Y. 2025-26, he is not liable to deduct tax at source. Hence, disallowance under section 35(b)(i) is not attracted in this case.

(ii) Under section 35(b)(i), disallowance of 30% of the sum payable would be attracted in respect of all sums on which tax is deductible under Chapter XIX-B. Section 392, which requires deduction of tax at source from salary paid, is covered under Chapter XIX-B. The obligation to deduct tax at source under section 392 arises, in the hands all assessee-employer even if the turnover does not exceed ₹ 1 crore during the tax year immediately preceding the tax year.

Therefore, in the present case, the disallowance under section 35(b)(i) is attracted for failure to deduct tax at source under section 392 from salary payment. However, only 30% of the amount of salary paid without deduction of tax at source would be disallowed i.e. ₹ 4,50,000 (₹ 15 lakhs × 30%).

(iii) The obligation to deduct tax at source under section 393(1) [Table: S.No. 1(ii)] from commission paid in excess of ₹ 20,000 to a resident arises in the case of an individual, whose total turnover exceeds ₹ 1 crore during the tax year immediately preceding the tax year, i.e., T.Y.2025-26. Thus, in present case, since the turnover of the assessee is less than ₹ 1 crore in T.Y. 2025-26, he is not liable to deduct tax at source under section 393(1) [Table: S. No. 1(ii)]. Mr. Raja is not required to deduct tax at source u/s 393(1) [Table: S.No. 6(ii)(c)] also since the aggregate of such commission to Mr. Vidyasagar does not

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exceed ₹ 50 lakhs during the T.Y. 2026-27. Therefore, disallowance under section 35(b)(i) is not attracted in this case.

(iii) Sum payable to a non-resident where there is a default of deduction of tax at source [Section 35(b)(ii)]

Section 35(b)(ii) provides for 100% disallowance of any interest, royalty, fees for technical services or other sum chargeable under this Act, which is payable,-

(a) outside India or

(b) in India to a non-resident, not being a company or to a foreign company,

on which tax is deductible at source under Chapter XIX-B and such tax has not been deducted during the tax year or, after deduction during the tax year, has not been paid upto the due date specified in section 263(1).

It is also provided that where in respect of any such sum, tax is deducted in any subsequent year, or is deducted during the tax year but paid after the due date specified in section 263(1), such sum shall be allowed as a deduction in computing the income of the tax year in which such tax has been paid.

Where the assessee is required to and fails to deduct the whole or any part of tax on any such sum but is not deemed as assessee in default under section 398(2) by reason that such payee –

(i) has furnished his return of income under section 263;

(ii) has taken into account such sum for computing income in that return of income; and

(iii) has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed,

it would be deemed that the assessee has deducted and paid the tax on such sum on the date on which return of income has been furnished by the payee.

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NOTE

Since the date of furnishing the return of income by the payee is taken to be the date on which the payer has deducted tax at source and paid the same, such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed under section 35(b)(ii) in the year in which the said expenditure is incurred. However, such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the payee, since tax is deemed to have been deducted and paid by the payer in that year.

(iv) Contribution to a provident fund or the fund established for the benefit of employees [Section 35(b)(iii)]

Section 35(b)(iii) provides for disallowance of any contribution to a provident fund or the fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to make sure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head 'Salaries'.

(v) Salaries payable outside India or to non-resident where there is a default of deduction of tax at source [Section 35(c)]

Section 35(c) provides for disallowance of any sum which is chargeable under the head 'Salaries' if it is payable outside India or to a non-resident on which tax is deductible at source under Chapter XIX-B and if such tax has not been deducted or after deduction has not been paid.



16.	*MNO Ltd. deducted tax at source from professional fees payable to a resident during T.Y. 2026-27 but deposited the tax after the due date specified under section 263(1). What would be the consequence?*	
	(a)	*Entire expenditure permanently disallowed*
	(b)	*30% disallowed in T.Y. 2026-27 and allowed in the year of payment of TDS*
	(c)	*No disallowance if TDS is ultimately paid*
	(d)	*100% disallowance in T.Y. 2026-27 and allowed in the year of payment of TDS*

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Amounts are not deductible in case of any firm assessable as such or a limited liability partnership (LLP)

(1) Remuneration to non-working partner - Any salary, bonus, commission, remuneration by whatever name called, to any partner who is not a working partner. (In the following discussion, the term 'remuneration' is applied to denote payments in the nature of salary, bonus, commission);

(2) Remuneration to a working partner and interest to any partner not authorized by deed or authorized by deed but relates to an earlier period - Any expenditure on the remuneration to a working partner and interest to any partner would not be allowed as deduction if it is –

- not authorised by the partnership deed applicable for the period for which such remuneration or interest is paid or
- authorised by and is as per the terms of partnership deed but relates to the period prior to the date of such partnership deed, or which was not authorised by the earlier partnership deed



If a firm incorporates the clause relating to payment of remuneration to the working partners, by executing an appropriate deed, say, on July 1, 2026 but effective from April 1, 2026, the firm would get deduction for the remuneration paid to its working partners from July 1, 2026 onwards, but not for the period from April 1 to June 30. It will not be possible to give retrospective effect to oral agreements entered into vis a vis such remuneration prior to putting the same in a written partnership deed.

(3) Remuneration to a working partner in excess of prescribed limits - Any remuneration paid to a working partner, authorised by a partnership deed and falling after the date of the deed in excess of the following limits:

Book Profit	Quantum of deduction
On the first ₹ 6 lakh of book profit or in case of loss	₹ 3,00,000 or 90% of book profit, whichever is higher
On the balance of book profit	60% of book profit

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Meaning of certain terms:

Term	Meaning
Book Profit	The net profit as shown in the profit and loss account for the relevant tax year computed as per the provisions for computing income from profits and gains. The above amount should be increased by the aggregate remuneration to all the partners of the firm if such amount has been deducted while computing the net profit.
Working partner	An individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner.

ILLUSTRATION 12

A firm has paid ₹ 8,50,000 as remuneration to its partners for the T.Y.2026-27, in accordance with its partnership deed, and it has a book profit of ₹ 10 lakhs. What is the remuneration allowable as deduction?

SOLUTION

The allowable remuneration calculated as per the limits specified in section 35(e)(iii) would be –

Particulars	₹
On first ₹ 6 lakh of book profit [₹ 6,00,000 × 90%]	5,40,000
On balance ₹ 4 lakh of book profit [₹ 4,00,000 × 60%]	2,40,000
	7,80,000

The excess amount of ₹ 70,000 (i.e., ₹ 8,50,000 – ₹ 7,80,000) would be disallowed as per section 35(e)(iii).

(4) **Interest to any partner in excess of 12% p.a.-** Any interest to any partner as authorized by the partnership deed exceeding 12% simple interest p.a. would be disallowed.

(5) (i) Where an individual is a partner in a firm in a representative capacity:

(a) interest paid by the firm to such individual otherwise than as partner in a representative capacity shall not be taken into account for the purposes of disallowance under this clause.

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(b) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of disallowance under this clause.

(ii) Where an individual is a partner in a firm otherwise than in a representative capacity, interest paid to him by the firm to such individual shall not be taken into account for the purposes of disallowance under this clause if he receives the same on behalf of or for the benefit of any other person.



Mr. A is a partner in ABC & Co. on behalf of Shah HUF. Interest to its partners @15% is authorised by ABC & Co. ABC & Co. pays ₹7 lakhs as interest to Mr. A out of which ₹4 lakhs on the funds advanced by Mr. A in his individual capacity and ₹3 lakhs on the funds advanced by him in his representative capacity on behalf of Shah HUF. The interest of ₹4 lakhs paid to Mr. A in his individual capacity is allowed as deduction subject to section 36(2) and shall not be taken into account for purpose of section 35(e). Whereas the interest paid to Mr. A in his representative capacity would be allowed to the extent of ₹2.40 lakhs i.e., ₹3 lakhs/15% x 12%.

ILLUSTRATION 13

Rao & Jain, a partnership firm consisting of two partners, reports a net profit of ₹17,00,000 before deduction of the following items:

(1) Salary of ₹40,000 each per month payable to two working partners of the firm (as authorized by the deed of partnership).

(2) Depreciation on plant and machinery under section 33 (computed) ₹1,50,000.

(3) Interest on capital at 15% per annum (as per the deed of partnership). The amount of capital eligible for interest is ₹5,00,000.

Compute:

(i) Book-profit of the firm under section 35(e) of the Income-tax Act, 2025.

(ii) Allowable working partner salary for the T.Y. 2026-27 as per section 35(e).

SOLUTION

(i) As per 35(e)(v), "book profit" shall mean the net profit as per the profit and loss account for the relevant tax year computed as per Chapter IV-D as increased

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by the aggregate amount of the remuneration to all the partners of the firm if the such amount has been already deducted while computing the net profit.

In the present case, the net profit given is before deduction of depreciation on plant and machinery, interest on capital of partners and salary to the working partners. Therefore, the book profit shall be as follows:

Computation of Book Profit of the firm under section 35(e)

Particulars	₹	₹
Net Profit (before deduction of depreciation, salary and interest)		17,00,000
Less: Depreciation under section 33	1,50,000	
Interest @ 12% p.a. [being the maximum allowable as per section 35(e)] (₹ 5,00,000 ×12%)	60,000	2,10,000
Book Profit		**14,90,000**

(ii) Salary actually paid to working partners = ₹ 40,000 × 2 × 12 = ₹ 9,60,000.

As per the provisions of section 35(e)(iii), the salary paid to the working partners is allowed subject to the following limits -

On the first ₹ 6,00,000 of book profit or in case of loss	₹ 3,00,000 or 90% of book profit, whichever is more
On the balance of book profit	60% of the balance book profit

Therefore, the maximum allowable working partners' salary for the T.Y. 2026-27 in this case would be:

Particulars	₹
On the first ₹ 6,00,000 of book profit [(₹ 3,00,000 or 90% of ₹ 6,00,000) whichever is more]	5,40,000
On the balance of book profit [60% of (₹ 14,90,000 - ₹ 6,00,000)]	5,34,000
Maximum allowable partners' salary	10,74,000

Hence, allowable working partners' salary for T.Y.2026-27 as per the provisions of section 35(e)(iii) is ₹ 9,60,000.

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3.9 EXPENSES OR PAYMENT NOT DEDUCTIBLE IN CERTAIN CIRCUMSTANCES [SECTION 36]

Section 36 provides the circumstances in which expenses or payments are not deductible. The provisions of this section shall apply even if they conflict with any other provision of the Act relating to computation of income under the head "Profits and gains of business or profession".

(i) Payments to relatives and associates

Section 36(2) provides that if the assessee incurs any expenditure for which payment has been or is to be made to any specified person [See column (2) of Table below) which in the opinion of the Assessing Officer is excessive or unreasonable having regard to the:

(a) fair market value of the goods, service of facilities; or

(b) legitimate needs of the business or profession carried on by the assessee; or

(c) benefit derived by or accruing to the assessee therefrom,

so much of the expenditure as considered excessive or unreasonable by the Assessing Officer shall not be allowed as deduction.

"Specified Person" for different categories of assessees has been defined in section 36(3) as follows:

Assessee	Specified Person
(1)	**(2)**
Individual	1. Any relative of the individual assessee 2. Any person who carries on a business or profession, if ♦ the individual assessee has a substantial interest in the business of that person **or** ♦ any relative of the individual assessee has a substantial interest in the business of that person
Company, Firm, HUF or AOP	1. Any director of the company, partner of the firm or member of the family or association **or** any relative of such director, partner or member **or**

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<table>
<tr><td></td><td>2. In case of a company assessee, any individual who has substantial interest in the business or profession of the company or any relative of such individual <u>or</u>
3. Any person who carries on a business or profession, in which the Company/ Firm/ HUF/ AOP or director of the company, partner of the firm or member of the family or association or any relative of such director, partner or member has substantial interest in the business of that person.</td></tr>
<tr><td>All assessees</td><td>The following are specified persons:
<table>
<tr><th>Person who has substantial interest in the assessee's business</th><th>Other related persons of such person, who has a substantial interest in the assessee's business</th></tr>
<tr><td>Company/ AOP/ Firm/ HUF</td><td>♦ Any director of such company, partner of such firm or the member of such family or association <u>or</u>
♦ any relative of such director, partner or member <u>or</u>
♦ Any other company carrying on business or profession in which the first mentioned company has a substantial interest</td></tr>
<tr><td>a director, partner or member</td><td>♦ Company/ Firm/ AOP/ HUF of which he is a director, partner or member <u>or</u>
♦ Any other director/ partner/ member of the such Company/Firm/ AOP/ HUF <u>or</u>
♦ Any relative of such director, partner or member</td></tr>
</table></td></tr>
<tr><td colspan="2">Relative, in relation to an "individual", means the spouse, brother or sister or any lineal ascendant (maternal as well as paternal) or descendant of that individual [Section 2(94)].</td></tr>
</table>

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Substantial interest in a business or profession

A person shall be deemed to have a substantial interest in a business or profession if -

- in a case where the business or profession is carried on by a company, such person is, at any time during the tax year, the beneficial owner of equity shares carrying not less than 20% of the voting power and
- in any other case, such person is, at any time during the tax year, beneficially entitled to not less than 20% of the profits of such business or profession.

(ii) Payments in excess of ₹ 10,000 made otherwise than through specified banking or online mode

According to section 36(4), where in respect of any expenditure incurred by the assessee, any payment or aggregate of payments made in a day to a person exceeds ₹ 10,000 and is not made through specified banking or online mode, then the expenditure by way of such payments shall not be allowed as a deduction.

Meaning of "Specified Banking or Online Mode" [Section 66(32)] - Specified Banking or Online Mode mean transaction by

- an account payee cheque or
- an account payee bank draft or
- use of electronic clearing system through a bank account or
- through such other electronic mode, as may be prescribed

As per Rule 48 of the Income-tax Rules, 2026, "other electronic modes of payment" are the following:

- Credit Card;
- Debit Card;
- Net Banking;
- IMPS (Immediate Payment Service);
- UPI (Unified Payment Interface);
- RTGS (Real Time Gross Settlement);
- NEFT (National Electronic Funds Transfer);
- BHIM (Bharat Interface for Money) Aadhaar Pay, and
- Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC.

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The provision applies to all categories of expenditure involving payments for goods or services which are deductible in computing the taxable income.



If, in respect of an expenditure of ₹ 32,000 incurred by X Ltd., 4 cash payments of ₹ 8,000 are made on a particular day to one Mr. Y – one in the morning at 10 a.m., one at 12 noon, one at 3 p.m. and one at 6 p.m., the entire expenditure of ₹ 32,000 would be disallowed under section 36(4), since the aggregate of cash payments made during a day to Mr. Y exceeds ₹ 10,000.

Payments in excess of ₹ 10,000 made otherwise than through prescribed modes deemed to be the income of the subsequent year, if expenditure has been allowed as deduction in any tax year on due basis [Section 36(5)]:

In case of an assessee following mercantile system of accounting,

- if an expenditure has been allowed as deduction in any tax year on due basis, and
- payment in respect of such expenditure is made during a subsequent year and
- payment or aggregate of payments made in a day to a person exceeds ₹ 10,000 and
- payment is not made through specified banking or online mode,

then, such payment shall be deemed to be the income under the head "Profits and gains of business or profession" in such subsequent tax year [Section 36(5)].



Increased limit of ₹ 35,000 applicable, where payment is made to transport operator: The limit would be ₹ 35,000 in case of payment made to transport operators for plying, hiring or leasing goods carriages, otherwise than through prescribed modes. Therefore, payment or aggregate of payments up to ₹ 35,000 in a day can be made to a transport operator **otherwise than** through specified banking or online mode. In all other cases, the limit would continue to be ₹ 10,000 [Section 36(6)].

Bar on Plea Regarding Mode of Payment: No person is allowed to raise, in any suit or other proceeding, a plea based on the ground that the payment was not made or tendered in cash or in any other manner. This is irrespective of anything contained in any other law for the time being in force or in any contract [Section 36(8)].

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Cases where disallowances would not be attracted:

(i) **Loan transactions:** It does not apply to loan transactions because advancing of loans or repayments of the principal amount of loan does not constitute an expenditure deductible in computing the taxable income. However, interest payments of amounts exceeding ₹ 10,000 at a time are required to be made through specified banking or online mode as interest is a deductible expenditure.

(ii) **Payment made by commission agents:** This requirement does not apply to payment made by commission agents for goods received by them for sale on commission or consignment basis because such a payment is not an expenditure deductible in computing the taxable income of the commission agent.

For the same reason, this requirement does not apply to advance payment made by the commission agent to the party concerned against supply of goods.

However, where commission agent purchases goods on his own account but not on commission basis, the requirement will apply. The provisions regarding payments through specified banking or online mode apply equally to payments made for goods purchased on credit.

Exceptions to section 36(4) and 36(5)- Cases and circumstances in which a payment or aggregate of payments exceeding ₹ 10,000 may be made to a person in a day, otherwise than by specified banking and online mode or through such other electronic mode as prescribed in Rule 48 [Rule 26]

As per this rule, no disallowance under section 36(4) shall be made and no payment shall be deemed to be the profits and gains of business or profession under section 36(5) where a payment or aggregate of payments made to a person in a day, otherwise through specified banking or online mode or through other electronic mode prescribed in Rule 48, exceeds ₹10,000 in the cases and circumstances specified hereunder, namely:

(a) where the payment is made to

(i) the Reserve Bank of India or any banking company;

(ii) the State Bank of India or any subsidiary bank;

(iii) any co-operative bank or land mortgage bank;

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(iv) any primary agricultural credit society or any primary credit society;

(v) the Life Insurance Corporation of India;

(b) where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;

(c) where the payment is made by

(i) any letter of credit arrangements through a bank;

(ii) a mail or telegraphic transfer through a bank;

(iii) a book adjustment from any account in a bank to any other account in that or any other bank;

(iv) a bill of exchange made payable only to a bank;

(d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;

(e) where the payment is made for the purchase of -

(i) agricultural or forest produce; or

(ii) the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or

(iii) fish or fish products; or

(iv) the products of horticulture or apiculture,

to the cultivator, grower or producer of such articles, produce or products;

(f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;

(g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;

(h) where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment,

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resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed ₹ 50,000;

(i) where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee-

(i) is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and

(ii) does not maintain any account in any bank at such place or ship;

(j) where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;

(k) where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travelers cheques in the normal course of his business.



17.	*Mr. Raj, proprietor of a business, paid salary of ₹12,00,000 to his brother for administrative services during T.Y. 2026-27. The Assessing Officer determined that reasonable remuneration for such services would be ₹7,50,000. What amount would be disallowed under section 36(2)?*	
	(a)	*Nil*
	(b)	*₹12,00,000*
	(c)	*₹4,50,000*
	(d)	*₹7,50,000*
18.	*PQR Ltd. paid freight charges of ₹34,000 in cash to a transport operator in one day. What would be the amount disallowed under section 36(4)?*	
	(a)	*Nil*
	(b)	*₹10,000*

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	(c)	*₹24,000*
	(d)	*₹34,000*
19.	*Mr. A, following mercantile system of accounting, claimed deduction for legal expenses of ₹45,000 in T.Y. 2025-26 on accrual basis. He made cash payment of ₹45,000 in T.Y. 2026-27 in a single day. What would be the tax consequence in T.Y. 2026-27?*	
	(a)	*No consequence*
	(b)	*₹45,000 deemed as business income under section 36(5)*
	(c)	*Only ₹35,000 deemed as income*
	(d)	*30% of payment deemed as income*

3.10 CERTAIN DEDUCTIONS ALLOWED ON ACTUAL PAYMENT BASIS ONLY [SECTION 37]

- The following sums payable, which are otherwise allowable as a deduction under the Act, are allowed as deduction only in that tax year in which such sum is actually paid i.e., on actual payment basis.
- This provision is applicable irrespective of:
  - (a) any provision to the contrary in the Act; or
  - (b) method of accounting regularly followed; or
  - (c) the tax year in which liability was incurred.
- The sums covered by the provisions of this section are as follows:
  - (a) **Tax, duty, cess, surcharge or fee,** by whatever name called, levied under any law in force, or
  - (b) **Contribution of the employer to a provident fund or superannuation fund or gratuity fund** or any other fund for the welfare of employees, or
  - (c) Amount payable by employer **in lieu of any leave at the credit of the employee,** or
  - (d) **Bonus or Commission** for services rendered payable to employees, or

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(e) **Interest on loans or advances or borrowings** from **specified financial entities** as per the terms and conditions of the agreement governing such loans or advances or borrowings, or

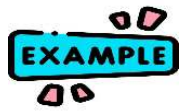
(f) Amount payable to the Indian Railways for use of Railway assets, or

(g) amount payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act). (A brief discussion about section 15 of MSMED Act has been given in subsequent part of this chapter.)

- **If the amounts referred to above in clauses (a) to (f)**, are paid **after the end of tax year** in which the liability was incurred **but on or before the due date of filing return of income under section 263(1)** for such tax year, the deduction towards such sum is allowed in such tax year [Section 37(3)]

- **Meaning of "sum payable" for the purposes of clause (a) of section 37(2)**

  Sum payable means a sum for which the assessee has incurred liability in the tax year even though such sum might not have been payable within that year under the relevant law



An assessee may collect GST from customers during the month of March, 2027. However, in respect of such collections he may have to discharge the liability only within say 20th April, 2027 under the GST law. The Explanation covers this type of liability also. Consequently, if an assessee following accrual method of accounting has created a provision in respect of such a liability the same is not deductible unless remitted within the due date specified in this section.

- **Conversion of interest into a loan or borrowing or debenture or any other instrument**

  If interest on loans or advances or borrowings referred to in clause (e) above is converted into a loan or advance or debenture or any other instrument by which the liability to pay is deferred to a future date, the interest so converted shall not be deemed to have been actually paid and hence, would not be allowed as deduction. The provision reiterates the rationale that conversion of interest into a loan or advance or debenture or any other instrument by which the liability to pay is deferred to a future date does not amount to actual payment.

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The manner in which the converted interest will be allowed as deduction has been clarified in Circular No.7/2006 dated 17.7.2006. The unpaid interest, whenever actually paid to the bank or financial institution, will be in the nature of revenue expenditure deserving deduction in the computation of income. Therefore, irrespective of the nomenclature, the deduction will be allowed in the tax year in which the converted interest is actually paid.

- **Meaning of specified financial entities:**

(a) A public financial institution or

(b) State Financial Corporation or

(c) State Industrial Investment Corporation or

(d) such class of non-banking financial companies as may be notified by the Central Government or

(e) a scheduled bank or

(f) a co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank).

ILLUSTRATION 14

Hari, an individual, carried on the business of purchase and sale of agricultural commodities like paddy, wheat, etc. He borrowed loans from Andhra Pradesh State Financial Corporation (APSFC) and Indian Bank and has not paid interest as detailed hereunder:

		₹
(i)	*Andhra Pradesh State Financial Corporation (T.Y. 2025-26 & 2026-27)*	*15,00,000*
(ii)	*Indian Bank (T.Y. 2026-27)*	*30,00,000*
		45,00,000

Both APSFC and Indian Bank, while restructuring the loan facilities of Hari during the year 2026-27, converted the above interest payable by Hari to them as a loan repayable in 60 equal installments. During the year ended 31.3.2027, Hari paid 5 installments to APSFC and 3 installments to Indian Bank.

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Hari claimed the entire interest of ₹ 45,00,000 as an expenditure while computing the income from business of purchase and sale of agricultural commodities. Examine *whether his claim is valid and if not, what is the amount of interest, if any, allowable.*

SOLUTION

According to section 37, any interest payable on the loans or advances or borrowings to specified financial institutions (which include inter alia State Financial Corporation and scheduled banks) shall be allowed only in the year of payment of such interest irrespective of the method of accounting followed by the assessee.

Where there is default in the payment of interest by the assessee, such unpaid interest may be converted into loan. Such conversion of unpaid interest into loan shall not be construed as payment of interest for the purpose of section 37. The amount of unpaid interest so converted as loan shall be allowed as deduction only in the year in which the converted loan is actually paid.

In the given case of Hari, the unpaid interest of ₹ 15,00,000 due to APSFC and of ₹ 30,00,000 due to Indian Bank was converted into loan. Such conversion would not amount to payment of interest and would not, therefore, be eligible for deduction in the year of such conversion. Hence, claim of Hari that the entire interest of ₹ 45,00,000 is to be allowed as deduction in the year of conversion is not tenable. The deduction shall be allowed only to the extent of repayment made during the tax year. Accordingly, the amount of interest eligible for deduction for the T.Y. 2026-27 shall be calculated as follows:

	Interest outstanding (₹)	**Number of Instalments**	**Amount per instalment (₹)**	**Instalments paid**	**Interest allowable (₹)**
APSFC	15 lakhs	60	25,000	5	1,25,000
Indian Bank	30 lakhs	60	50,000	3	1,50,000
Total amount eligible for deduction					**2,75,000**

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♦ **Non-applicability of section 37 in respect of employee's Contribution to welfare funds [Section 37(6)]**

As per section 2(49)(o), any sum received by an assessee, being an employer from his employee as contribution to any provident fund or superannuation fund or any fund set up under Employee's State Insurance Act, 1948 or any other fund for the welfare of employees would be considered as the income of an employer.

The deduction in respect of above sum shall be allowed to the assessee under section 29(e) only if such sum is credited by the assessee to the employee's account in the relevant fund by the due date applicable in his case for filing return of income under section 263(1) in respect of that tax year.

As per section 37(1), the sums specified in section 37(2), which includes any sum payable as an employer by way of contribution to a provident fund or superannuation fund or gratuity fund or any fund for the welfare of employees, would be allowable during the tax year in which such sums are actually paid. This is subject to the provisions of section 37(3) that if these sums have been paid on or before the 'due date' applicable in his case for filing return of income under section 263(1) in respect of that tax year in which they are otherwise allowable as a deduction under this Act (original tax year), they shall be allowed as deduction in the original tax year.

The impact of above mechanism is that if the sums specified u/s 37(2) are paid after the due date of filing of return of income for the original tax year, they shall still be allowed in the year in which they have been actually paid.

Section 37(6) provides that the provisions of section 37 shall not apply to employee's contribution received by employer towards any welfare fund. It means that if this contribution is paid after the due date under section 263(1), this would never be eligible for deduction. The above provision can be summarized in the form of table given below:

Employee's contribution related to Tax Year X

If paid	Deduction
Upto the due date of filing of return of income for Tax Year X	Allowed in the tax year X
After the due date of filing of return of income for Tax Year X	Never allowed

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Employer's contribution related to Tax Year X

If pd	Deduction
Upto the due date of filing of return of income for Tax Year X	Allowed in the tax year X
After the due date of filing of return of income for Tax Year X	Allowed in the tax year of actual payment

- If a deduction in respect of any sum payable has already been allowed in any tax year when such liability was incurred, it shall not be allowed again in any subsequent tax year when it is paid [Section 37(5)].

Clause (g) of Section 37(2)

Any sum payable by the assessee to a micro or small enterprise beyond the time-limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 would be allowed as deduction only in that tax year in which such sum is actually paid.

Section 15 of the of the Micro, Small and Medium Enterprises Development Act, 2006 mandates payment of goods or services to supplier, being a micro or small enterprises by the buyer on or before the date agreed upon between them in writing i.e., as per the written agreement, which cannot be more than 45 days from the day of acceptance or the day of deemed acceptance of any goods or services by a buyer from a supplier. If there is no such written agreement, the payment shall be made before the appointed day i.e., within 15 days.

If the sum payable by the assessee to a micro or small enterprise is paid as per written agreement (maximum within 45 days) or within 15 days in case of no agreement, the deduction can be claimed on accrual basis if mercantile method of accounting is followed by the assessee.

However, if the sum payable by the assessee to a micro or small enterprise is not paid as per written agreement or within 15 days in case of no agreement, the deduction would be allowed in the tax year in which it is actually paid.



Mr. A has purchased goods of ₹ 10,000 from A & Co., a micro enterprise on 1.3.2027. As per the written agreement between them, the payment has to be made by 5.4.2027. Mr. A follows mercantile method of accounting.

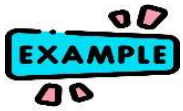
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(i) If Mr. A paid the sum on 2.4.2027

Since Mr. A paid the sum on or before 5.4.2027, the deduction would be allowed in T.Y. 2026-27.

(ii) If Mr. A paid the sum on 20.4.2027

Since Mr. A paid the sum beyond the time limit, the deduction would not be allowed in the T.Y. 2026-27 but would be allowed in the year of actual payment i.e., in T.Y. 2027-28.



Suppose Mr. Raju has purchased goods of ₹ 10,000 from A & Co., a medium enterprise on 1.3.2027. As per the written agreement between them, the payment has to be made by 5.4.2027, however Mr. Raju paid the sum on 10.4.2027. Mr. Raju follows mercantile method of accounting.

In such case, since disallowance under section 37(2)(g) is not applicable on sum payable to medium enterprise, the deduction would be allowed in T.Y. 2026-27 on due basis.

Meaning of Micro and Small enterprise

S. No.	Meaning		
(1)	**Micro Enterprise**		
	Investment in Plant and Machinery or Equipment ≤ ₹ 2.5 crore	**AND**	Turnover ≤ ₹ 10 crore
(2)	**Small Enterprise**		
	Investment in Plant and Machinery or Equipment ≤ ₹ 25 crore	**AND**	Turnover ≤ ₹ 100 crore

3.11 CERTAIN SUMS DEEMED AS "PROFITS AND GAINS OF BUSINESS OR PROFESSION" [SECTION 38]

This section enumerates certain receipts which are deemed to be income under the head "business or profession." Such receipts would attract charge even if the business from which they arise had ceased to exist prior to the year in which the liability under this section arises. The particulars of such receipts are given below:

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(i) Remission or cessation of trading liability [Section 38(1)(a)]

- Suppose an allowance or deduction has been made in any tax year in respect of loss, expenditure or trading liability incurred by A. Subsequently, if A has obtained, whether in cash or in any manner whatsoever, any amount in respect of such loss or expenditure of some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by A, or the value of benefit accruing to him shall be taxed as income of that tax year.
- It does not matter whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not.
- It is possible that after the above allowance in respect of loss, expenditure, or trading liability has been given to A, he could have been succeeded in his business by another person. In such a case, the successor will be liable to be taxed in respect of any such benefit received by him during a subsequent tax year.

Successor in business [Section 38(6)(b)]:

(i) Where there has been an amalgamation of a company with another company, the successor will be the amalgamated company.

(ii) In case of a demerger, the successor will be the resulting company

(iii) Where a firm carrying on a business or profession is succeeded by another firm, the successor will be the other firm.

(iv) In any other case, where one person is succeeded by any other person in that business or profession, the other person will be the successor.

(ii) Balancing charge, Sale of capital asset used for scientific research and recovery of a bad debt subsequently [Section 38(1)(b),(1)(c) & (1)(d)]

The provisions of section 38(1)(b) relating to balancing charge, section 38(1)(c) relating to sale of capital assets acquired for scientific research and section 38(1)(d) dealing with recovery of bad debts have been dealt with earlier under the respective items

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(iii) Brought forward losses of defunct business [Section 38(3)]

In cases where a receipt is deemed to be profit of a business under section 38 [except Balancing Charge covered u/s 38(1)(b)] relating to a business that had ceased to exist and there is an unabsorbed loss, not being a speculation loss, which arose in that business during the tax year in which it had ceased to exist and which has not been set off, it would be set off against income that is chargeable under this section even after the expiry of 8 years.

3.12 TREATMENT OF FOREIGN EXCHANGE FLUCTUATIONS [SECTION 42]

(1) The section deals with the situation where **at the time of making payment** during the tax year, there is a **variation in liability** of an assessee as expressed in Indian currency in relation to an asset acquired for the purpose of business or profession from a country outside India due to change in rate of exchange.

(2) The **variation in liability** shall be added or reduced from the following:

(i) the actual cost of the asset under section 39

(ii) the amount of capital expenditure incurred by a company for promoting family planning amongst its employees under section 32(i)

(iii) the amount of capital expenditure incurred on scientific research under section 45(1)(a)(i)

(iv) the cost of acquisition of a non-depreciable capital asset falling under section 72.

(3) Liability shall exclude any part met directly or indirectly by any other person or authority and the **variation in liability** shall be

B - C

B = payment expressed in Indian currency at the time when it is made

(a) towards the whole or part of the cost of asset; or

(b) towards repayment of the whole or part of the moneys borrowed, directly or indirectly, along with interest in foreign currency, specifically for acquiring such asset;

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C = liability, corresponding to the amount referred in B, in Indian currency at the time of acquisition of such asset.

(4) Where the assessee has entered into a contract with authorised dealer[4] for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the liability aforesaid, the amount, if any, for adjustment under this section shall be computed with reference to the rate of exchange specified therein.



20.	*Hari converted unpaid interest payable to Indian Bank into a funded interest term loan during T.Y. 2026-27. Which of the following is correct?*	
	(a)	*Conversion amounts to actual payment*
	(b)	*Entire converted interest is deductible*
	(c)	*Deduction is allowed only when converted loan is actually repaid*
	(d)	*50% deduction is allowable on conversion*
21.	*A company acquired machinery from Germany for business purposes. Due to exchange fluctuation at the time of repayment of foreign currency loan, liability increased by ₹3,50,000. What would be the treatment under section 42?*	
	(a)	*Treated as revenue loss*
	(b)	*Added to actual cost of machinery*
	(c)	*Deducted fully as business expenditure*
	(d)	*Ignored for tax purposes*

[4] as defined in section 2 of the Foreign Exchange Management Act, 1999

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3.13 STAMP DUTY VALUE OF LAND AND BUILDING TO BE TAKEN AS THE FULL VALUE OF CONSIDERATION IN RESPECT OF TRANSFER, EVEN IF THE SAME ARE HELD BY THE TRANSFEROR AS STOCK-IN-TRADE [SECTION 53]

(a) In case of transfer of an asset (other than a capital asset), being land or building or both, if the consideration received or accrued from such transfer is less than the stamp duty value, then such stamp duty value) shall be deemed to be the full value of the consideration for computing profits and gains from such transfer.

(b) If the stamp duty value does not exceed 110% of the consideration received or accruing then, the consideration received or accrued shall be deemed to be the full value of consideration.

(c) Further, if the date of an agreement fixing the value of consideration for the transfer of asset and the date of registration for transfer of such asset are different, then the stamp duty value as on date of the agreement may be taken to be the full value of consideration. for transfer instead of on the date of registration for such transfer, if the amount of consideration or part thereof has been received by specified banking or online mode on or before the date of agreement for transfer of such asset.

(d) The Assessing Officer may refer the valuation of the asset to a valuation officer in the following cases -

  (1) Where the assessee claims that the stamp duty value exceeds the fair market value of the property as on the date of transfer and

  (2) the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

(e) If the value determined by the Valuation on a reference made exceeds the stamp duty value, such stamp duty value shall be taken as the full value of the consideration.

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(f) **Meaning of stamp duty value:** It means the value adopted or assessed or assessable by any authority of the Central Government or State Government for the payment of stamp duty in respect of an immovable property, where the expression "assessable" shall mean the value which any authority of that Government would have adopted or assessed as if it were referred to such authority for the purposes of payment of stamp duty, irrespective of anything to the contrary contained in any other law in force.

The term "assessable" covers transfers executed through power of attorney.

Date of transfer of land/ building held as stock-in-trade	Actual consideration	Stamp duty value on the date of agreement	Stamp duty value (SDV) on the date of registration	Full value of considera-tion	Remark
	₹ in lakhs				
Example:					
1/9/2026	100 (₹ 10 lakhs received by **A/c payee cheque** on 1/7/2026)	120 (1/7/2026)	130 (1/9/2026)	120	As part of the consideration is received by A/c payee cheque on the date of agreement, Stamp duty value (SDV) on the date of agreement to be adopted as full value of consideration, since the SDV exceeds 110% of consideration i.e., ₹ 110 lakhs.
Example:					
1/9/2026	100 (₹ 10 lakhs received by cash on 1/7/2026)	109 (1/7/2026)	130 (1/9/2026)	130	SDV on the date of registration to be adopted as full value of consideration

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					and such SDV exceeds 110% of consideration i.e., ₹ 110 lakhs. Since part of consideration is received by cash on the date of agreement, the SDV on the date of agreement cannot be considered vis-à-vis actual consideration.
Example:					
31/1/2027	100 (₹ 10 lakhs received by **A/c payee cheque** on 1/7/2026)	109 (1/7/2026)	130 (31/1/2027)	100	Actual sales consideration would be the full value of consideration, since SDV on the date of agreement does not exceed 110% of actual consideration. SDV on the date of agreement can be considered vis-à-vis actual consideration, since part of the consideration has been received by account payee cheque on the date of agreement.

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Example:					
31/3/2027	100 (Full amount received in cash on the date of registration)	120 (1/5/2026)	130 (31/3/2027)	130	SDV of the date of registration would be the full value of consideration since the SDV exceeds 110% of consideration i.e., ₹ 110 lakhs.

3.14 MAINTENANCE OF BOOKS OF ACCOUNTS [SECTION 62]

(1) Maintain the books of account and other documents [Section 62(1)]: Section 62(1) provides that the following persons are required to keep and maintain such **books of accounts and other documents to enable the Assessing Officer to compute his total income under the Act:**

- any person carrying on specified profession or
- any person carrying on business or any profession, not being a specified profession mentioned above, and satisfying the specified conditions.

Meaning of books or books of account [Section 2(19)]: It includes ledgers, day-books, cash books, account-books and other books, whether kept –

(a) in written form; or

(b) in electronic or any digital form, or on cloud-based storage, or on any electromagnetic data storage device, such as floppy, disc, tape, portable data storage device, external hard drives, or memory cards; or

(c) as print-outs of data stored in electronic or digital form or on storage devices mentioned in sub-clause (b);

(2) Meaning of specified profession [Section 62(4)]: Legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration, information technology or company secretary or any other profession as notified by the CBDT.

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(3) Conditions for any person carrying on business or profession [other than specified professions [Section 62(2)]:

Any person carrying on business or any profession, not being a specified profession mentioned above, is required to keep and maintain such books of accounts and other documents to enable the Assessing Officer to compute his total income under the Act if the person satisfies any of the following conditions:

- **In case of Individual or HUF:**

  (i) **In relation to existing business or profession:** Where the **income** from the existing business or profession **exceeds ₹ 2,50,000 or its total sales, turnover or gross receipts from such** business or profession **exceed ₹ 25,00,000** in **any one of three years immediately preceding** the tax year; or

  (ii) **In relation to newly set up business or profession:** Where the business or profession is newly set up in the tax year, the **income** from business or profession **is likely to exceed ₹ 2,50,000** or its **total sales, turnover or gross receipts from such** business or profession **are likely to exceed ₹ 25,00,000** during such tax year.

- **In case of person (other than individual or HUF):**

  (i) **In relation to existing business or profession:** Where the **income** from the existing business or profession **exceeds ₹ 1,20,000** or its **total sales, turnover or gross receipts from such** business or profession **exceed ₹ 10,00,000 in any one of three years** immediately preceding the tax year; or

  (ii) **In relation to newly set up business or profession:** Where the business or profession is newly set up in the tax year, the income from business or profession is **likely to exceed ₹ 1,20,000** or its **total sales, turnover or gross receipts** from such business or profession are **likely to exceed ₹ 10,00,000** during the tax year;

- **Showing lower income as compared to income computed on presumptive basis under section 58 or section 61[5]:** Where during the tax year, the assessee referred to in section 58(2) or section 61(2) (Table:

[5] *Section 61 will be discussed at Final Level.*

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Sl. Nos. 4 and 5) has claimed that his income from business or profession is lower than the deemed profits as per section 58(2) or section 61(2).

(4) Power of the CBDT: The CBDT may prescribe

- the books of account and other documents (including inventories, wherever necessary) to be kept and maintained
- particulars to be contained therein
- the form, manner and place at which they shall be kept and maintained; and
- the period for which such books of account and other documents are to be retained

(5) Rules pertaining to maintenance of books of accounts & other documents: Rule 46 of the Income-tax Rules, 2026 contains details relating to the books of account and other documents to be maintained by certain professionals under section 62(1).

Books of Accounts to be maintained: As per Rule 46(1), every person required to keep and maintain books of account and other documents under section 62(1)(b) shall maintain such books of account and other documents that enable the Assessing Officer to compute his total income under the Act.

Prescribed class of persons: As per Rule 46(2), every person carrying on legal, medical, engineering, or architectural profession or the profession of accountancy or technical consultancy or interior decoration or authorised representative or film artist shall keep and maintain the books of account and other documents specified in Rule 46(4).

However, the provisions of Rule 46(2) are not applicable in the following cases:

- in relation to any tax year in the case of any person if his gross receipts in the profession do not exceed ₹ 1,50,000 in any one of the 3 years immediately preceding the tax year;
- where the profession has been newly set up in the tax year, his total gross receipts in the profession for that year **are not likely to exceed ₹ 1,50,000**.

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Students may note that professionals whose gross receipts are less than the specified limits given above are also required to maintain books of account but these have not been specified in the Rule.

In other words, they are required to maintain such books of account and other documents as may enable the Assessing Officer to compute the total income in accordance with the provisions of this Act.

Prescribed books of accounts and other documents [Rule 46(4)]: The following books of account and other documents are required to be maintained.

(i) a cash book;

(ii) a journal, if accounts are maintained on mercantile basis;

(iii) a ledger;

(iv) Copies of bills and receipts issued by the person, for sums equal to or exceeding ₹ 250;

(i) Original bills and receipts in respect of expenditure equal to or exceeding ₹ 250 incurred by the person and issued to him,

(vi) Payment vouchers prepared and signed by the person, where the expenditure incurred does not exceed ₹ 250, and the cash book maintained by the person does not contain adequate particulars in respect of such expenditure.

In case of a person carrying on medical profession, he will be required to maintain the following in addition to the list given above [Rule 46(6)]:

(i) a daily case register in Form 25

(ii) an inventory under broad heads, as on the first and last day of the tax year, of the stock of drugs, medicines and other consumable accessories used for his profession.

Place at which books to be kept and maintained: The books and documents shall be kept and maintained at the place where the person is carrying on the profession, or where the profession is carried on in more places than one, at the principal place of his profession. However, if the person keeps and maintains separate books of account in respect of each

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place where the profession is carried on, such books of account and other documents may be kept and maintained at the respective places at which the profession is carried on.

Books of account maintained in electronic mode: The books of account and other documents maintained in electronic mode shall remain accessible in India at all times, and the back-up of such books of account and other documents maintained in electronic mode, shall be kept in servers physically located in India, and shall be updated on a daily basis. [Rule 46(8)]

Period for which the books of account and other documents are required to be kept and maintained: The above books of account and documents shall be kept and maintained for a period of 7 tax years from the end of the relevant tax year.

ILLUSTRATION 15

Vinod is a person carrying on profession as film artist. His gross receipts from profession are as under:

Particulars	***₹***
Financial year 2023-24	*1,15,000*
Financial year 2024-25	*1,80,000*
Financial year 2025-26	*2,10,000*

What is his obligation regarding maintenance of books of accounts for Tax Year 2026-27 under section 62 of Income-tax Act, 2025?

SOLUTION

Section 62(1) requires every person carrying on any specified profession to maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Income-tax Act, 2025.

As per Rule 46(2) read with Rule 46(3), a person carrying on a profession as film artist shall be required to maintain **specified books of accounts, only if**:

(i) his gross receipts in the profession has exceeded ₹ 1,50,000 in all the three years immediately preceding the relevant tax year; or

(ii) it is a new profession which is setup in the relevant tax year, it is likely to exceed ₹ 1,50,000 in that tax year.

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In the present case, Vinod is a person carrying on profession as film artist. Since his gross receipts have not exceeded ₹ 1,50,000 in tax year 2023-24, the requirement under section 62 to compulsorily maintain the prescribed books of account is not applicable to him for T.Y. 2026-27.

Mr. Vinod, however, required to maintain such books of accounts as would enable the Assessing Officer to compute his total income.

(6) Penalty for failure to maintain books of account [Section 441]

If a person fails to keep and maintain any such books of account and other documents as required by section 62 or the rules made thereunder, in respect of any tax year or to retain such books of account and other documents for the specified period, the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) may direct a penalty of ₹ 25,000 under section 441.



22.	*Mr. Ravi, carrying on a newly set up consultancy profession (not being specified profession), estimates gross receipts of ₹ 28 lakhs during T.Y. 2026-27. What is his obligation to maintain books of account?*	
	(a)	*No requirement to maintain books of account*
	(b)	*Required to maintain books of account since receipts likely exceed ₹ 25 lakhs*
	(c)	*Books required only after completion of first year*
	(d)	*Books required only if income exceeds ₹ 10 lakhs*
23.	*For how many years are books of account and documents generally required to be retained?*	
	(a)	*3 tax years*
	(b)	*5 tax years*
	(c)	*7 tax years*
	(d)	*10 tax years*

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3.15 TAX AUDIT [SECTION 63]

(i) Requirement of Tax Audit: It is obligatory for the persons mentioned in column (2) of the table below, carrying on business or profession, to get his accounts audited before the "specified date" by a Chartered Accountant, if the conditions mentioned in the corresponding row of column (3) are satisfied

	Persons	When tax audit is required?
(1)	**(2)**	**(3)**
1	**Every Person carrying on Business or Profession [other than that taxable on presumptive basis u/s 58(2)]**	
(a)	In case of a person carrying on business - subject to provisions of clause (b)	If his total sales, turnover or gross receipts in business > **₹ 1 crore** in the relevant tax year
(b)	If in case of such person carrying on business - (i) Aggregate of all amounts received **in cash** (including amount received for sales, turnover or gross receipts) during the tax year ≤ 5% of the said amount; and (ii) Aggregate of all payment made including amount incurred for expenditure **in cash** during the tax year ≤ 5% of the said payments	If his total sales, turnover or gross receipts in business > **₹ 10 crore** in the relevant tax year
	Note – The payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the payment or receipt, as the case may be, in cash.	
(c)	In case of a person carrying on profession	If his gross receipts in profession > **₹ 50 lakh** in the tax year.
Note – The requirement of tax audit u/s 63 does not apply to a person who declares profits and gains of business or profession for the tax year as per the presumptive basis u/s 58(2).		

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2	**In case of Business or Profession taxable on presumptive basis u/s 58(2)**	
	In case of an assessee covered u/s 58(2)	If such assessee claims that the profits and gains from business or profession in the relevant T.Y. are **lower** than the deemed profits as per those sections

(ii) **Audit Report:** The above mentioned persons have to furnish by the specified date, a report of such audit in the prescribed form, duly signed and verified by the accountant. For this purpose, the Board has prescribed under Rule 47, Form No. 26 containing form of audit report and particulars to be furnished therewith.

(iii) **Accounts audited under other statutes are considered:** Where a person is required to get his accounts audited by or under any other law, it will be sufficient if such person gets the accounts audited of such business or profession under such law before the specified date and furnishes by that specified date the report of such audit along with the report of the accountant in the prescribed form.

Thus, for example, the provision regarding compulsory audit does not imply a second or separate audit of accounts of companies whose accounts are already required to be audited under the Companies Act, 2013. The provision only requires that companies should get their accounts audited under the Companies Act, 2013 before the specified date and in addition to the report required to be given by the auditor under the Companies Act, 2013 furnish a report for tax purposes in the prescribed form.

(iv) **Specified date:** The expression **"specified date"** in relation to the accounts of the tax year or years relevant to any tax year means the date one month prior to the due date for furnishing the return of income under section 263(1).

The due date for filing return of income in case of assessees (other than companies) who are required to get their accounts audited is 31st October of the financial year succeeding the relevant tax year. **Hence, the specified date**

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for tax audit would be 30th September of the financial year succeeding the relevant tax year.[6]

(v) **Fees for failure:** If any person fails to get his accounts audited for any tax year or years and furnish the audit report as required under section 63, the person shall be liable to pay following fees under section 428(c):

For a delay **upto 1 month** for which such failure continues	₹ 75,000
Delay **beyond 1 month**	₹ 1,50,000

3.16 SPECIAL PROVISIONS FOR COMPUTING PROFITS AND GAINS OF BUSINESS OR PROFESSION ON PRESUMPTIVE BASIS IN CASE OF CERTAIN RESIDENTS [SECTION 58]

Section 58 provides for computation of profits of certain business or profession on presumptive basis where profits are to be calculated in a pre-determined manner.

1. Applicability of the provisions

Provisions of this section apply if the following conditions are fulfilled:

(i) Assessee carries on any specified business or profession as mentioned in the Table below)

(ii) Assessee is an eligible assessee as specified in the Table below

(iii) Total turnover or gross receipts of business or profession during the tax year does not exceed the limit specified in the table below.

If the above mentioned conditions are fulfilled, the profits of the business or profession shall be computed by applying presumptive rate in the manner specified in the Table below and such profits shall be deemed to be the profits and gains of such business or profession chargeable to tax under the head "Profits and gains of business or profession" [Section 58(2)].

[6] In case of a person whose due date for filing return of income is 30th November of the financial year succeeding the relevant tax year, the specified date for tax audit would be 31st October of the financial year succeeding the relevant tax year

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S. No.	Specified business or profession	Assessee	Total turnover or gross receipts of business or profession during tax year	Manner of computation
A	B	C	D	E
1.	Any business other than the business specified in 2.	Eligible assessee	(a) ≤ ₹ 2 cores; or (b) ≤ ₹ 3 cores, where the amount or aggregate of amounts received, **in cash**, ≤ 5% of the total turnover or gross receipts.	(A) The aggregate of (i) 6% of total turnover or gross receipts which is received by specified banking or online mode during the tax year or before the due date specified in section 263(1) in respect of that tax year; (ii) 8% of total turnover or gross receipts as reduced by the turnover or gross receipts covered in (i); or (B) profit claimed to have been actually earned, **whichever is higher.**

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	Meaning of eligible assessee: Eligible Assessee means a resident individual, HUF or Partnership firm (but not LLP), and who (i) has not claimed deduction Chapter VIII Part "C – Deductions in respect of certain incomes", for the relevant tax year. (ii) does not carry on specified profession as defined in section 62(4). (iii) does not earn any income in the nature of commission or brokerage; (iv) does not carry on any agency business;			
	Note: The receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.			
2.	Business of plying, hiring or leasing goods carriage	An assessee, who owns ≤ 10 goods carriages at any time during the tax year.		(A) Aggregate of **(i) For a heavy goods vehicle:** ₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for each vehicle for every month or part of a month; **(ii) For a vehicle, other than heavy goods vehicle:** ₹ 7,500, for each goods carriage for every month

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				or part of a month during which the vehicle is owned by the assessee in the tax year or (B) Profit claimed to have been actually earned, **whichever is higher.**
	Allowability of salary and interest to partner in case of assessee is a firm - Where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed as per presumptive provisions subject to the conditions and limits specified in section 35(e).			
	Goods carriage treated as owned by the assessee - An assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.			
	Meaning of heavy goods vehicle - Any goods carriage, the gross vehicle weight of which exceeds 12,000 kilograms.			
	In respect of a tractor or a road-roller, where the gross vehicle weight is not applicable, and unladen weight exceeds 12,000 Kilograms, the profits and gains from each goods carriage shall be at the rate of ₹ 1,000 per ton of unladen weight for every month or part of the month [Clarification dated 14.8.2019].			
	Provisions of section 62 and 63 not to apply and for computing monetary limit of maintenance of accounts and tax audit, gross receipt from such business not to be included - The provisions of sections 62 and 63 shall not apply in so far as they relate to the above business of plying, hiring or leasing goods carriage and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.			
3.	Specified profession as	Specified assessee	(a) ≤ ₹ 50 lakhs; or	50% of the gross receipts

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	referred to in section 62(4) namely legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration, information technology or company secretary or any other profession as notified by the CBDT		(b) ≤ ₹ 75 lakhs, where the amount or aggregate of amounts received, **in cash**, ≤ 5% of the total turnover or gross receipts.	or profit claimed to have been actually earned, whichever is higher.
	Meaning of specified assessee: Specified assessee means an individual or a firm, other than an LLP, who is a resident in India.			
	Note: The receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.			

2. Meaning of Specified banking or online mode

Specified Banking or Online Mode mean transaction by

- an account payee cheque or
- an account payee bank draft or
- use of electronic clearing system through a bank account or
- through such other electronic mode, as may be prescribed.

As per Rule 48 of the Income-tax Rules, 2026, "other electronic modes of payment" are the following:

- Credit Card;
- Debit Card;
- Net Banking;

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- IMPS (Immediate Payment Service);
- UPI (Unified Payment Interface);
- RTGS (Real Time Gross Settlement);
- NEFT (National Electronic Funds Transfer);
- BHIM (Bharat Interface for Money) Aadhaar Pay, and
- Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC.

3. Non-applicability of section 26 to 54

The provisions of sections 26 to 54, to the extent contrary to this section, shall not apply to the manner of computation of profits and gains of the specified business or profession.

4. Requirement of maintenance of books of account u/s 62 and audit u/s 63 [Section 58(3)]

If the assessee referred to in above table **claims that**

(a) **his profits and gains actually earned from the specified business or profession are lower** than the profits or gains computed by applying the presumptive provisions, and

(b) **whose total income exceeds the basic exemption limit for that year,** such assessee has to

(i) keep and maintain such books of account and other documents as required under section 62 and

(ii) get the accounts audited and furnish a report of such audit as required under section 63.

5. No deduction, loss or allowance allowed [Section 58(4)]

Any loss, allowance or deduction allowable under the provisions of the Act, shall not be allowed against the income computed in the manner specified in above table.

6. Written down value of asset [Section 58(6)]

The WDV of any asset used for the purpose of specified business or profession shall be computed as if the assessee had claimed and was actually allowed

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depreciation in respect of depreciation thereon for each of the relevant tax years.

7. Consequences if the eligible assessee referred to in Table: S. No. 1 who has once declared profits as per section 58(2) does not declare profits as per section 58(2) in the subsequent 5 tax years

Where an eligible assessee declares profit for any tax year as per the provisions of section 58(2) (Table: S. No. 1) and he declares profit for any of the five tax years succeeding such tax year in contravention of the provisions of section 58(1), then he shall not be eligible to claim the benefit of the provisions of this section **for five tax years subsequent to the tax year** in which the profit has not been declared as per the provisions of the said sub-section [Section 58(7)].

In such a case, the assessee would have to **maintain books of account and other documents as required under section 62** and get them **audited** and furnish report as required under section 63, **if his total income exceeds the basic exemption limit in those years** [Section 58(8)].



Let us consider the following particulars relating to a resident individual, Mr. A, being an eligible assessee carrying on retail trade business whose total turnover do not exceed ₹ 2 crore in any of the tax years 2026-27 to 2028-29-

Particulars	***T.Y.2026-27***	***T.Y.2027-28***	***T.Y.2028-29***
Total turnover (₹)	*1,80,00,000*	*1,90,00,000*	*2,00,00,000*
Amount received through prescribed electronic modes on or before 31st August of the immediately succeeding T.Y.	*1,60,00,000*	*1,45,00,000*	*1,80,00,000*
Income offered for taxation (₹)	*11,20,000*	*12,30,000*	*10,00,000*
% of gross receipts	*6% on ₹ 1.60 crore and 8% on ₹ 20 lakhs*	*6% on ₹ 1.45 crore and 8% on ₹ 45 lakhs*	*5% on ₹ 2 crore*
Offered income as per presumptive taxation scheme u/s 58	*Yes*	*Yes*	*No*

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In the above case, Mr. A, an eligible assessee, opts for presumptive taxation under section 58 for T.Y.2026-27 and T.Y.2027-28 and offers income of ₹ 11.20 lakh and ₹ 12.30 lakh on gross receipts of ₹ 1.80 crore and ₹ 1.90 crore, respectively.

However, for T.Y.2028-29, he offers income of only ₹ 10 lakh on turnover of ₹ 2 crore, which amounts to 5% of his gross receipts. As per section 58(3), he is required to maintain books of account under section 62 and get the same audited under section 63 for T.Y. 2028-29. Since he has offered income in contravention with the provisions of section 58(1) for T.Y. 2028-29, he will not be eligible to claim the benefit of section 58 for next five years subsequent to the tax year 2028-29 i.e., from T.Y.2029-30 to 2033-34.



24.	*Mr. A carries on business with turnover of ₹ 3.80 crore during T.Y. 2026-27. The cash receipts are 3% of total receipts and cash payments are 4% of total payments. Whether he is required to get his accounts audited under section 63?*	
	(a)	*Yes, since turnover exceeds ₹ 1 crore during T.Y. 2026-27*
	(b)	*No, since turnover does not exceed ₹ 10 crore during T.Y. 2026-27 and cash receipts and cash payments does not exceed 5% of total receipts and total payments*
	(c)	*Yes, since turnover exceeds ₹ 50 lakhs during T.Y. 2026-27*
	(d)	*No, because business income is below taxable limit*
25.	*Which of the following assessees is NOT eligible for presumptive taxation under section 58 for normal business?*	
	(a)	*Resident individual*
	(b)	*Resident HUF*
	(c)	*LLP*
	(d)	*Resident partnership firm*

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26.	*A resident individual carrying on agency business wants to opt for presumptive taxation under section 58. Which of the following is correct?*	
	(a)	*Eligible for presumptive taxation if turnover does not exceed ₹ 2 crore*
	(b)	*Eligible only if cash receipts are below 5% of total receipts*
	(c)	*Not eligible for presumptive taxation*
	(d)	*Eligible only if profit exceeds 8% of gross receipts or turnover*

ILLUSTRATION 16

Mr. Praveen engaged in retail trade, reports a turnover of ₹ 2,98,50,000 for the tax year 2026-27. Amount received in cash during the T.Y. 2026-27 is ₹ 14,00,000 and balance through specified banking and online mode on or before 31st August 2027. His income from the said business as per books of account is ₹ 15,00,000 computed as per the provisions of Chapter IV-D "Profits and gains from business or Profession" of the Income-tax Act, 2025. Retail trade is the only source of income for Mr. Praveen. T.Y. 2025-26 was the first year for which he declared his business income in accordance with the provisions of presumptive taxation u/s 58[7].

(i) Is Mr. Praveen also eligible for presumptive determination of his income chargeable to tax for the tax year 2026-27?

(ii) If so, determine his income from retail trade as per the applicable presumptive provision.

(iii) In case Mr. Praveen wants to declare profits as per books of account from retail trade, what are his obligations under the Income-tax Act, 2025?

(iv) What is the due date for filing his return of income under both the options?

SOLUTION

(i) Yes. Since his cash receipts during the T.Y. does not exceed 5% of the total turnover (14,00,000/2,98,50,000 x 100) and his total turnover for the T.Y.2026-27 is below ₹ 300 lakhs, he is eligible for presumptive taxation scheme under section 58 (Table: Sl. No. 1) in respect of his retail trade business.

[7] Erstwhile section 44AD

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(ii) His income from retail trade, applying the presumptive tax provisions under section 58 (Table: Sl. No. 1), would be ₹ 18,19,000 (₹ 1,12,000, being 8% of ₹ 14,00,000 + ₹ 17,07,000, being 6% of ₹ 2,84,50,000).

(iii) Mr. Praveen had declared profit for the tax year 2025-26 in accordance with the presumptive provisions and if he wants to declare profits as per books of account which is lower than the presumptive income for any of the five consecutive tax years i.e., T.Y. 2026-27 to T.Y. 2030-31, he would not be eligible to claim the benefit of presumptive taxation for five tax years subsequent to the tax year in which the profit has not been declared in accordance the presumptive provisions i.e. if he declares profits lower than the presumptive income in say T.Y. 2026-27, then he would not be eligible to claim the benefit of presumptive taxation for T.Y. 2027-28 to T.Y. 2031-32.

Consequently, Mr. Praveen is required to maintain the books of accounts and get them audited under section 63, since his income exceeds the basic exemption limit.

(iv) In case he declares presumptive income under section 58, the due date would be 31st August, 2027.

In case he declares profits as per books of account which is lower than the presumptive income, he is required to get his books of account audited, in which case the due date for filing of return of income would be 31st October, 2027.

ILLUSTRATION 17

Mr. X commenced the business of operating goods vehicles on 1.4.2026. He purchased the following vehicles during T.Y.2026-27. Compute his income under section 58 for T.Y. 2026-27.

	Gross Vehicle Weight (in kilograms)	***Number***	***Date of purchase***
(1)	*7,000*	*2*	*10.04.2026*
(2)	*6,500*	*1*	*15.03.2027*
(3)	*10,000*	*3*	*16.07.2026*
(4)	*11,000*	*1*	*02.01.2027*
(5)	*15,000*	*2*	*29.08.2026*
(6)	*15,000*	*1*	*23.02.2027*

Would your answer change if the goods vehicles purchased in April, 2026 were put to use only in July, 2026?

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SOLUTION

Since Mr. X does not own more than 10 vehicles at any time during the tax year 2026-27, he is eligible to opt for presumptive taxation scheme under section 58. ₹ 1,000 per ton of gross vehicle weight or unladen weight per month or part of the month for each heavy goods vehicle and ₹ 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by him would be deemed as his profits and gains from such goods carriage.

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

(1)	(2)	(3)	(4)
Number of Vehicles	**Date of purchase**	**No. of months for which vehicle is owned**	**No. of months × No. of vehicles [(1) × (3)]**
For Heavy goods vehicles			
2	29.08.2026	8	16
1	23.02.2027	2	2
			18
For goods vehicles other than heavy goods vehicle			
2	10.4.2026	12	24
1	15.3.2027	1	1
3	16.7.2026	9	27
1	02.1.2027	3	3
			55

The presumptive income of Mr. X under section 58 for T.Y.2026-27 would be -

₹ 6,82,500, i.e., 55 × ₹ 7,500, being for other than heavy goods vehicle + 18 x ₹ 1,000 x 15 ton being for heavy goods vehicle.

The answer would remain the same even if the two vehicles purchased in April, 2026 were put to use only in July, 2026, since the presumptive income has to be calculated per month or part of the month for which the vehicle is owned by Mr. X.

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3.17 COMPUTATION OF BUSINESS INCOME IN CASES WHERE INCOME IS PARTLY AGRICULTURAL AND PARTLY BUSINESS IN NATURE

Income from manufacture of rubber, coffee and tea [Rule 271]

(1) In case of incomes specified in the table below, the income shall be computed as if it were income derived from business and a percentage of such incomes shall be deemed to be the income liable to tax.

S. No.	Nature of Income	% of such income deemed to be the income liable to tax
1	Income from sale of rubber products derived from rubber plant grown by the seller **in India [Refer Note Below]**	35%
2	Income derived from the sale of coffee grown and cured by the seller **in India**	25%
3	Income derived from the sale of coffee grown, cured, roasted, and grounded by the seller in India with or without mixing chicory or other flavouring ingredients	40%
4	Income derived from the sale of tea grown and manufactured by the seller **in India**	40%
Note - Income from sale of centrifuged latex or cenex or latex-based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, remilled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed from field latex or coagulum obtained from rubber plants grown by the seller in India.		

(2) In computing such income, an allowance shall be made in respect of the cost of planting rubber plants, coffee plants and tea bushes, in replacement of plants or bushes that have died or become permanently useless in an area already planted, if such area has not previously been abandoned.

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(3) For the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of Schedule III (Table: S. No. 21), is not includible in the total income.

Note: The percentage of income as mentioned above is to be treated as taxable income and the balance shall be treated as agriculture income.

ILLUSTRATION 18

Miss Vivitha, a resident and ordinarily resident in India, has derived the following income from various operations (relating to plantations and estates owned by her) during the year ended 31-3-2027:

S. No.	***Particulars***	***₹***
(i)	*Income from sale of centrifuged latex processed from rubber plants grown in Darjeeling.*	*3,00,000*
(ii)	*Income from sale of coffee grown and cured in Yercaud, Tamil Nadu.*	*1,00,000*
(iii)	*Income from sale of coffee grown, cured, roasted and grounded, in Colombo. Sale consideration was received at Chennai.*	*2,50,000*
(iv)	*Income from sale of tea grown and manufactured in Shimla.*	*4,00,000*
(v)	*Income from sapling and seedling grown in a nursery at Cochin. Basic operations were not carried out by her on land.*	*80,000*

You are required to compute the business income and agricultural income of Miss Vivitha for the T.Y. 2026-27.

SOLUTION

Computation of business income and agricultural income of Ms. Vivitha for the T.Y.2026-27

Sr. No.	**Source of income**	**Gross (₹)**	**Business income**		**Agricultural income**
			%	**₹**	**₹**
(i)	Sale of centrifuged latex from rubber plants grown in India.	3,00,000	35%	1,05,000	1,95,000
(ii)	Sale of coffee grown and cured in India.	1,00,000	25%	25,000	75,000

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(iii)	Sale of coffee grown, cured, roasted and grounded outside India. **(See Note 1 below)**	2,50,000	100%	2,50,000	-
(iv)	Sale of tea grown and manufactured in India	4,00,000	40%	1,60,000	2,40,000
(v)	Saplings and seedlings grown in nursery in India **(See Note 2 below)**	80,000		Nil	80,000
	Total			**5,40,000**	**5,90,000**

Notes:

1. Where income is derived from sale of coffee grown, cured, roasted and grounded by the seller in India, 40% of such income is taken as business income and the balance as agricultural income. However, in this question, these operations are done in Colombo, Sri Lanka. Hence, there is no question of such apportionment and the whole income is taxable as business income. Receipt of sale proceeds in India does not make this agricultural income. In the case of an assessee, being a resident and ordinarily resident, the income arising outside India is also chargeable to tax.

2. Section 2(5)(d) provides that the income derived from saplings or seedlings grown in a nursery would be deemed to be agricultural income whether or not the basic operations were carried out on land.

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LET US RECAPITULATE

Method of Accounting [Section 276]

Income chargeable under this head shall be computed as per the method of accounting, either cash or mercantile basis, regularly and consistently employed by the assessee.

Income chargeable under this head [Section 26]

(i)	Income arising to any person by way of profits and gains from the business or profession carried on by him at any time during the tax year. However, any income from letting out of a residential house or a part of the house by the owner shall not be chargeable under the head "Profits and gains of business or profession" and would be chargeable under the head "Income from house property".
(ii)	Any compensation or other payment due to or received by any person, by whatever name called (a) wholly or substantially managing the affairs - (A) of an Indian company or (B) in India, of any other company; or (b) holding an agency in India for any part of the business activities any other person; or (c) for any contract relating to business, in connection with the termination of his management, office, agency or contract, as the case may be, or modification of terms and conditions relating thereto.
(iii)	Any compensation or payment due to or received by any person, for vesting of the management of any property or business, in the Government including any corporation owned or controlled by the Government under any law in force.
(iv)	Income derived by a trade, professional or similar association from specific services performed for its members.
(v)	In the case of an assessee carrying on export business, the following incentives –
	(a) Profit on sale of import entitlements;

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	(b)	Cash assistance against exports;
	(c)	Duty drawback;
	(d)	Duty remission.
	(e)	any other export incentive
(vi)	The value of any benefit or perquisite arising from business or the exercise of profession, whether (a) convertible into money or not; or (b) in cash or in kind or partly in cash and partly in kind.	
(vii)	Any interest, salary, bonus, commission or remuneration due to, or received by, a partner of a firm from such firm (to the extent allowed as deduction in the hands of the firm). However, the partner's share in the total income of the firm or LLP is exempt from tax [Schedule III (Table: Sl. No. 2)].	
(viii)	Any sum, received or receivable, in cash or kind, under an agreement for –	
	(a)	not carrying out any activity in relation to any business or profession; or
	(b)	not sharing any know-how, patent, copyright, trademark, licence, franchise or any other business of commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision of services.
(ix)	Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.	
(x)	Fair market value of inventory as on date on which it is converted into or treated as a capital asset.	
(xi)	Any sum, whether received or receivable, in cash or kind when a capital other than land or goodwill or financial instrument, is demolished, destroyed, discarded or transferred and the whole of the expenditure on it has been allowed as a deduction under section 46 of the Income-tax Act, 2025 or under section 35AD of the Income-tax Act, 1961.	

Manner of computation of income under the head "Profits and gains of business or profession"

As per section 27, the income referred to in section 26 has to be computed in accordance with the provisions contained in sections 28 to 60, except section 58.

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Admissible Deductions	
Section	**Deduction**
28	Amount paid on account of **premium, rent, rates, taxes, repairs** (not including expenditure in the nature of capital expenditure) in respect of premises, machinery, plant or furniture used by the assessee for the purposes of his business or profession. In case the premises are occupied by the assessee as a tenant, the amount of repairs would be allowed as deduction only if he has undertaken to bear the cost of repairs to the premises.
29	♦ Any sum paid by the assessee as an employer by way of contribution towards a recognized provident fund or approved superannuation fund [Section 29(1)(a)]. ♦ Any sum paid by the assessee as an employer by way of contribution towards a pension scheme referred to in section 124, to the extent of 14% of salary of any employee in the tax year. Salary includes dearness allowance, if the terms of employment so provide [Section 29(1)(b)]. ♦ Any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust [Section 29(1)(c)]. ♦ Provision made for the purpose of making contribution towards approved gratuity fund or for the purpose of payment of any gratuity that has become payable during the tax year is allowable u/s 29(1)(d). ♦ Amount received by assessee-employer as contribution from his employees towards their welfare fund to be allowed as deduction only if such amount is credited by the assessee to the employee's account in the relevant fund on or before the due date of filing of return of income under section 263(1) for the tax year. Amount credited after the said due date would **not** be eligible for deduction.
30	♦ Insurance premium paid for policy against risk of damage or destruction of the stock or stores [Section 30(a)]. ♦ Premium paid by employer for health insurance of employees [Section 30(c)].

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31(2)	Any **bad debts written off as irrecoverable** in the accounts of the assessee for the tax year, provided the **debt has been taken into account in computing the income** of the tax year or any earlier tax year. Amount of debt taken into account in computing the income of the assessee on the basis of notified ICDSs to be allowed as deduction in the tax year in which such debt or part thereof becomes irrecoverable. If a debt, which has not been recognized in the books of account as per the requirement of the accounting standards but has been taken into account in the computation of income as per the notified ICDSs, has become irrecoverable, it can still be claimed as bad debts under section 31(2) since it shall be deemed that the debt has been written off as irrecoverable in the books of account by virtue of the section 31(3)(b). This is because some ICDSs require recognition of income at an earlier point of time (prior to the point of time such income is recognised in the books of account). Consequently, if the whole or part of such income recognised at an earlier point of time for tax purposes becomes irrecoverable, it can be claimed as bad debts on account of the second proviso to section 31(3)(b).
32	♦ **Bonus and commission** provided the sum paid to the employees as bonus or commission shall not be payable to them as profits or dividends if it had not been paid as bonus or commission [Section 32(a)]. ♦ **Interest paid in respect of capital borrowed for the purposes of business or profession.** However, any interest paid for acquisition of an asset (whether capitalized in the books of account or not) for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall **not** be allowed as deduction. Such amount of interest would be added to the actual cost of asset [Section 32(b)]. ♦ **Discount on ZCBs –** Allowed on pro rata basis having regard to the period of life of the bond [Section 32(d)] ♦ **Expenses on family planning by a company** - Any bona fide expenditure incurred by a **company** for the purpose of promoting family planning amongst its employees. In case the expenditure or part thereof is of **capital nature, one-fifth of such expenditure** shall be deducted for the tax

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	year in which it was incurred; and the balance in four equal installments in four succeeding tax years. **Family planning expenses, whether revenue or capital, is <u>not</u> allowable as deduction for non-corporate assesses, like individuals, HUFs, firms, LLPs.** [Section 32(i)] ♦ **Amount of securities transaction tax and commodities transaction tax paid** - An amount of **securities transaction tax (STT) or commodities transaction tax (CTT) paid** by the assessee in respect of taxable securities transactions or taxable commodities transactions entered into in the course of his business during the tax year, **if the income arising from such taxable securities transactions is included in the income computed under the head "Profits and gains of business or profession"** [Section 32(k)].
33	**Depreciation** Depreciation is mandatorily allowable as deduction. **Conditions for claiming depreciation** ♦ Asset must be used for the purpose of business or profession at any time during the tax year. **Note:** If the asset is acquired during the tax year and is put to use for less than 180 days during **that** tax year then, only 50% of the depreciation calculated at the rates prescribed will be allowed. ♦ The asset should be owned (wholly or partly) by the assessee. ♦ The depreciation shall be allowed on the written down value of **block of assets** at the **prescribed rates** (except in the case of assets of power generating units, in respect of which depreciation has to be calculated as a percentage of actual cost). As per section 33(3), **block of assets** means a group of assets falling within a class of assets comprising: (a) tangible assets, being buildings, machinery, plant or furniture, (b) intangible assets, being know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, not being goodwill of a business or profession; in respect of which, the same rate of depreciation is prescribed.

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<table>
<tr><td></td><td>
Written Down Value of Assets (W.D.V.) [Section 41]
<table>
<tr><td>(1) W.D.V. of the block of assets in immediately preceding tax year</td><td>xxx</td></tr>
<tr><td>(2) Less: Depreciation actually allowed in respect of that block of assets in said preceding tax year</td><td>xxx</td></tr>
<tr><td>Opening balance as on 1st April of the current T.Y.</td><td>xxx</td></tr>
<tr><td>Increased by -</td><td></td></tr>
<tr><td>(3) Actual cost of any asset falling within that block, acquired during the tax year</td><td>xxx</td></tr>
<tr><td>(4) Total (1) - (2) + (3)</td><td>xxx</td></tr>
<tr><td>Reduced by -</td><td></td></tr>
<tr><td>(5) Money payable together with scrap value, if any, in respect of any asset falling within the block which is sold, transferred, demolished, destroyed or discarded during the tax year. However, such amount cannot exceed the amount in (4).</td><td>xxx</td></tr>
<tr><td>(6) In case of slump sale, actual cost of the asset (-) depreciation allowable under the Income-tax Act, 2025 or under the Income-tax Act, 1961 as if such asset was the only asset in the relevant block of asset However, such amount of reduction cannot exceed the WDV.</td><td>xxx</td></tr>
<tr><td>(7) W.D.V at the end of the year (on which depreciation is allowable) [(4) – (5) – (6)]</td><td>xxx</td></tr>
<tr><td>(8) Depreciation at the prescribed rate
(Rate of Depreciation × WDV arrived at in (7) above)</td><td>xxx</td></tr>
</table>
Note – If the actual cost includes cost of asset put to use for less than 180 days in the relevant T.Y. of acquisition, then, depreciation on such cost would be 50% of the prescribed rate.
</td></tr>
<tr><td>33(8)</td><td>In case of an assessee exercising the option under section 202(4) of shifting out of the default tax regime, additional depreciation at the rate of 20% of actual cost of plant or machinery acquired and installed by an assessee engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power, shall be allowed.</td></tr>
</table>

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	If plant and machinery is acquired and put to use for the purpose of business or profession for **less than 180 days during the tax year** in which it is acquired, additional depreciation will get restricted to **10% of actual cost** (i.e., 50% of 20%). The balance additional depreciation@10% of actual cost will be allowed in the immediately succeeding tax year if the assessee exercises the option of shifting out of the default tax regime in the immediately succeeding tax year. Additional depreciation is allowed to the assessee if the following conditions are satisfied: ♦ the assessee is engaged in the business of manufacture or production of any article or thing or in the business of generation or transmission or distribution of power. ♦ the assessee acquires and installs new machinery or plant ♦ the new machinery or plant is first put to use by the assessee for the purpose of business and ♦ the new machinery or plant (not being a ship or an aircraft) • was not used either within or outside India by any other person before its installation by the assessee • is not installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house • is not in the nature of any office appliances or road transport vehicles • is not an asset on which 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 tax year.
44	**Preliminary expenditure incurred by Indian companies and other resident non-corporate assessees** shall be allowed as deduction over a period of **5 years** beginning with the tax year in which business commences or in which extension of the undertaking is completed or the new unit commences operation or production. **Examples of Preliminary expenses** – expenses on preparation of project report, feasibility report, market survey, engineering services, legal charges for drafting agreement.

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	In case of a Company, preliminary expenses would include, in addition to the above, legal charges for drafting MOA, AOA, printing of MOA and AOA, fee for registration of Co., expenditure in connection with issue of shares or debentures of Co. (i.e. underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus) **Qualifying amount** - Maximum aggregate amount of the qualifying expenses that can be amortized is **5% of the cost of project** (i.e., actual cost of fixed assets in the books of account on the last day of the T.Y.). In case of an Indian company, **5% of the cost of project or at its option, 5% of the capital employed by the company** (aggregate of issued share capital, debentures, long-term borrowings as on the last day of the T.Y.)**, whichever is higher.**
45	**Expenditure on Scientific Research** **Expenditure incurred by assessee [Allowable both under the default tax regime and the optional tax regime i.e., normal provisions of the Act]** ♦ Any revenue and capital expenditure (other than cost of acquisition of land) on scientific research for in-house research **related to its business** is allowable as deduction **[Section 45(1)(a)].** ♦ Deduction is also allowed in respect of payment of salary or purchase of material inputs for such scientific research during 3 years immediately preceding the year of commencement of business. Such expenditure is deemed to have been incurred in the year of commencement of business and is, hence, allowed as deduction in that year **[Section 45(2)(b)]**. ♦ Capital expenditure incurred during 3 years immediately preceding the year of commencement of the business is also deemed to have been incurred in the year in which the business commences, and is hence, allowed as deduction in that year **[Section 45(3)]** ♦ Unabsorbed capital expenditure on scientific research can be carried forward indefinitely for set-off against any income of the assessee other than Salaries.

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Contributions to Outsiders [Allowable only if the assessee exercises the option of shifting out of the default tax regime]

In case of an assessee exercises the option of shifting out of the default tax regime and paying tax as per the optional tax regime under the normal provisions of the Act, contributions made by any assessee to certain specified/ approved institutions shall be entitled to deduction of 100% of contribution made to:

Section	Association/University/Company/College/IIT
45(3)(a)(i)	Notified approved research association/university/ college/ other institution for scientific research
45(3)(a)(ii)	Notified approved research association/university/ college/ other institution for research in social science or statistical research
45(3)(b)	Approved notified Company for scientific research
45(3)(c)	Approved National Laboratory/ University/ IIT/ specified person to be used for scientific research undertaken under an approved programme

Note – Contribution to outsiders for scientific/ social science/ statistical research is not allowable under the default tax regime u/s 202(1).

46

This section provides for **investment-linked tax deduction** in respect of the following specified businesses commencing operations on or after the dates specified thereto, **if the assessee exercises the option under section 202(4) of shifting out of the default tax regime** -

- setting-up and operating 'cold chain' facilities for specified products (commencing operations on or after 1.4.2009);
- setting-up and operating warehousing facilities for storing agricultural produce (commencing operations on or after 1.4.2009);
- laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network (commencing operations on or after 1.4.2007);
- building and operating a hotel of two-star or above category, anywhere in India (commencing operations on or after 1.4.2010);

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- building and operating a hospital, anywhere in India, with at least 100 beds for patients (commencing operations on or after 1.4.2010);
- developing and building a housing project under a notified scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government (commencing operations on or after 1.4.2010);
- developing and building a housing project under a notified scheme for affordable housing framed by the Central Government or State Government (commencing operations on or after 1.4.2011);
- production of fertilizer in India (commencing operations on or after 1.4.2011);
- setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (commencing operations on or after 1.4.2012);
- bee-keeping and production of honey and beeswax (commencing operations on or after 1.4.2012);
- setting up and operating a warehousing facility for storage of sugar (commencing operations on or after 1.4.2012);
- laying and operating a slurry pipeline for transportation of iron-ore (commencing operations on or after 1.4.2014);
- setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the Board in accordance with the prescribed guidelines (commencing operations on or after 1.4.2014).
- developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility (commencing operations on or after 1.4.2017)

Quantum of deduction - 100% of the capital expenditure (other than expenditure on acquisition of any land, goodwill or financial instrument) incurred during the tax year, **wholly and exclusively for the above specified businesses** would be allowed as deduction from the business income of an assessee, if he has opted for the provisions of section 46.

Further, the expenditure incurred, wholly and exclusively, for the purpose of specified business **prior to commencement of operation** would be allowed as deduction during the tax year in which the assessee commences operation of his specified business,

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	provided the amount incurred prior to commencement has been **capitalized in the books of account of the assessee on the date of commencement of its operations**. **Payment exceeding ₹ 10,000 to be made through specified banking or online mode to qualify for deduction u/s 46** - Any expenditure in respect of which payment or aggregate of payment made to a person of an amount exceeding ₹ 10,000 in a day otherwise than through specified banking or online mode would **not** be eligible for deduction. **Non-eligibility for deduction u/s VIII-C** - An assessee availing investment-linked tax deduction u/s 46 in respect of any specified business in any tax year, is not eligible for claiming profit-linked deduction under Chapter VIII-C for the same or any other T.Y. in respect of such specified business if the assessee has claimed or opted for section 46 and deduction thereunder has been allowed to him. **Asset to be used only for specified business for 8 years** - Any asset in respect of which a deduction is claimed and allowed under section 46 shall be **used only for the specified business**, for a period of **8 years** beginning with the tax year in which such asset is acquired or constructed. If such asset is used for any purpose other than the specified business, **the total amount of deduction so claimed and allowed u/s 46** in any tax year in respect of such asset, **as reduced by the depreciation** allowable under section 33 as if no deduction had been allowed under section 46, shall be **deemed to be the business income of the assessee** of the tax year in which the asset is so used. **Note –** This deduction is not allowable under the default tax regime u/s 202(1).
52	**One-fifth of the expenditure incurred by an assessee-employer** in any tax year in the form of payment to any employee **in connection with his voluntary retirement** in accordance with a scheme of voluntary retirement, shall be allowed as deduction in that tax year and the balance in four equal installments in the immediately four succeeding tax years.
General	
34	An expenditure shall be allowed under section 34, provided:

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	♦ it is **not** in the nature of expenditure described under **sections 28 to 33, 44 to 46 and 52;** ♦ it is **not** in the nature of **capital expenditure**; ♦ it is **not** a **personal expenditure** of the assessee; ♦ it is laid out and expended **wholly and exclusively for the purpose of business/profession**; **Following are not considered as "laid out or expended wholly and exclusively for business or profession of the assessee:** ♦ it is **not** incurred for any purpose which is an **offence or which is prohibited by law**; and ♦ it is **not** an expenditure incurred by the assessee on **CSR activities referred to in section 135** of the Companies Act, 2013. ♦ It is not incurred for **advertisement in any souvenir, brochure, tract, pamphlet etc. published by a political party** Expenditure incurred for any purpose which is an offence or which is prohibited by law" would include and would be deemed to have always included the expenditure incurred by an assessee, - (i) for any purpose which is an offence under any law for the time being in force, in India or outside India or which is prohibited by any law for the time being in force, in India or outside India; or (ii) to provide any benefit or perquisite to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, governing the conduct of such person; or (iii) to compound an offence under any law for the time being in force, in India or outside India; or (iv) to settle proceedings initiated in relation to contravention under such law as may be notified by the Central Government in this behalf.
Amounts not deductible	
Section	**Particulars**
In the hands of any assessee	
35(a)(i)	Any sum paid on account of **income-tax** including surcharge or cess

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35(a)(ii)		**Tax paid by the employer on non-monetary perquisites** provided to its employees, which is exempt under section Schedule III (Table: Sl. No. 10) in the hands of the employee.
35(b)(i)		**30% of any sum payable to a resident on which tax is deductible at source under Chapter XIX-B and such tax has not been deducted or, after deduction has not been paid on or before the due date for filing of return of income u/s 263(1).** However, if such tax has been deducted in any subsequent year or has been deducted in the tax year but paid in the subsequent year after the due date specified under section 139(1), 30% of such sum shall be allowed as deduction in computing the income of the tax year in which such tax is paid.
35(b)(ii)		Any interest, royalty, fees for technical services or other sum chargeable under the Act, which is payable **outside India** or in India to a **non corporate non-resident or to a foreign company**, **on which tax deductible at source has not been deducted or after deduction has not been paid on or before the due date specified u/s 263(1).** However, if such tax has been deducted in any subsequent year or has been deducted in the tax year but paid in the subsequent year after the due date specified under section 263(1), such sum shall be allowed as deduction in computing the income of the tax year in which such tax is paid.
35(b)(iii)		Any contribution to a provident fund or the fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to make sure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head 'Salaries'.
35(c)		Any payment chargeable under the head "**Salaries**", if it is **payable outside India or to a non-resident, if tax has not been paid thereon nor deducted therefrom**
In case of partnership firms or LLPs -		
35(e)	(i)	Salary, bonus, commission or remuneration, by whatever name called, paid to any partner **who is not a working partner**;
	(ii)	Payment of remuneration to a working partner or interest to any partner, which is **not** – ♦ authorized by the **partnership deed**; or ♦ in accordance with the terms of the partnership deed.

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<table>
<tr><td></td><td>(iii)</td><td colspan="3">Payment of remuneration to a working partner or interest to any partner authorized by and in accordance with the terms of the partnership deed, but relates to a period falling prior to the date of such partnership and is not authorized by the earlier partnership deed.</td></tr>
<tr><td></td><td>(iv)</td><td colspan="3">Payment of interest to any partner authorised by and in accordance with the terms of the partnership deed and falling after the date of the partnership deed to the extent of the excess of the amount calculated at 12% simple interest per annum.</td></tr>
<tr><td></td><td>(v)</td><td colspan="3">Payment of remuneration to a working partner which is authorized by and in accordance with the partnership deed to the extent the aggregate of such payment to working partners exceed the following limits -</td></tr>
<tr><td></td><td></td><td>(a)</td><td>On the first ₹ 6,00,000 of the book-profit or in case of a loss</td><td>₹ 3,00,000 or 90% of the book-profit, whichever is more.</td></tr>
<tr><td></td><td></td><td>(b)</td><td>On the balance of book-profit</td><td>60%</td></tr>
<tr><td></td><td colspan="4">Meaning of Book profit:
Book profit means the net profit as shown in the P & L A/c for the relevant tax year computed in accordance with the provisions for computing income from profits and gains.
The above amount should be increased by the aggregate remuneration to all partners of the firm if the same has been deducted while computing net profit.</td></tr>
<tr><td colspan="5">Expenses or payments not deductible in certain circumstances</td></tr>
<tr><td>Section</td><td colspan="4">Particulars</td></tr>
<tr><td>36(2)</td><td colspan="4">Any expenditure incurred in respect of which a payment is made to a related person or entity, to the extent it is considered excessive or unreasonable by the Assessing Officer.
Few examples of related persons are as under:
<table>
<tr><th>Assessee</th><th>Related Person</th></tr>
<tr><td>Individual</td><td>Any relative of the individual (husband or wife, brother or sister, any lineal ascendant or descendant of the individual)</td></tr>
</table></td></tr>
</table>

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	Firm	Any **partner** of the firm or **relative** of such partner
	HUF or AOP	Any **member** of the AOP or HUF or any **relative** of such member
	Company	**Director** of the company or any **relative** of the director
	Any assessee	Any individual who has a **substantial interest** (20% or more voting power or beneficial entitlement to 20% of profits) in the business or profession of the assessee; or A **relative** of such individual.
36(4)	♦ Any expenditure, in respect of which a **payment or aggregate of payments** made in a single day to a person **exceeds ₹ 10,000 and is not made through specified banking or online mode.** ♦ In case of payments made to **transport operator for plying, hiring or leasing goods carriages**, an enhanced limit of **₹ 35,000** shall apply. If the payment/payments exceed this limit, the entire expenditure would be disallowed. ♦ However, disallowance would not be attracted if the cases and circumstances in which payment is not made through specified banking or online mode are covered in Rule 26. **Few Examples of exceptions covered in Rule 26:** Payment to RBI, SBI, Co-operative banks Payment made to Government, which according to its Rules, has to be made in legal tender Payment for purchase of agricultural produce, forest produce, fish and fish products, productions of horticulture or apiculture to the cultivator, grower or producer of such produce or products.	
36(5)	Where an expenditure has been allowed as deduction on accrual basis in any tax year, and payment is not made through specified banking or online mode in a subsequent tax year and such payment (or aggregate of payments made to a person in a day is made in a subsequent tax year) is in excess of the limits of ₹ 10,000/ ₹ 35,000 specified above, the payment/aggregate of payments so made shall be **deemed as profits and gains of the business or profession and charged to tax as income of the subsequent tax year**.	

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	However, the deeming provisions will not apply in the cases and circumstances covered in Rule 26.
Profits chargeable to tax [Section 38]	
38(1)(a)	Where deduction was allowed in respect of loss, expenditure or trading liability for any tax year and subsequently, during any tax year, the **assessee or successor of the business has obtained any amount in respect of such loss or expenditure** or some benefit in respect of such trading liability by way of **remission or cessation** thereof, the amount obtained or the value of benefit accrued shall be **deemed to be income of the T.Y. in which such benefit was obtained**.
38(1)(c)	**Amount realized on transfer of an asset used for scientific research** without being used for other purposes is taxable as business income in the year of sale **to the extent of lower of** deduction allowed under section 35(1)(iv) and sale proceeds
38(1)(d)	Any amount **recovered** by the assessee against **bad debt** earlier allowed as deduction shall be taxed as income in the year in which it is received.
Certain Deductions to be allowed only on Actual Payment [Section 37]	
In respect of the following sums payable by an assessee during the T.Y., deduction is allowable **only if the sum is actually paid on or before the due date of filing of return u/s 263(1)** for the said T.Y. Otherwise, the same would be allowed only in the year in which the sum is actually paid.	
(i)	**Tax, duty, cess or fee,** levied under any law in force; or
(ii)	**Contribution of the employer to a provident fund or superannuation fund or gratuity fund** or any other fund for the welfare of employees; or
(iii)	Amount payable by employer **in lieu of any leave at the credit of the employee**; or
(iv)	**Bonus or Commission** for services rendered payable to employees; or
(v)	**Interest on loans or advances or borrowings** from **specified financial entities** as per the terms and conditions of the agreement governing such loans or advances or borrowings; or
(vi)	Amount payable to the Indian Railways for **use of Railway assets**.
However, any sum payable by the assessee to a micro or small enterprise beyond the time-limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 would be allowed as deduction only in the T.Y. in which the sum is actually paid.	

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Section 15 of the of the Micro, Small and Medium Enterprises Development Act, 2006 mandates payment of goods or services to supplier, being a micro or small enterprises on or before the date as per the written agreement, which cannot be more than 45 days. If there is no such written agreement, the payment shall be made before the appointed day i.e., within 15 days.

If the sum is paid within the said period, deduction would be allowed in the year of accrual. If it is paid after the said period, then, deduction would be allowed only in the year of actual payment, even if it is paid on or before the due date of filing return of income u/s 263(1).

Other Provisions

Section	Particulars	
53	Where the consideration for the transfer of an asset (other than capital asset), being **land or building or both**, is less than the stamp duty value, the value so adopted or assessed or assessable (i.e., the **stamp duty value**) shall be deemed to be the full value of the consideration for the purposes of computing income under the head "Profits and gains of business or profession". However, if the stamp duty value does not exceed **110%** of the actual consideration received or accruing then, such consideration shall be deemed to be the full value of consideration for the purpose of computing profits and gains from transfer of such asset. Further, where the date of an agreement fixing the value of consideration for the transfer of the asset and the date of registration of the transfer of the asset are not same, the stamp duty value may be taken as on the date of the agreement for transfer instead of on the date of registration for such transfer, provided at least a part of the consideration has been received by specified banking or online mode on or before the date of agreement for transfer of such asset.	
63	**Mandatory audit of accounts of certain persons**	
	Category of person	**Condition for applicability of section 63**
(1)	**(2)**	**(3)**
I	**Every Person carrying on Business or Profession [other than that taxable on presumptive basis u/s 58(2)**	
(a)	In case of a person carrying on business – subject to provisions of clause (b)	If his total sales, turnover or gross receipts in business > **₹ 1 crore** in the tax year
(b)	If in case of such person carrying on business -	If his total sales, turnover or gross receipts in business > **₹ 10 crore** in the relevant TY

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	(i) Aggregate of all amounts received in cash (including amount received for sales, turnover or gross receipts) during the tax year ≤ 5% of the said amount; and (ii) Aggregate of all payment made including amount incurred for expenditure in cash during the tax year ≤ 5% of the said payments	
	Note – For this purpose, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the payment or receipt, as the case may be, in cash.	
(c)	In case of a person carrying on profession	If his gross receipts in profession > **₹ 50 lakh** in the tax year.
Note – The requirement of tax audit u/s 63 does not apply to a person who declares profits and gains of business or profession for the tax year as per the presumptive basis u/s 58(2).		
2	**In case of Business or Profession taxable on presumptive basis u/s 58(2)**	
	In case of an assessee covered u/s 58(2)	If such assessee claims that the profits and gains from business or profession in the relevant T.Y. are lower than the deemed profits as per those sections
Presumptive Income provisions		
Section	**Particulars**	**Deemed profits and gains**
58	1. In case if any businesses other than referred to in 2 below. Turnover is	(A) The aggregate of (i) 6% of total turnover or gross receipts which is received by specified banking or online mode

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	(a) ≤ ₹ 2 cores; or (b) ≤ ₹ 3 cores, where the amount or aggregate of amounts received, in cash, ≤ 5% of the total turnover or gross receipts	during the tax year or before the due date specified in section 263(1) in respect of that tax year; (ii) 8% of total turnover or gross receipts as reduced by the turnover or gross receipts covered in (i); or (B) profit claimed to have been actually earned, whichever is higher.
	2. An assessee, who owns ≤ 10 goods carriages at any time during the tax year and is in the business of plying, hiring or leasing goods carriage	(A) The aggregate of **(i) For a heavy goods vehicle,** ₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for each vehicle for every month or part of a month; **(ii) For a vehicle, other than heavy goods vehicle:** ₹ 7,500, for each goods carriage for every month or part of a month during which the vehicle is owned by the assessee in the tax year or (B) Profit claimed to have been actually earned, whichever is higher.
	3. An assessee, being an individual or a partnership firm (other than LLP) resident in India, who is engaged in any **profession referred to in section 62(4)** such as legal, medical, engineering or	50% of the gross receipts or profit claimed to have been actually earned, whichever is higher.

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	architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette; and whose total **gross receipts does not exceed ₹ 50 lakhs in a tax year.** If aggregate cash receipts in the relevant PY ≤ 5% of total turnover or gross receipts of the assessee, a higher gross receipts threshold of ₹ 75 lakhs would be applicable.	

Taxability in case of composite income

In case of incomes specified in the table below, the income shall be computed as if it were income derived from business and a percentage of such incomes shall be deemed to be the income liable to tax.

S. No.	Nature of Income	% of such income deemed to be the income liable to tax
1	Income from sale of rubber products derived from rubber plant grown by the seller **in India [Refer Note Below]**	35%
2	Income derived from the sale of coffee grown and cured by the seller **in India**	25%

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3	Income derived from the sale of coffee grown, cured, roasted, and grounded by the seller in India with or without mixing chicory or other flavouring ingredients	40%
4	Income derived from the sale of tea grown and manufactured by the seller **in India**	40%
Note - Income from sale of centrifuged latex or cenex or latex-based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, remilled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed from field latex or coagulum obtained from rubber plants grown by the seller in India.		

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TEST YOUR KNOWLEDGE

1. *Mr. Venus., engaged in manufacture of pesticides, furnishes the following particulars relating to its manufacturing unit at Chennai, for the year ending 31-3-2027:*

	(₹ in lakhs)
WDV of Plant and Machinery on 31.3.2026	*30.00*
Depreciation including additional depreciation for T.Y. 2025-26	*4.75*
New machinery purchased on 1-9-2026	*10.00*
New machinery purchased on 1-12-2026	*8.00*
Computer purchased on 3-1-2027	*4.00*

Additional information:

- *All assets were purchased by A/c payee cheque.*
- *All assets were put to use immediately.*
- *New machinery purchased on 1-12-2026 and computer have been installed in the office.*
- *During the year ended 31-3-2026, new machinery had been purchased on 31-10-2025, for ₹ 10 lakhs. Additional depreciation, besides normal depreciation, had been claimed thereon.*
- *Depreciation rate for machinery may be taken as 15%.*
- *The assessee has no brought forward business loss or unabsorbed depreciation as on 1.4.2026.*

Compute the depreciation available to the assessee as per the provisions of the Income-tax Act, 2025 and the WDV of different blocks of assets as on 31-3-2027 if -

(i) he exercises the option of shifting out of the default tax regime

(ii) he pays tax under the default tax regime under section 202(1).

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2. *Mr. Abhimanyu is engaged in the business of generation and distribution of electric power. He opts to claim depreciation on written down value for income-tax purposes. From the following details, compute the depreciation allowable as per the provisions of the Income-tax Act, 2025 for the T.Y. 2026-27, assuming he has exercised the option of shifting out of the default tax regime:*

	Particulars	***(₹ in lakhs)***
(i)	*WDV of block as on 31.3.2026 (15% rate)*	*50.00*
(ii)	*Depreciation for T.Y. 2025-26*	*7.50*
(iii)	*New machinery purchased on 12-10-2026*	*10.00*
(iv)	*Machinery imported from Colombo on 12-4-2026*	*9.00*
	This machine had been used only in Colombo earlier and the assessee is the first user in India.	
(v)	*New computer installed in generation wing unit on 15-7-2026*	*2.00*

All assets were purchased by A/c payee cheque.

3. *Examine with reasons, the allowability of the following expenses incurred by Mr. Manav, a wholesale dealer of commodities, under the Income-tax Act, 2025 while computing profit and gains from business or profession for the T.Y. 2026-27 if he has exercised the option of shifting out of the default tax regime -*

   (i) Construction of school building in compliance with CSR activities amounting to ₹ 5,60,000.

   (ii) Purchase of building for the purpose of specified business of setting up and operating a warehousing facility for storage of food grains amounting to ₹ 4,50,000.

   (iii) Interest on loan paid to Mr. X (a resident) ₹ 50,000 on which tax has not been deducted. The sales for the T.Y. 2025-26 was ₹ 202 lakhs. Mr. X has not paid the tax, if any, on such interest.

   (iv) Commodities transaction tax paid ₹ 20,000 on sale of bullion.

4. *Examine with reasons, for the following sub-divisions, whether the following statements are true or false having regard to the provisions of the Income-tax Act, 2025:*

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(i) *For a dealer in shares and securities, securities transaction tax paid in a recognized stock exchange is permissible business expenditure.*

(ii) *Where a person follows mercantile system of accounting, an expenditure of ₹ 25,000 has been allowed on accrual basis and in a later year, in respect of the said expenditure, assessee makes the payment of ₹ 25,000 through a crossed cheque, ₹ 25,000 can be the profits and gains of business under section 36(5) in the year of payment.*

(iii) *It is mandatory to provide for depreciation under section 33 of the Income-tax Act, 2025, while computing income under the head "Profits and Gains from Business and Profession".*

(iv) *The mediclaim premium paid to GIC by Mr. Lomesh for his employees, by an account payee cheque on 27.12.2026 is a deductible expenditure under section 30.*

(v) *Under section 52, amortization of expenditure incurred under eligible Voluntary Retirement Scheme at the time of retirement alone, can be done.*

(vi) *An individual engaged in trading activities and exercising the option of shifting out of the default tax regime can claim additional depreciation under section 33(8) in respect of new plant acquired and installed in the trading concern, where the increase in value of such plant as compared to the approved base year is more than 10%.*

5. *Examine, with reasons, the allowability of the following expenses under the Income-tax Act, 2025 while computing income from business or profession for the T.Y. 2026-27:*

(i) *Provision made on the basis of actuarial valuation for payment of gratuity ₹ 5,00,000. However, no payment on account of gratuity was made before due date of filing return.*

(ii) *Purchase of oil seeds of ₹ 50,000 in cash from a farmer on a banking day.*

(iii) *Tax on non-monetary perquisite provided to an employee ₹ 20,000.*

(iv) *Payment of ₹ 50,000 by using credit card for fire insurance.*

(v) *Salary payment of ₹ 10,00,000 to Mr. X outside India by a company without deduction of tax assuming Mr. X has not paid tax on such salary income.*

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(vi) *Payment made in cash ₹ 30,000 to a transporter in a day for carriage of goods.*

6. *Examine with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 2025:*

(a) *Payment made in respect of a business expenditure incurred on 16th February, 2027 for ₹ 25,000 through a crossed cheque is hit by the provisions of section 36(4).*

(b) (i) *It is a condition precedent to write off in the books of account, the amount due from debtor to claim deduction for bad debt.*

(ii) *Failure to deduct tax at source in accordance with the provisions of Chapter XIX, inter alia, from the amounts payable to a non-resident as rent or royalty, will result in disallowance while computing the business income where the non-resident payee has not paid the tax due on such income.*

7. *Mr. Sivam, a retail trader of Cochin gives the following Trading and Profit and Loss Account for the year ended 31st March, 2027:*

Trading and Profit and Loss Account for the year ended 31.03.2027

Particulars	₹	Particulars	₹
To Opening stock	90,000	By Sales	1,12,11,500
To Purchases	1,10,04,000	By Closing stock	1,86,100
To Gross Profit	3,03,600		-
	1,13,97,600		1,13,97,600
To Salary	60,000	By Gross profit b/d	3,03,600
To Rent and rates	36,000	By Income from UTI	2,400
To Interest on loan	15,000		
To Depreciation	1,05,000		
To Printing & stationery	23,200		
To Postage & telegram	1,640		
To Loss on sale of shares (Short-term)	8,100		
To Other general expenses	7,060		
To Net Profit	50,000		
	3,06,000		3,06,000

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Additional Information:

(i) It was found that some stocks were omitted to be included in both the Opening and Closing Stock, the values of which were:

Opening stock	*₹ 9,000*
Closing stock	*₹ 18,000*

(ii) Salary includes ₹ 10,000 paid to his brother, which is unreasonable to the extent of ₹ 2,000.

(iii) The whole amount of printing and stationery was paid in cash by way of one-time payment to Mr. Ramesh.

(iv) The depreciation provided in the Profit and Loss Account ₹ 1,05,000 was based on the following information:

The opening balance of plant and machinery (i.e., the written down value as on 31.3.2026 minus depreciation for T.Y. 2025-26) is ₹ 4,20,000. A new plant falling under the same block of depreciation was bought on 01.7.2026 for ₹ 70,000. Two old plants were sold on 1.10.2026 for ₹ 50,000.

(v) Rent and rates includes GST liability of ₹ 3,400 paid on 7.4.2027.

(vi) Other general expenses include ₹ 2,000 paid as donation to a Public Charitable Trust.

You are required to compute the profits and gains of Mr. Sivam under presumptive taxation u/s 58 and profits and gains as per the regular provisions of the Act assuming he has exercised the option of shifting out of the default tax regime. Assume that the whole of the amount of turnover received through specified banking or online mode during the tax year.

8. *Mr. Sukhvinder is engaged in the business of plying goods carriages. On 1st April, 2026, he owns 10 trucks (out of which 6 are heavy goods vehicles, the gross vehicle weight of such goods vehicle is 15,000 kg each). On 2nd May, 2026, he sold one of the heavy goods vehicles and purchased a light goods vehicle on 6th May, 2026. This new vehicle could, however, be put to use only on 15th June, 2026.*

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Compute the total income of Mr. Sukhvinder for the T.Y. 2026-27, taking note of the following data:

Particulars	₹	₹
Freight charges collected		12,70,000
Less: Operational expenses	6,25,000	
Depreciation as per section 33	1,85,000	
Other office expenses	15,000	8,25,000
Net Profit		4,45,000
Other business and non-business income		70,000

9. *Mr. Raju, a manufacturer at Chennai, gives the following Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2027:*

Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2027

Particulars	₹	Particulars	₹
To Opening Stock	71,000	By Sales	2,32,00,000
To Purchase of Raw Materials	2,16,99,000	By Closing stock	2,00,000
To Manufacturing Wages & Expenses	5,70,000		
To Gross Profit	10,60,000		
	2,34,00,000		2,34,00,000
To Administrative charges	3,26,000	By Gross Profit	10,60,000
To SGST penalty	5,000	By Dividend from domestic companies	15,000
To GST paid	1,10,000	By Income from agriculture (net)	1,80,000
To General Expenses	54,000		
To Interest to Bank (On machinery term loan)	60,000		
To Depreciation	2,00,000		
To Net Profit	5,00,000		
	12,55,000		**12,55,000**

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Following are the further information relating to the financial year 2026-27:

(i) Administrative charges include ₹ 46,000 paid as commission to brother of the assessee. The commission amount at the market rate is ₹ 36,000.

(ii) The assessee paid ₹ 33,000 in cash to a transport carrier on 29.12.2026. This amount is included in manufacturing expenses. (Assume that the provisions relating to TDS are not applicable to this payment)

(iii) A sum of ₹ 4,000 per month was paid as salary to a staff throughout the year and this has not been recorded in the books of account.

(iv) Bank term loan interest actually paid upto 31.03.2027 was ₹ 20,000 and the balance was paid in November 2027.

(v) Housing loan principal repaid during the year was ₹ 50,000 and it relates to residential property acquired by him in T.Y. 2025-26 for self-occupation. Interest on housing loan was ₹ 23,000. Housing loan was taken from Canara Bank. These amounts were not dealt with in the profit and loss account given above.

(vi) Depreciation allowable under the Act is to be computed on the basis of following information:

Plant & Machinery (Depreciation rate@15%)	***₹***
WDV as on 31.03.2026 minus Depreciation for T.Y. 2025-26	*11,90,000*
Additions during the year (used for more than 180 days)	*2,00,000*
Total additions during the year	*4,00,000*

Compute the total income of Mr. Raju for the T.Y. 2026-27 assuming he pays tax under default tax regime.

Note: *Ignore application of section 14 for disallowance of expenditures in respect of any exempt income.*

10. *Mr. Tenzingh is engaged in composite business of growing and curing (further processing) coffee in Coorg, Karnataka. The whole of coffee grown in his plantation is cured. Relevant information pertaining to the year ended 31.3.2027 are given below:*

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Particulars	₹
Opening balance of car (only asset in the block) as on 1.4.2026 (i.e. WDV as on 31.3.2025 (-) depreciation for T.Y. 2026-27)	*3,00,000*
Opening balance of machinery as on 1.4.2026 (i.e., WDV as on 31.3.2026 (-) depreciation for T.Y. 2025-26)	*15,00,000*
Expenses incurred for growing coffee	*3,10,000*
Expenditure for curing coffee	*3,00,000*
Sale value of cured coffee	*22,00,000*

Besides being used for agricultural operations, the car is also used for personal use; disallowance for personal use may be taken at 20%. The expenses incurred for car running and maintenance are ₹ 50,000. The machines were used in coffee curing business operations.

Compute the income arising from the above activities for the T.Y. 2026-27.

11. *Mr. Prem has following assets used for business purposes as on 01.04.2026:*

    (i) A machinery costing ₹ 4 lakh, which was used for scientific research related to business and deduction u/s 45 was allowed and claimed.

    (ii) A laptop received as a gift from his friend costing ₹ 60,000. It was purchased on 01.04.2025 by his friend.

    (iii) A temporary wooden structure costing ₹ 70,000 erected in December, 2026.

    Compute the depreciation allowed on these assets for T.Y. 2026-27.

12. *AB Light LLP consists of 2 working partners, Mr. Anand and Mr. Bheem with 60% and 40% share, respectively. As per the partnership deed, they are eligible for interest on capital @15% p.a. on their capital contribution of ₹ 15 lakhs each and remuneration of ₹ 50,000 p.m. to Anand and ₹ 40,000 p.m. to Bheem. The firm is engaged in manufacturing business. During the year ended 31.3.2027, the net profit as per profit and loss account was ₹ 25,86,000 before considering interest on capital and remuneration to partners as well as the following items:*

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		₹
(i)	*Current year revenue expenditure on scientific research*	*2,40,000*
(ii)	*Unabsorbed capital expenditure on scientific research relating to T.Y. 2023-24*	*85,000*
(iii)	*Unabsorbed depreciation of T.Y. 2017-18*	*52,000*
(iv)	*Current year depreciation under section 33*	*4,70,000*
(v)	*Brought forward business loss of T.Y. 2021-22*	*49,000*
(vi)	*Current year capital expenditure on scientific research*	*3,45,000*

You are required to compute the book profit and remuneration allowable in the hands of AB Light LLP for T.Y. 2026-27. Also, determine the amount of remuneration taxable in the hands of Mr. Anand and Mr. Bheem.

13. *Mr. Piyush runs a sole proprietorship firm and owns four machines which was put in use for business in March, 2026. The depreciation on these machines is charged @15%. The written down value of these machines as on 1st April, 2026 was ₹ 7,70,000. Two of the old machines were sold on 15th July, 2026 for ₹ 10,00,000. A second hand plant was bought for ₹ 6,10,000 on 30th December, 2026.*

Further, Mr. Piyush has furnished the following particulars relating to payments made and expenditure incurred towards scientific research for the year ended 31.3.2027:

Sl. No.	***Particulars***	***₹ (in lakhs)***
(i)	*Payment made to UV University, an approved University*	*15*
(ii)	*Payment made to Satywati College*	*17*

Compute the following for Tax Year 2026-27

(i) Claim of depreciation

(ii) Deduction available under section 45 if he has shifted out of the default tax regime

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ANSWERS

1. Computation of written down value of block of assets of Venus Ltd. as on 31.3.2027

Particulars	Plant & Machinery (₹ in lakhs)	Computer (₹ in lakhs)
Written down value (as on 31.3.2026)	**30.00**	**Nil**
Less: Depreciation including additional depreciation for T.Y. 2025-26	4.75	-
Opening balance as on 1.4.2026	25.25	
Add: Actual cost of new assets acquired during the year		
New machinery purchased on 1.9.2026	10.00	-
New machinery purchased on 1.12.2026	8.00	-
Computer purchased on 3.1.2027	-	4.00
	43.25	4.00
Less: Assets sold/discarded/destroyed during the year	Nil	Nil
Written Down Value (as on 31.03.2027)	**43.25**	**4.00**

(i) If Mr. Venus exercises the option of shifting out of the default tax regime

In this case, since his income would be computed under the optional tax regime as per the normal provisions of the Act, he would be entitled for normal depreciation and additional depreciation, subject to fulfilment of conditions.

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Computation of depreciation for T.Y. 2026-27

	Particulars	Plant & Machinery (₹ in lakhs)	Computer (₹ in lakhs)
I.	**Assets put to use for more than 180 days, eligible for 100% depreciation calculated applying the eligible rate of normal depreciation and additional depreciation**		
	Normal Depreciation		
	- WDV of plant and machinery (₹ 25.25 lakhs x 15%)	3.79	-
	- New Machinery purchased on 1.9.2026 (₹ 10 lakhs x 15%)	1.50	-
	(A)	5.29	-
	Additional Depreciation		
	New Machinery purchased on 1.9.2026 (₹ 10 lakhs x 20%)	2.00	-
	Balance additional depreciation in respect of new machinery purchased on 31.10.2025 and put to use for less than 180 days in the T.Y. 2025-26 (₹ 10 lakhs x 20% x 50%)	1.00	
	(B)	3.00	
II.	**Assets put to use for less than 180 days, eligible for 50% depreciation calculated applying the eligible rate of normal depreciation and additional depreciation, if any**		
	Normal Depreciation		
	New machinery purchased on 1.12.2026 [₹ 8 lakhs x 7.5% (i.e., 50% of 15%)]	0.60	-

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	Computer purchased on 3.1.2027 [₹ 4 lakhs x 20% (50% of 40%)]	-	0.80
	(C)	0.60	0.80
	Total Depreciation (A+B+C)	**8.89**	**0.80**

Notes:

(1) As per section 33(8), additional depreciation is allowable in the case of any new machinery or plant acquired and installed, by an assessee engaged, inter alia, in the business of manufacture or production of any article or thing, at the rate of 20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of, inter alia,–

(i) any office appliances or road transport vehicles;

(ii) any machinery or plant installed in, inter alia, office premises.

In view of the above provisions, additional depreciation cannot be claimed in respect of -

(i) Machinery purchased on 1.12.2026, installed in office and

(ii) Computer purchased on 3.1.2027, installed in office.

(2) Balance additional depreciation@10% on new plant or machinery acquired and put to use for less than 180 days in the year of acquisition which has not been allowed in that year, shall be allowed in the immediately succeeding tax year.

Hence, in this case, the balance additional depreciation@10% (i.e., ₹ 1 lakhs, being 10% of ₹ 10 lakhs) in respect of new machinery which had been purchased during the tax year 2025-26 and put to use for less than 180 days in that year can be claimed in T.Y. 2026-27 being immediately succeeding tax year.

(ii) If Mr. Venus pays tax under default tax regime under section 202(1)

In this case, under the default tax regime as per section 202(1), he would be entitled only for normal depreciation but not additional depreciation.

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Computation of depreciation for T.Y. 2026-27

	Particulars	Plant & Machinery (₹ in lakhs)	Computer (₹ in lakhs)
I.	**Assets put to use for more than 180 days, eligible for 100% depreciation calculated applying the eligible rate of normal depreciation**		
	Normal Depreciation		
	- WDV of plant and machinery (₹ 25.25 lakhs x 15%)	3.79	-
	- New Machinery purchased on 1.9.2026 (₹ 10 lakhs x 15%)	1.50	-
	(A)	5.29	-
II.	**Assets put to use for less than 180 days, eligible for 50% depreciation calculated applying the eligible rate of normal depreciation**		
	Normal Depreciation		
	New machinery purchased on 1.12.2026 [₹ 8 lakhs x 7.5% (i.e., 50% of 15%)]	0.60	-
	Computer purchased on 3.1.2027 [₹ 4 lakhs x 20% (50% of 40%)]	-	0.80
	(C)	0.60	0.80
	Total Depreciation (A+B+C)	**5.89**	**0.80**

2. Computation of depreciation under section 33 for T.Y.2026-27

Particulars	₹	₹
Normal Depreciation		
Depreciation@15% on ₹ 51,50,000, being machinery put to use for more than 180 days [WDV as on 31.3.2026 of ₹ 50,00,000 – Depreciation for T.Y. 2025-26 of ₹ 7,50,000+ Purchase cost of imported machinery of ₹ 9,00,000]	7,72,500	

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Depreciation@7.5% on ₹ 10,00,000, being new machinery put to use for less than 180 days	75,000	
	8,47,500	
Depreciation@40% on computers purchased ₹ 2,00,000	80,000	9,27,500
Additional Depreciation (Refer Note below)		
Additional Depreciation@10% of ₹ 10,00,000 [being actual cost of new machinery purchased on 12-10-2026]	1,00,000	
Additional Depreciation@20% on new computer installed in generation wing of the unit [20% of ₹ 2,00,000]	40,000	1,40,000
Depreciation on Plant and Machinery		**10,67,500**

Note:

Mr. Abhimanyu is eligible for additional depreciation since he has exercised the option of shifting out of the default tax regime. The benefit of additional depreciation is available to new plant and machinery acquired and installed in power sector undertakings. Accordingly, additional depreciation is allowable in the case of any new machinery or plant acquired and installed by an assessee engaged, inter alia, in the business of generation, transmission or distribution of power, at the rate of 20% of the actual cost of such machinery or plant.

Therefore, new computer installed in generation wing units eligible for additional depreciation@20%.

Since the new machinery was purchased only on 12.10.2026, it was put to use for less than 180 days during the tax year, and hence, only 10% (i.e., 50% of 20%) is allowable as additional depreciation in the T.Y.2026-27. The balance additional depreciation would be allowed in the next year.

However, additional depreciation shall not be allowed in respect of, inter alia, any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person. Therefore, additional depreciation is not allowable in respect of imported machinery, since it was used in Colombo, before its installation by the assessee.

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3. Allowability of the expenses incurred by Mr. Manav, a wholesale dealer in commodities, while computing profits and gains from business or profession

(i) Construction of school building in compliance with CSR activities

Under section 34, only expenditure not being in the nature of capital expenditure or personal expense and not covered under sections 30 sections 28 to 33, 44 to 46 and 52, and incurred wholly and exclusively for the purposes of the business is allowed as a deduction while computing business income.

Any expenditure laid out or expended wholly and exclusively for business or profession shall not include an expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 and hence, shall **not** be allowed as deduction under section 34.

Accordingly, the amount of ₹ 5,60,000 incurred by Mr. Manav, towards construction of school building in compliance with CSR activities shall **not** be allowed as deduction under section 34.

(ii) Purchase of building for setting up and operating a warehousing facility for storage of food grains

Mr. Manav, would be eligible for investment-linked tax deduction under section 46, since he has exercised the option of shifting out of the default tax regime. The deduction u/s 46 would be 100% of ₹ 4,50,000, being the amount invested in purchase of building for setting up and operating a warehousing facility for storage of food grains which commences operation on or after 1st April, 2009 (T.Y. 2026-27, in this case).

Therefore, the deduction under section 46 while computing business income of such specified business would be ₹ 4,50,000, if Mr. Manav opts for section 46.

(iii) Interest on loan paid to Mr. X (a resident) ₹ 50,000 on which tax has not been deducted

As per section 393(1) [Table: Sl. No. 5(iii)], Mr. Manav, being an individual is required to deduct tax at source on the amount of interest on loan paid to Mr. X, since his turnover during the tax year 2025-26 exceeds ₹ 100 lakhs.

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Therefore, ₹ 15,000, being 30% of ₹ 50,000, would be disallowed under section 35(b)(i) while computing the business income of Mr. Manav for non-deduction of tax at source under section 393 on interest of ₹ 50,000 paid by it to Mr. X.

The balance ₹ 35,000 would be allowed as deduction under section 32(b), assuming that the amount was borrowed for the purposes of business.

(iv) Commodities transaction tax of ₹ 20,000 paid on sale of bullion

Commodities transaction tax paid in respect of taxable commodities transactions entered into in the course of business during the tax year is allowable as deduction, provided the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Taking that income from this commodities transaction is included while computing the business income of Mr. Manav, the commodity transaction tax of ₹ 20,000 paid is allowable as deduction under section 32(k).

4. (i) **True:** Section 32(k) allows a deduction of the amount of securities transaction tax paid by the assessee in respect of taxable securities transactions entered into in the course of business during the tax year as deduction from the business income of a dealer in shares and securities.

(ii) **True:** As per section 36(5), in the case of an assessee following mercantile system of accounting, if an expenditure has been allowed as deduction in any preceding tax year on due basis, and payment exceeding ₹ 10,000 has been made in the subsequent tax year and such payment is not made through specified banking or online mode, then, the payment so made shall be deemed to be the income of the subsequent year in which such payment has been made.

(iii) **True:** According to the section 33(7), allowance of depreciation is mandatory. Therefore, depreciation has to be provided mandatorily while calculating income from business/ profession whether or not the assessee has claimed the same while computing his total income.

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(iv) **True:** Section 30(c) provides deduction in respect of premium paid by an employer to keep in force an insurance on the health of his employees under a scheme framed in this behalf by GIC or any other insurer. The medical insurance premium can be paid by any mode other than cash, to be eligible for deduction under section 30(c).

(v) **False:** Expenditure incurred in making payment to the employee in connection with his voluntary retirement either in the year of retirement or in any subsequent year, will be entitled to deduction in 5 equal annual installments beginning from the year in which each payment is made to the employee.

(vi) **False**: Additional depreciation can be claimed only in respect of eligible plant and machinery acquired and installed by an assessee engaged in the business of manufacture or production of any article or thing or in the business of generation or transmission or distribution of power.

In this case, the individual is engaged in trading activities and the new plant has been acquired and installed in a trading concern. Hence, he will not be entitled to claim additional depreciation under section 33(8), even though he has exercised the option of shifting out of the default tax regime.

5. (i) **Not allowable as deduction:** As per section 29, no deduction is allowed in computing business income in respect of any provision made by the assessee in his books of account for the payment of gratuity to his employees on their retirement or termination for any reason except in the following two cases:

(1) where any provision is made for the purpose of payment of sum by way of contribution towards an approved gratuity fund; or

(2) where any provision is made for the purpose of making any payment on account of gratuity that has become payable during the tax year.

Therefore, in the present case, the provision made on the basis of actuarial valuation for payment of gratuity has to be disallowed under section 29, since no payment has been actually made on account of gratuity.

Note: It is assumed that such provision is not for the purpose of contribution towards an approved gratuity fund.

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(ii) **Allowable as deduction:** As per Rule 26, in case the payment is made for purchase of agricultural produce directly to the cultivator, grower or producer of such agricultural produce, no disallowance under section 36(4) is attracted even though the cash payment for the expense exceeds ₹ 10,000.

Therefore, in the given case, disallowance under section 36(4) is not attracted since cash payment for purchase of oil seeds is made directly to the farmer.

(iii) **Not allowable as deduction:** Income-tax of ₹ 20,000 paid by the employer in respect of non-monetary perquisites provided to its employees is exempt in the hands of the employee under Schedule III (Table: Sl. No. 10).

As per section 35(a)(ii), such income-tax paid by the employer is not deductible while computing business income.

(iv) **Allowable as deduction:** Payment for fire insurance is allowable as deduction under section 30. Since payment is made by credit card, which is specified banking or online mode, disallowance under section 36(4) is not attracted in this case.

(v) **Not allowable as deduction:** Disallowance under section 35(c) is attracted in respect of salary payment of ₹ 10,00,000 outside India by a company without deduction of tax at source.

(vi) **Allowable as deduction:** The limit for attracting disallowance under section 36(4) for payment not made through specified banking or online mode is ₹ 35,000 in case of payment made for plying, hiring or leasing goods carriage. Therefore, in the present case, disallowance under section 36(4) is not attracted for payment of ₹ 30,000 made in cash to a transporter for carriage of goods.

6. **(a)** **True:** In order to escape the disallowance specified in section 36(4), payment in respect of the business expenditure ought to have been made through specified banking or online mode. Payment through a crossed cheque will attract disallowance under section 36(4).

(b) **(i)** **True:** It is mandatory to write off the amount due from a debtor as not receivable in the books of account, in order to claim the same as bad debt under section 31(2). However, where the debt has been taken into account in computing the income of the assessee on the basis of ICDSs notified under section 276(2),

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without recording the same in the accounts, then, such debt shall be allowed in the tax year in which such debt becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the said purpose.

(ii) **True:** Section 35(b)(ii) provides that failure to deduct tax at source from, inter alia, rent or royalty payable to a non-resident, in accordance with the provisions of Chapter XIX, will result in disallowance of such expenditure, where the non-resident payee has not paid the tax due on such income.

7. Computation of business income of Mr. Sivam for the T.Y. 2026-27

Particulars		₹	₹
Net Profit as per profit and loss account			50,000
***Add*:**	**Inadmissible expenses/ losses**		
	Under valuation of closing stock	18,000	
	Salary paid to brother – unreasonable [Section 36(2)]	2,000	
	Printing and stationery - whole amount of printing & stationery paid in cash would be disallowed, since such amount exceeds ₹ 10,000 [Section 36(4)]	23,200	
	Depreciation **(considered separately)**	1,05,000	
	Short term capital loss on shares	8,100	
	Donation to public charitable trust	2,000	1,58,300
			2,08,300
Less:	**Items to be deducted:**		
	Under valuation of opening stock	9,000	
	Income from UTI **[Chargeable under the head "Income from Other Sources]**	2,400	11,400
	Business income before depreciation		1,96,900
Less:	Depreciation (**See Note 1)**		66,000
			1,30,900

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Computation of business income as per section 58:

As per section 58(2) (Table: Sl. No. 1), where the amount of turnover is received by specified banking or online mode, the presumptive business income would be 6% of turnover, i.e., ₹ 1,12,11,500 x 6 /100 = ₹ 6,72,690

Notes:

1. Calculation of depreciation

Particulars	₹
Opening balance of plant & machinery as on 1.4.2026 (i.e. WDV as on 31.3.2026 (-) depreciation for T.Y. 2025-26)	4,20,000
Add: Cost of new plant & machinery	70,000
	4,90,000
Less: Sale proceeds of assets sold	50,000
WDV of the block of plant & machinery as on 31.3.2027	4,40,000
Depreciation@15%	66,000
No additional depreciation is allowable as the assessee is not engaged in manufacture or production of any article.	

2. Since GST liability has been paid before the due date of filing return of income under section 263(1), the same is deductible.

8. Section 58(2) (Table: Sl. No. 2) would apply in the case of Mr. Sukhvinder since he is engaged in the business of plying goods carriages and owns not more than ten goods carriages at any time during the tax year.

Section 58(2) (Table: Sl. No. 2) provides for computation of business income of such assesses on a presumptive basis. The income shall be deemed to be ₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of the month for each heavy goods vehicle and ₹ 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by the assessee in the tax year or such higher sum as declared by the assessee in his return of income.

Mr. Sukhvinder's business income calculated applying the provisions of section 58(2) (Table: Sl. No. 2) is ₹ 13,72,500 **(See Notes 1 & 2 below)** and his total income would be ₹ 14,42,500.

However, as per section 58(3), Mr. Sukhvinder may claim lower profits and gains if he keeps and maintains proper books of account as per section 62

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and gets the same audited and furnishes a report of such audit as required under section 63. If he does so, then his income for tax purposes from goods carriages would be ₹ 4,45,000 instead of ₹ 13,72,500 and his total income would be ₹ 5,15,000.

Notes:

1. Computation of total income of Mr. Sukhvinder for T.Y. 2026-27

Particulars	Presumptive income ₹	Where books are maintained ₹
Income from business of plying goods carriages **[See Note 2 Below]**	13,72,500	4,45,000
Other business and non-business income	70,000	70,000
Total Income	14,42,500	5,15,000

2. Calculation of presumptive income as per section 58(2) (Table: Sl. No. 2)

Type of carriage	No. of months	Rate per ton per month/ per month	Ton	Amount ₹
(1)	**(2)**		**(3)**	**(4)**
Heavy goods vehicle				
1 goods carriage upto 1st May	2	1,000	15 (15,000/1,000)	30,000
5 goods carriage held throughout the year	12	1,000	15 (15,000/1,000)	9,00,000
Goods vehicle other than heavy goods vehicle				
1 goods carriage from 6th May	11	7,500	-	82,500
4 goods carriage held throughout the year	12	7,500	-	3,60,000
			Total	**13,72,500**

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9. Computation of total income of Mr. Raju for the T.Y. 2026-27

Particulars		₹	₹
Profits and gains of business or profession			
Net profit as per profit and loss account			5,00,000
Add:	Excess commission paid to brother disallowed under section 36(2)	10,000	
	Disallowance under section 36(4) is not attracted since the limit for one time cash payment is ₹ 35,000 in respect of payment to transport operators. Therefore, amount of ₹ 33,000 paid in cash to a transport carrier is allowable as deduction.	Nil	
	Bank term loan interest paid after the due date of filing of return under section 263(1) – disallowed as per section 37	40,000	
	State GST penalty paid disallowed **[See Note 2 below]**	5,000	
	Depreciation debited to profit and loss account	2,00,000	2,55,000
			7,55,000
Less:	Dividend from domestic companies **[Chargeable to tax under the head "Income from Other Sources"]**	15,000	
	Income from agriculture **[Exempt under Schedule II (Table: Sl. No. 1)]**	1,80,000	
	Salary paid to staff not recorded in the books (Assumed it was an erroneous omission and that the assessee has offered satisfactory explanation for the same. In such a case, the same would be allowable as deduction while computing profits and gains of business and profession) **[See Note 1 below]**	48,000	
	Depreciation under the Income-tax Act, 2025 **(As per working note)**	2,23,500	4,66,500
			2,88,500
Income from house property			
Annual value of self-occupied property		Nil	

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Less: Deduction u/s 22(1)(b) – interest on housing loan [Not allowable, since Mr. Raju is paying tax as per default tax regime]	Nil	Nil
Income from Other Sources		
Dividend from domestic companies		15,000
Gross Total Income		**3,03,500**
***Less*:** Deduction u/s 123 [Not allowable, since Mr. Raju is paying tax as per default tax regime]		Nil
Total Income		**3,03,500**

Working Note:

Computation of depreciation under the Income-tax Act, 2025

Particulars	₹
Depreciation@15% on ₹ 13.90 lakhs (WDV as on 31.3.2026 less depreciation for T.Y. 2025-26 i.e., ₹ 11.90 lakh plus assets purchased during the year and used for more than 180 days ₹ 2 lakh)	2,08,500
Depreciation @7.5% on ₹ 2 lakh (Assets used for < 180 days)	15,000
	2,23,500

Since Mr. Raju is paying tax as per default tax regime, additional depreciation u/s 33(8) would not be available to him.

Notes (Alternate views):

1. It is also possible to take a view that the salary paid to staff not recorded in the books is in the nature of unexplained expenditure and hence, would be deemed to be income as per section 105 and would be taxable @ 30% under section 195. In such a case, no deduction allowable in respect of such expenditure.

2. Where the imposition of penalty is not for delay in payment of sales tax or VAT or GST but for contravention of provisions of the Sales Tax Act or VAT Act or GST Law, the levy is not compensatory and therefore, not deductible. However, if the levy is compensatory in nature, it would be fully allowable. Where it is a composite levy, the portion which is compensatory is allowable and that portion which is penal is to be disallowed.

   Since the question only mentions "GST penalty paid" and the reason for levy of penalty is not given, it has been assumed that the levy is not

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compensatory and therefore, not deductible. It is, however, possible to assume that such levy is compensatory in nature and hence, allowable as deduction.

10. Where an assessee is engaged in the composite business of growing and curing of coffee, the income shall be computed as if it were income derived from business and a percentage of such incomes shall be deemed to be the income liable to tax, as per Rule 271of the Income-tax Rules, 2026.

As per the above Rule, income derived from sale of coffee grown and cured by the seller in India shall be computed as if it were income derived from business, and 25% of such income shall be deemed to be income liable to tax.

Particulars	₹	₹
Sale value of cured coffee		22,00,000
Less: Expenses for growing coffee	3,10,000	
Car expenses (80% of ₹ 50,000)	40,000	
Depreciation on car (80% of 15% of ₹ 3,00,000) **[See Computation below]**	36,000	
Total cost of agricultural operations	3,86,000	
Expenditure on coffee curing operations	3,00,000	
Add: Depreciation on machinery (15% of ₹ 15,00,000) [**See Computation below]**	2,25,000	
Total cost of the curing operations	5,25,000	
Total cost of composite operations		9,11,000
Total profits from composite activities		**12,89,000**
Business income (25% of above)		3,22,250
Agricultural income (75% of above)		9,66,750

Computation of depreciation for T.Y. 2026-27

Particulars	₹	₹
Car		
Opening balance as on 1.4.2026 (i.e., WDV as on 31.3.2026 (-) depreciation for T.Y.2025-26)		3,00,000

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Depreciation thereon at 15%	45,000	
Less: Disallowance @20% for personal use	9,000	
Depreciation actually allowed		36,000
Machinery		
Opening balance as on 1.4.2026 (i.e., WDV as on 31.3.2026 (-) depreciation for T.Y.2025-26)		15,00,000
Depreciation @ 15% for T.Y. 2026-27		2,25,000

Section 41(10) provides that in cases of 'composite income', for the purpose of computing written down value of assets acquired before the tax year, the total amount of depreciation shall be computed as if the entire composite income of the assessee (and not just 25%) is chargeable under the head "Profits and gains of business or profession". The depreciation so computed shall be deemed to have been "actually allowed" to the assessee.

11. Computation of Depreciation to Mr. Prem for T.Y. 2026-27

Particulars	Amount (₹)
Depreciation on machinery used for scientific research – Actual cost is nil as ₹ 4,00,000, being actual cost – ₹ 4,00,000, being deduction allowed and claimed u/s 45]	Nil
Depreciation on laptop received as a gift @40% on ₹ 36,000 [₹ 60,000, being actual cost to previous owner – ₹ 24,000, being depreciation for T.Y. 2025-26 allowable to assessee if it was the only asset]	14,400
Depreciation on temporary wooden structure @40% x 50% on ₹ 70,000 [Since it is put to use for less than 180 days]	14,000
	28,400

12. Computation of book profit of AB Light LLP for the T.Y. 2026-27

Particulars	Amount (₹)	Amount (₹)
Net profit as per profit and loss account before interest on capital and remuneration to partners and other items		25,86,000

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Less: Expenditure allowable from business income		
- Interest @ 12% p.a. [being the maximum allowable as per section 35(e)] (₹ 15,00,000 × 12% x 2)	3,60,000	
- Current year revenue expenditure on scientific research under section 45	2,40,000	
- Current year depreciation under section 33	4,70,000	
- Current year capital expenditure on scientific research under section 45	3,45,000	
- Unabsorbed depreciation of T.Y. 2017-18	52,000	
- Unabsorbed capital expenditure on scientific research relating to T.Y. 2023-24	85,000	15,52,000
Book Profit		**10,34,000**

Note: Brough forward business loss of T.Y. 2021-22 is not allowed to be set off while computing book profit.

Remuneration actually paid or payable to working partners = [₹ 50,000 x 12 + ₹ 40,000 x 12] = ₹ 10,80,000

Partners' remuneration allowable under section 35(e)

On the first ₹ 6,00,000 of book profit [₹ 6,00,000 x 90%]	5,40,000
On the balance ₹ 4,34,000 [₹ 4,34,000 x 60%]	2,60,400
	8,00,400

Hence, allowable working partners salary in the hands of AB Light LLP for the T.Y. 2026-27 is ₹ 8,00,400

Remuneration taxable in the hands of Mr. Anand as business income = ₹ 8,00,400 x 6,00,000/10,80,000 = ₹ 4,44,667

Remuneration taxable in the hands of Mr. Bheem as business income = ₹ 8,00,400 x 4,80,000/10,80,000 = ₹ 3,55,733

13. (i) Computation of depreciation for T.Y.2026-27

Particulars	₹
W.D.V. of the block as on 1.4.2026	7,70,000
Add: Purchase of second hand plant during the year [in December, 2026]	6,10,000
	13,80,000

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Less: Sale consideration of old machinery during the year [in July, 2026]	10,00,000
W.D.V of the block as on 31.03.2027	**3,80,000**
Depreciation @ 15% but restricted to 50% thereon. [Since the value of the block as on 31.3.2027 represents part of actual cost of second hand plant purchased in December, 2026, which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is ₹ 28,500 being 7½% of ₹ 3,80,000]	**28,500**

(ii) Computation of deduction allowable under section 45

Particulars	Amount (₹ in lakhs)	Section	% of weighted deduction	Amount of deduction (₹ in lakhs)
Payment for scientific research				
UV University, an approved University	15	45(3)(a)(i)	100%	15
Satyawati College [Since it is not mentioned as an approved University]	17	-	NIL	NIL
Deduction allowable under section 45				**15**



Q.NO.	ANSWERS	
1.	(c)	Income from House Property

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2.	(d)	Profits and Gains of Business or Profession
3.	(d)	Profit from speculation business only
4.	(c)	Non-speculative transaction
5.	(c)	On or before due date of filing return of income
6.	(b)	₹ 2,10,000
7.	(c)	through any mode other than cash
8.	(b)	be capitalized
9.	(a)	₹ 60,000
10.	(c)	Not allowed
11.	(b)	Office appliances
12.	(c)	₹ 6 lakh
13.	(b)	₹ 20 lakh
14.	(c)	₹ 5 lakh
15.	(b)	Expenditure should be wholly and exclusively for business purposes
16.	(b)	30% disallowed in T.Y. 2026-27 and allowed in the year of payment of TDS
17.	(c)	₹ 4,50,000
18.	(a)	Nil
19.	(b)	₹ 45,000 deemed as business income under section 36(5)
20.	(c)	Deduction is allowed only when converted loan is actually repaid
21.	(b)	Added to actual cost of machinery
22.	(b)	Required to maintain books of account since receipts likely exceed ₹25 lakhs
23.	(c)	7 tax years
24.	(b)	No, since turnover does not exceed ₹ 10 crore during T.Y. 2026-27 and cash receipts and cash payments does not exceed 5% of total receipts and total payments
25	(c)	LLP
26.	(c)	Not eligible for presumptive taxation

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UNIT – 4 : CAPITAL GAINS

LEARNING OUTCOMES

After studying this unit, you would be able to –

- **comprehend** the scope of income chargeable under this head;
- **comprehend** and identify the assets classified as "capital assets" for the purposes of chargeability under this head;
- **comprehend** the meaning of short-term capital asset and long-term capital asset;
- **compute** the period of holding for determining whether an asset is a short-term capital asset or long-term capital asset;
- **identify** the transactions to be considered as transfer for the purpose of capital gains;
- **identify** the transactions not regarded as transfer;
- **compute** the capital gains from transfer of capital assets in the manner prescribed;
- **determine** the cost of acquisition;
- **compute** capital gains in case of depreciable assets;
- **compute** capital gains in case of market linked debentures and other specified securities;
- **compute** capital gains in case of slump sale;
- **compute** the deduction available for investment of capital gains/net consideration on transfer of certain assets;
- **compute** the capital gains chargeable to tax after reducing the deductions available in respect of capital gains;
- **appreciate** the concessional tax treatment available for short-term capital gains and for long-term capital gains on transfer of listed equity shares/units of an equity oriented fund;
- **compute** the tax liability applying the special rates of tax on long-term capital gains and short-term capital gains and the normal rates of tax.

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Proforma for computation of income under the head "Capital Gains"

	Particulars	Amt (₹)	Amt (₹)
In case of a Short-term capital asset (STCA)	Full value of consideration received or accruing as a result of transfer	xxx	
	Less: Expenditure incurred wholly and exclusively in connection with such transfer (for e.g., brokerage on sale)	xxx	
	(Note: *Deduction on account of STT paid will* ***not*** *be allowed)*		
	Net Sale Consideration		xxx
	Less: Cost of acquisition (COA) *[Refer table at page 3.503]*	xxx	
	Cost of improvement (COI) *[Refer table at page 3.505]*	xxx	xxx
	Short-term capital gain (STCG)		xxx
	Less: Deduction under sections 83/84		xxx
	Short-term capital gain chargeable to tax		**xxx**
In case of a Long-term capital asset (LTCA)	Full value of consideration received or accruing as a result of transfer	xxx	
	Less: Expenditure incurred wholly and exclusively in connection with such transfer (for e.g., brokerage on sale)	xxx	
	(Note: *Deduction on account of STT paid will* ***not*** *be allowed)*		
	Net Sale Consideration		xxx
	Less**:** Cost of acquisition (COA) *[Refer table at page 3.503]*	xxx	
	Less**:** Cost of improvement (COI) *[Refer table at page 3.505]*	xxx	xxx
	Long-term capital gains (LTCG)		xxx
	Less: Deduction under sections 82/83/84/85/86 *[Refer Table at pages 3.507-3.509]*		xxx
	Long-term capital gains chargeable to tax		**xxx**

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Rate of tax on Short-term Capital Gains (STCG)

Section	Rate of tax
196	• **STCG arising on transfer of listed equity shares, units of equity-oriented fund and unit of business trust**[1] would be taxable at **20%.** STT should have been paid on such sale. • **STCG arising from transaction undertaken on a recognized stock exchange located in an International Financial Services Centre (IFSC)** would be taxable at a concessional rate of **20%**, where the consideration for transfer is received or receivable in foreign currency, even though STT is not paid in respect of such transaction.
Note *- STCG arising on transfer of* ***other Short-term Capital Assets*** *would be chargeable at normal rates of tax.*	

Rates of tax on Long-term Capital Gains (LTCG)

Section	Rate of tax
198	♦ **LTCG exceeding ₹ 1,25,000** would be taxable **@12.5%,** on the transfer of following long-term capital assets - • listed equity shares, if STT has been paid on acquisition and transfer of such shares • units of equity-oriented funds and unit of business trust, if STT has been paid on transfer of such units ♦ **If such transaction is undertaken on a recognized stock exchange located in an IFSC,** LTCG would be taxable at a concessional rate 12.5%, where the consideration for transfer is received or receivable in foreign currency, even though STT is not paid in respect of such transaction. ♦ Provisions of currency fluctuation would not be applicable.
197	♦ **LTCG** on transfer of all long-term capital assets (other than referred u/s 198) would **be taxable @12.5%.**

[1]The provisions relating to business trust would be dealt at Final level.

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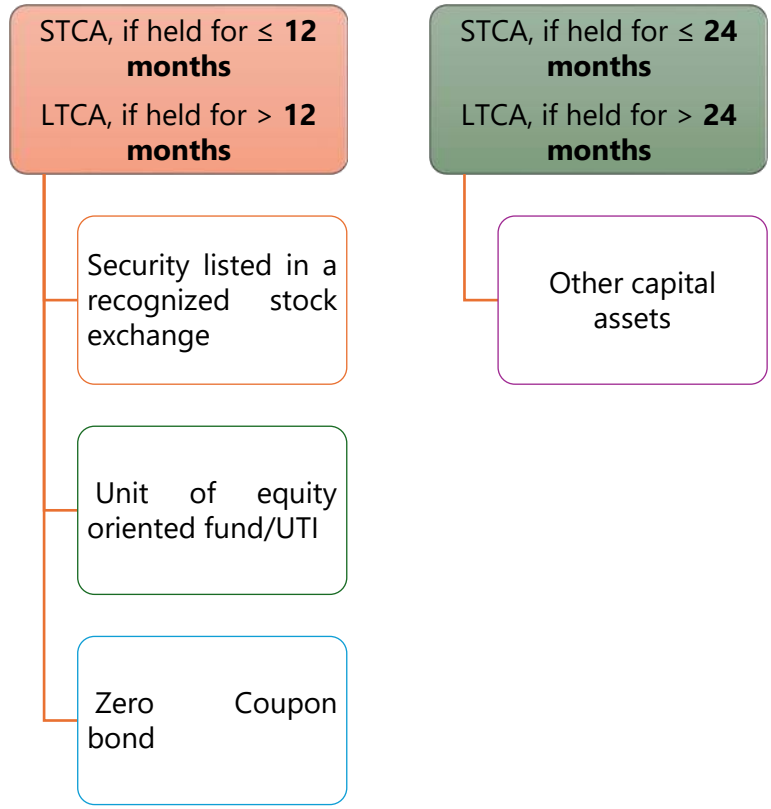
	However, in case of an individual or HUF, being a resident in India, long-term capital gains arising on transfer of long-term capital asset, being land or building or both if acquired before 23.7.2024, the excess income-tax shall be ignored. Excess income-tax = Tax computed @12.5% without indexation – Tax computed @ 20% with indexation ♦ Further, in case of **non-corporate non-resident or foreign company, LTCG** on transfer of **unlisted securities, or shares of a closely held company**, would be taxable **@12.5% without foreign currency fluctuation.**

Notes:

- In case of a resident individual or a Hindu Undivided Family (HUF), the LTCG taxable u/s 197 or 198 or STCG taxable u/s 196 shall be reduced by the unexhausted basic exemption limit, and the balance shall be subject to tax.
- No deduction under Chapter VIII can be claimed in respect of such LTCG chargeable to tax u/s 197 or 198 or STCG chargeable to tax u/s 196.
- In case the assessee is paying tax under default tax regime, rebate u/s 156 is not available in respect of tax payable on LTCG taxable u/s 197 or 198 or STCG taxable u/s 196.
- However, in case the assessee opts out of the default tax regime, rebate u/s 156 is available in respect of tax payable on LTCG u/s 197 or STCG u/s 196 but not against LTCG u/s 198, subject to the satisfaction of other conditions.
- In case the assessee pays tax under default tax regime, enhanced surcharge of 25% would not be levied on dividend income, STCG taxable u/s 196 and LTCG taxable u/s 197 and 198.
- In case the assessee exercises the option under section 202(4) of shifting out of the default tax regime, enhanced surcharge of 25% or 37% would not be levied on dividend income, STCG taxable u/s 196 and LTCG taxable u/s 197 and 198.

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Period of holding [Section 2(101)]



Note – *It is to be noted that as per section 76, capital gains arising from transfer of the following assets would always be short term capital gains irrespective of the period of holding of such assets:*

- *units of a specified mutual fund acquired on or after 1.4.2023,*
- *market linked debentures and*
- *unlisted bond and unlisted debenture*

4.1 STRUCTURED SECTIONAL LEARNING

Section	Particulars
2(6)	Meaning of amalgamation
2(22)	Meaning of capital asset
2(34)	Demerged company

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2(35)	Demerger
2(67)	Meaning of long term capital asset
2(97)	Meaning of resulting company
2(101)	Meaning of short term capital asset
2(103)	Meaning of slump sale
2(109)	Meaning of transfer
2(112)	Meaning of zero coupon bond
67	Capital gains
68	Capital gains on distribution of assets by companies in liquidation
69	Capital gains on purchase by company of its own shares or other specified securities
70	Transactions not regarded as transfer
72	Mode of computation of capital gains
73	Cost with reference to certain modes of acquisition
74	Special provision for computation of capital gains in case of depreciable assets
75	Special provision for cost of acquisition in case of depreciable asset
76	Special provision for computation of capital gains in case of Market Linked Debenture
77	Special provision for computation of capital gains in case of slump sale
78	Special provision for full value of consideration in certain case
79	Special provision for full value of consideration for transfer of share other than quoted share
80	Fair market value deemed to be full value of consideration in certain cases
81	Advance money received
82	Profit on sale of property used for residence

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83	Capital gains on transfer of land used for agricultural purposes not to be charged in certain case
84	Capital gains on compulsory acquisition of land and building not to be charged in certain cases
85	Capital gains not to be charged on investment in certain bonds
86	Capital gains on transfer of certain capital assets not to be charged in case of investment in residential house
89	Extension of time for acquiring new assets or depositing or investing amount of capital gains
90	Meaning of "adjusted", "cost of improvement" and "cost of acquisition"
91	Reference to Valuation Officer
196	Tax on short-term capital gains in certain cases
197	Tax on long-term capital gains
198	Tax on long- term capital gains in certain cases

4.2 INTRODUCTION

Section 67 provides that any profits or gains arising from the **transfer** of a **capital asset** effected in a tax year will be chargeable to income-tax under the head 'Capital Gains'. Such capital gains will be deemed to be the income of the tax year in which the transfer took place. In this charging section, two terms are important. One is **"capital asset"** and the other is **"transfer"**.

Hence, in this unit on capital gains, we begin our discussion with the definition of "capital asset" and "transfer". Thereafter, we will proceed to discuss the various circumstances under which capital gains tax is levied. There are certain transactions which are not to be regarded as transfer for the purposes of capital gains. These transactions have also been discussed in this unit. There is a separate method of computation of capital gains in respect of depreciable assets. Also, there are deductions in cases where capital gains are invested in specified assets. All these aspects are being discussed in this unit.

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4.3 CAPITAL ASSET



Definition: According to section 2(22), a capital asset means –

(a) property of any kind held by an assessee, whether or not connected with his business or profession.

(b) any securities held by

- a Foreign Institutional Investor which has invested in such securities in accordance with the SEBI regulations; or
- an investment fund specified in section 224(10)(a)[2] which has invested such securities in accordance with the SEBI regulations or IFSC regulations.

(c) any unit linked insurance policy (ULIP) to which exemption under Schedule II (Table: Sl. No. 2) does not apply.

> ***Note –*** *Provisions relating to taxability or otherwise of ULIPs issued on or after 1.2.2021 are not being made applicable at Intermediate level. Accordingly, section 67(5) has been excluded by way of Study Guidelines. Consequently, reference to such ULIPs has not been made in the discussion of Schedule II (Table: Sl. No. 2) and in the definition of equity oriented fund for the purpose of section 196 and 198 in the Study Material.*

However, capital assets do not include—

(i) Stock-in trade: Any stock-in-trade [other than securities held by FII or investment fund], consumable stores or raw materials held for business or profession;

Whether a particular asset is stock-in-trade or capital asset does not depend upon the nature of the item, but the manner in which the same is held. The item would be stock-in-trade in the hands of the assessee who deals or trades in that item; however, the same item would be capital asset for the assessee who holds it as an investment.

[2] The provisions of section 224(10)(a) will be dealt with at the Final level.

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A dealer in real estate holds a piece of land as stock-in-trade. But the same will be capital asset for an assessee who holds it as an investment.

The exclusion of stock-in-trade from the definition of capital asset is only in respect of (a) above and not (b). This implies that even if the nature of such security in the hands of the Foreign Portfolio Investor is stock in trade, the same would be treated as a capital asset and the profit on transfer would be taxable as capital gains.

Further, the Explanatory Memorandum to the Finance (No.2) Bill, 2014 clarifies that the income arising from transfer of such security by a Foreign Portfolio Investor (FPI) would be in the nature of capital gain, irrespective of the presence or otherwise in India, of the Fund manager managing the investments of the assessee.

(ii) **Personal effects:** Personal effects mean movable property (including wearing apparel and furniture) held for personal use by the assessee or any family member dependent on him.

EXCLUSIONS:

(a) jewellery;

(b) archaeological collections;

(c) drawings;

(d) paintings;

(e) sculptures; or

(f) any work of art.

Definition of Jewellery- Jewellery is a capital asset and the profits or gains arising from the transfer of jewellery held for personal use are chargeable to tax under the head "capital gains". For this purpose, the expression 'jewellery' includes the following:

(i) Ornaments made of gold, silver, platinum or any other precious metal or any alloy of such precious metals, with or without precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel;

(ii) Precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel.

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(iii) **Rural agricultural land** in India i.e., agricultural land in India which is not situated in any specified area.



As per the definition, **only rural agricultural lands in India are excluded** from the purview of the term 'capital asset'. Hence urban agricultural lands constitute capital assets.

Accordingly, the agricultural land described in (a) and (b) below, being land situated within the specified urban limits, would fall within the definition of "capital asset", and transfer of such land would attract capital gains tax -

(a) **Land situated within Municipality / Cantonment**

- The agricultural land is located within the limits of:
  - a municipality (municipal corporation, town committee, etc.), or
  - a cantonment board,
- AND the population of that area is not less than 10,000.

(b) **Land near Municipality (Aerial Distance Rule)**

Even if the land is outside municipal limits, it is still urban if it lies within the following distance:

Within distance, measured aerially, from local limits of any municipality or cantonment board not being more than	**Population according to the last preceding census of which the relevant figures have been published before the first day of the tax year.**
2 kms	> 10,000 but ≤ 1,00,000
6 kms	> 1,00,000 but ≤ 10,00,000
8 kms	> 10,00,000

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EXAMPLE

	Area	Aerial distance from the local limits of a municipality or cantonment board referred to in item (a)	Population according to the last preceding census of which the relevant figures have been published before the first day of the tax year.	Is the land situated in this area a capital asset?
(i)	A	1 km	9,000	No
(ii)	B	1.5 kms	12,000	Yes
(iii)	C	2 kms	11,00,000	Yes
(iv)	D	3 kms	80,000	No
(v)	E	4 kms	3,00,000	Yes
(v)	F	5 kms	12,00,000	Yes
(vi)	G	6 kms	8,000	No
(vii)	H	7 kms	4,00,000	No
(viii)	I	8 kms	10,50,000	Yes
(ix)	J	9 kms	15,00,000	No

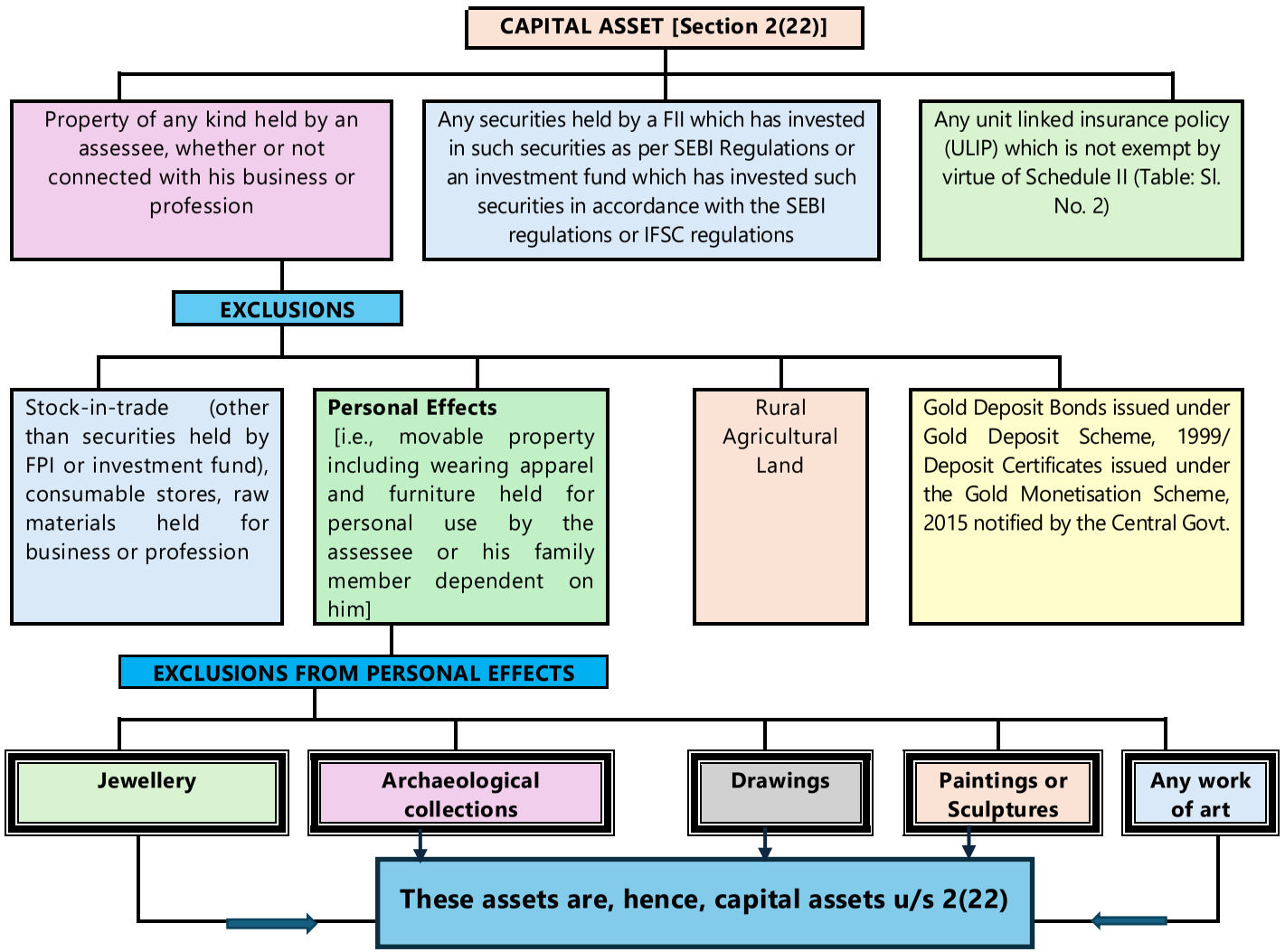
Gains arising on the transfer of urban agricultural land – Section 2(5)(ii) clarifies that capital gains arising from transfer of any agricultural land situated in any non-rural area (as explained above) will not constitute agricultural revenue within the meaning of section 2(5).

In other words, the capital gains arising from the transfer of such urban agricultural land would not be treated as agricultural income for the purpose of exemption under Schedule II (Table: Sl. No. 1). Hence, such gains would be eligible to tax under section 67.

(iv) **Gold Deposit Bonds** issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 and Gold Monetisation Scheme, 2019 notified by the Central Government.

Note – 'Property' includes any rights in or in relation to an Indian company, including rights of management or control or any other rights.

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1.	*Mr. A purchased a plot of land as an investment. Mr. B, a real estate dealer, purchased a similar plot for resale purposes. Which of the following is correct?*	
	(a)	*Both lands are capital assets*
	(b)	*Both lands are stock-in-trade*
	(c)	*Land held by Mr. A is capital asset and land held by Mr. B is stock-in-trade*
	(d)	*Depends only on type of property*
2.	*A Foreign Portfolio Investor (FPI) is engaged in trading in shares of Indian companies. On transfer of such shares, income would be taxable as:*	
	(a)	*Business income*
	(b)	*Capital gains*
	(c)	*Income from other sources*
	(d)	*Agricultural income*
3.	*Which of the following personal assets is treated as a capital asset?*	
	(a)	*Personal wearing apparel*
	(b)	*Household furniture for personal use*
	(c)	*Jewellery used personally*
	(d)	*Personal motor car*

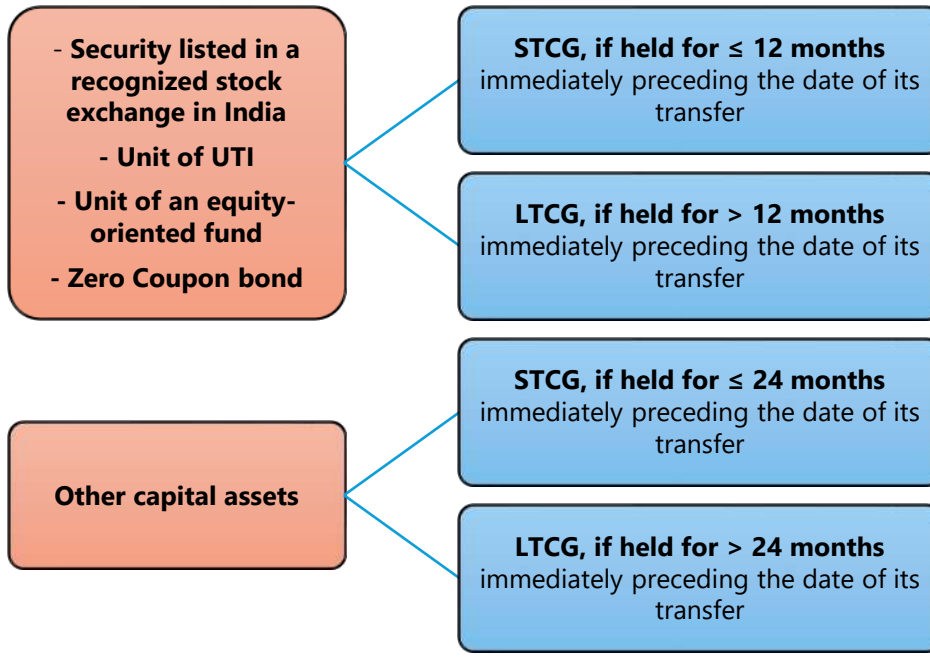
4.4 SHORT TERM AND LONG TERM CAPITAL ASSETS

- **Definition:** As per section 2(101), **short-term capital asset** means a capital asset held by an assessee **for not more than 24 months** immediately preceding the date of its transfer.

  As per section 2(67), long-term capital asset means a capital asset which is not a short-term capital asset.

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Accordingly, based on the period of holding capital assets would be classified as short-term or long-term capital asset as follows:





As per section 76, capital gains arising from transfer of the following assets would always be short term capital gains irrespective of the period of holding of such assets –

- units of a specified mutual fund acquired on or after 1.4.2023,
- market linked debentures and
- unlisted bond and unlisted debenture.

- **Meaning of certain terms:**

Term	Meaning
Equity oriented fund	A fund set up under a scheme of a mutual fund[3] and (i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange –

[3]Specified in Schedule VII (Table: S. No. 20 or 21)

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	I. a minimum of 90% of the total proceeds of such fund is invested in the units of such other fund; and II. such other fund also invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and (ii) in any other case, a minimum of 65% of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange. However, the percentage of equity shareholding or unit held in respect of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.
Zero Coupon Bond [Section 2(112)]	A bond - issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund[4] or a public sector company or a scheduled bank on or after 1st June, 2005, - for which no payment and benefit is received or receivable before maturity or redemption from such issuing entity and - which the Central Government may notify in this behalf.

♦ **Determination of period of holding [Section 2(101)(c)]:** In determining the period for which capital asset is held by the assessee, the following will be taken into consideration.

A. Period to be excluded: In the circumstances stated in column (1), the period specified in column (2) **shall be excluded:**

Circumstances (Column 1)	Period to be excluded (Column 2)
Where **shares held in a company in liquidation**	The period subsequent to the date on which the company goes into liquidation.

[4] Infrastructure debt fund notified by Central Government under Schedule VII (Table: Sl. No. 46)

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B. Period to be included: In the circumstances stated in column (1), the period specified in column (2) **shall be included:**

S. No.	Circumstances (Column 1)	Period of holding (Column 2)
1	Where capital **asset becomes the property of the assessee in the circumstances mentioned in section 73(1)(Table: Sl. No. 1)**	The period for which the capital asset was held by the previous owner.
2	Where **share(s) in an Indian company (amalgamated company)**, becomes the property of an assessee in lieu of share(s) held by him in the amalgamating company at the time of transfer referred to in section 70(1)(f).	The period for which the share(s) in the amalgamating company were held by the assessee.
3.	Where **share(s) in an Indian company** being a resulting company becomes the property of an assessee in consideration of **demerger.**	The period for which the share(s) in the demerged company was held by the assessee.
4	Where **equity shares** in a company becomes the property of the assessee by way of **conversion of preference shares into equity shares** referred under section 70(1)(zb)	The period for which the preference shares were held by the assessee.
5	In case of Electronic Gold Receipt [EGR] issued by a Vault Manager in respect	The period for which such gold was held by the assessee before

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	of gold deposited as referred to in section70(1)(y)	conversion into the Electronic Gold Receipt
6	In case of Gold released in respect of an Electronic Gold Receipt as referred to in section 70(1)(y)	The period for which such Electronic Gold Receipt was held by the assessee before its conversion into gold.

C. **Period to be reckoned from a date:** In the circumstances stated in column (1), the period **shall be reckoned from the date** specified in column (2):

S. No.	Circumstances (Column 1)	Period to be reckoned (Column 2)
1	Where **inventory of business is converted** into or treated **as a capital asset** by the assessee [as referred to in section 26(2)(j)]	From the date of conversion or treatment as a capital asset.
2	Where the **share or any other security is subscribed** by the assessee **on the basis of right to subscribe** to any share or security or subscribed by the person in whose favour the assessee has renounced his right	From the date of allotment of such share or security.
3.	Where the **right to subscribe** to any share or security, which is renounced in favour of any other person	From the date of offer of such right by the company or institution.
4	Where any **financial asset is allotted** without any payment and on the basis of holding of any other financial asset	From the date of allotment of such financial asset.

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5	Where any **specified security or sweat equity shares allotted** or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employees)	From the date of allotment or transfer of such specified security or sweat equity shares.
"Specified security" means the securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme. **"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.		

D. Period of holding in respect of other capital assets - The period for which any capital asset is held by the assessee shall be determined in accordance with any rules made by the CBDT in this behalf.

Accordingly, Rule 6 in the Income-tax Rules, 2026 provides for method of determination of period of holding of capital assets, other than the capital assets mentioned in items (A) to (C) of section 2(101)(c).

In the case of a capital asset, **being a share or debenture of a company**, which **becomes the property** of the assessee in the circumstances mentioned **in section 70(1)(z),** there shall be **included the period** for which the bond, debenture, debenture-stock or deposit certificate, as the case may be, was held by the assessee **prior to the conversion.**

Note: *Section 70(1)(z) provides that any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company shall not be regarded as transfer for the purposes of levy of capital gains tax.*

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4.5 TRANSFER [SECTION 2(109)]

Section 2(109) contains an inclusive definition of the term 'transfer'. Accordingly, transfer in relation to a capital asset includes the following types of transactions -

(a) the sale, exchange or relinquishment of the asset; or

(b) the extinguishment of any rights therein; or

(c) the compulsory acquisition thereof under any law; or



Acquisition of industrial undertaking under the Industries (Development and Regulation) Act, 1951.

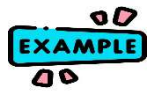
(d) the owner of a capital asset may convert the same into the stock-in-trade of a business carried on by him. Such conversion is treated as transfer; or



Where an investor in shares starts a business of dealing in shares and treats existing investments as stock-in-trade of the newly set up business, such conversion shall be regarded as transfer for the purpose of capital gains.

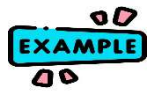
(e) the maturity or redemption of a zero-coupon bond; or

(f) transactions which have the effect of transferring or enabling the enjoyment of an immovable property.



A person may become a member of a co-operative society, company or other association of persons which may be building houses/flats. When he pays an agreed amount, the society etc. hands over possession of the house to the person concerned. No conveyance is registered. For the purpose of income-tax, the above transaction is a transfer.

(g) possession of an immovable property in consideration of part-performance of a contract referred to in section 53A of the Transfer of Property Act, 1882.



A enters into an agreement for the sale of his house. The purchaser gives the entire sale consideration to A. A hands over complete rights of possession to the purchaser since he has received the entire sale consideration though house is not yet registered in the name of the buyer. The above transaction is considered as transfer.

(h) disposing of, or parting with, an asset or any interest therein, or creating any interest in any asset in any manner directly or indirectly, absolutely or

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conditionally, voluntarily or involuntarily by way of an agreement (whether entered into in India or outside India) or otherwise.

The above transactions would be treated as a transfer irrespective of whether such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.

Meaning of Immovable Property:

The expression "immovable property" means -

(i) any land or any building or part of a building, and includes

- where any land/building/part of a building is to be transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things are also included in the "immovable property",
- the land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein.

(ii) any rights in or with respect to any land or any building or a part of a building (whether or not including any machinery, plant, furniture, fittings or other things therein), which has been constructed or which is to be constructed, accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease of such land, building or part of a building.

ILLUSTRATION 1

How will you calculate the period of holding in case of the following assets?

(1) Shares held in a company in liquidation

(2) Bonus shares

(3) Flat in a co-operative society

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SOLUTION

(1) **Shares held in a company in liquidation** - The period after the date on which the company goes into liquidation shall be excluded while calculating the period of holding. Therefore, the period of holding shall commence from the date of acquisition and end with the date on which the company goes into liquidation.

(2) **Bonus shares** - The period of holding shall be reckoned from the date of allotment of bonus shares and will end with the date of transfer.

(3) **Flat in a co-operative society** - The period of holding shall be reckoned from the date of allotment of shares in the society and will end with the date of transfer.

Note – Any transaction whether by way of becoming a member of, or acquiring shares in, a co-operative society or by way of any agreement or any arrangement or in any other manner whatsoever which has the effect of transferring, or enabling enjoyment of, any immovable property is a transfer as per section 2(109)(f).

Hence, it is possible to take a view that any date from which such right is obtained may be taken as the date of acquisition.



4.	*Unlisted securities are treated as long-term capital assets, if they are held for a period of more than -*	
	(a)	*12 Months*
	(b)	*36 Months*
	(c)	*24 Months*
	(d)	*48 Months*
5.	*Mr. Raj converted preference shares of ABC Ltd. into equity shares of the company and later on sold the equity shares. For determining period of holding of equity shares, period of holding of:*	
	(a)	*equity shares alone is considered*
	(b)	*preference shares is also included*
	(c)	*only post-conversion period is considered*
	(d)	*no period is counted*

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4.6 SCOPE AND YEAR OF CHARGEABILITY [SECTION 67]

(i) General Provision [Section 67(1)]

Any profits or gains arising from the transfer of a capital asset effected in a tax year (other than exemptions covered under this unit) shall be chargeable to income-tax under this head **in the tax year in which the transfer took place.**



Capital gains are chargeable as the income of the tax year in which the sale or transfer takes place. In other words, for determining the year of chargeability, the relevant date of transfer is not the date of the agreement to sell, but the actual date of sale *i.e.,* the date on which the effect of transfer of title to the property as contemplated by the parties has taken place[5].

However, as already noted, Income-tax Act has recognised certain transactions as transfer in spite of the fact that conveyance deed might not have been executed and registered.

(ii) Insurance Receipts [Section 67(2)]

If a person receives during any tax year any money or other assets under an insurance from an insurer on account of damage to or destruction of any capital asset, as a result of -

- flood, typhoon, hurricane, cyclone, earthquake or any other convulsion of nature,
- riot or civil disturbance,
- accidental fire or explosion or
- action by an enemy or action taken in combating an enemy (whether with or without declaration of war),

then, any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of **such person for the tax year in which such money or other asset was received.**

[5]*Alapati Venkatramiah v. CIT [1965] 57 ITR 185 (SC)*

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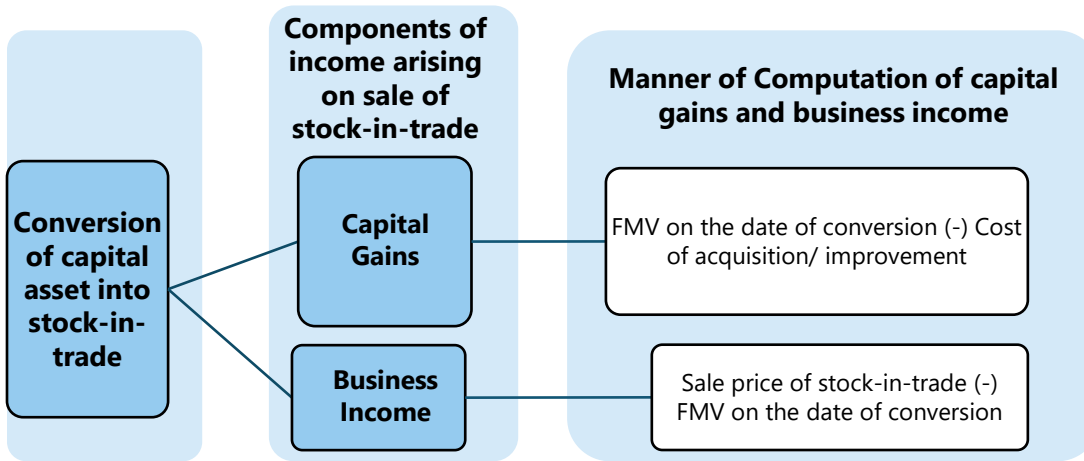
Full value of consideration: In order to compute capital gains, the value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital assets.

(iii) Conversion or treatment of a capital asset as stock-in-trade [Section 67(6)]

A person who is the owner of a capital asset may convert the same or treat it as stock-in-trade of the business carried on by him. As noted above, the above transaction is a transfer.

As per section 67(6), irrespective of anything contained in section 67(1), being the charging section, the profits or gains arising from the above conversion or treatment will be chargeable to income-tax as **his income of the tax year in which such stock-in-trade is sold or otherwise transferred by him.**

Full value of consideration: In order to compute the capital gains, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.



Note – *Both Capital Gains and Business income are chargeable to tax in the year in which stock-in-trade is sold or otherwise transferred.*

ILLUSTRATION 2

A is the owner of a car which he uses for his personal purposes. On 1-4-2026, he starts a new business of purchase and sale of motor cars. He treats the above car as part of the stock-in-trade of his new business. He sells the same on 31-3-2027 and gets a profit of ₹ 1 lakh. Discuss the tax implication in his hands under the head "Capital gains".

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SOLUTION

Since car is a personal asset, conversion or treatment of the same as the stock-in-trade of his business will not be trapped by the provisions of section 67(6). Hence, A is not liable to capital gains tax. Profit on sale of car as stock in trade would be taxable under the head "Profits and gains of business or profession".

ILLUSTRATION 3

X converts his capital asset (shares of company acquired on June 10, 2020 for ₹60,000) into stock-in-trade on March 10, 2026. The fair market value on the date of the above conversion was ₹5,50,000. He subsequently sells the stock-in-trade so converted for ₹6,00,000 on June 10, 2026. Discuss the year of chargeability of capital gain and business income.

SOLUTION

Since the capital asset is converted into stock-in-trade during the tax year 2025-26, it will be a transfer under section 2(109) during the T.Y. 2025-26. However, the profits or gains arising from the above conversion will be chargeable to tax during the T.Y. 2026-27, since the stock-in-trade has been sold only on June 10, 2026. For this purpose, the fair market value on the date of such conversion (i.e. 10th March, 2026) will be the full value of consideration for computation of capital gains.

The capital gains would be computed by reducing the cost of acquisition therefrom. ₹ 4,90,000 (i.e., ₹ 5,50,000 – ₹ 60,000) will be treated as long-term capital gains chargeable to tax during the T.Y.2026-27. The business income of ₹ 50,000 (i.e., ₹ 6,00,000 (-) ₹ 5,50,000, being the fair market value on the date of conversion) would also be taxable in the T.Y.2026-27. Thus, both capital gains and business income would be chargeable to tax in the T.Y.2026-27.

(iv) Compensation on compulsory acquisition [Section 67(12)]

Sometimes, a building or some other capital asset belonging to a person is taken over by the Central Government by way of compulsory acquisition. In that case, the consideration for the transfer is determined by the Central Government of RBI. When the Central Government pays the above compensation, capital gains may arise. Such capital gains are **chargeable as income of the tax year in which such compensation or part thereof, was first received**.

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Enhanced Compensation - Many times, persons whose capital assets have been taken over by the Central Government and who get compensation from the Government go to the Court of law for enhancement of compensation. If the court awards compensation which is higher than the original compensation, the difference thereof will be chargeable to capital gains in the year in which the same is received from the government.

Compensation received in pursuance of an interim order deemed as income chargeable to tax in the year of final order - Section 67(12)(c) provides that compensation received in pursuance of an interim order of the court, tribunal or other authority, compensation shall be deemed to be income chargeable under the head 'Capital gains' in the tax year in which the final order of such court, tribunal or other authority is made.

Cost of acquisition in case of enhanced compensation - For this purpose, the cost of acquisition and cost of improvement shall be taken to be nil.

Reduction of enhanced compensation - Where capital gain has been charged on the compensation received by the assessee for the compulsory acquisition of any capital asset or enhanced compensation received by the assessee and subsequently such compensation is reduced by any Court, Tribunal or any authority, the assessed capital gain of that year shall be recomputed by taking into consideration the reduced amount. This re-computation shall be done by way of rectification[6].

Enhanced consideration received by any other person – Where the enhanced compensation or consideration is received by any other person due to death of the transferor or for any other reason, such sum will be chargeable to tax in the hands of the person who receives the same.



6.	*Compensation received pursuant to an interim order shall be deemed to be income chargeable under the head "Capital Gains" in the tax year in which _____.*	
	(a)	*the final order of such Court, Tribunal or other authority is made*
	(b)	*the compensation accrued*
	(c)	*the appeal was first filed before such Court, Tribunal or other authority*
	(d)	*the interim order is passed*

[6]under section 288

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4.7 CAPITAL GAINS ON DISTRIBUTION OF ASSETS BY COMPANIES IN LIQUIDATION [SECTION 68]

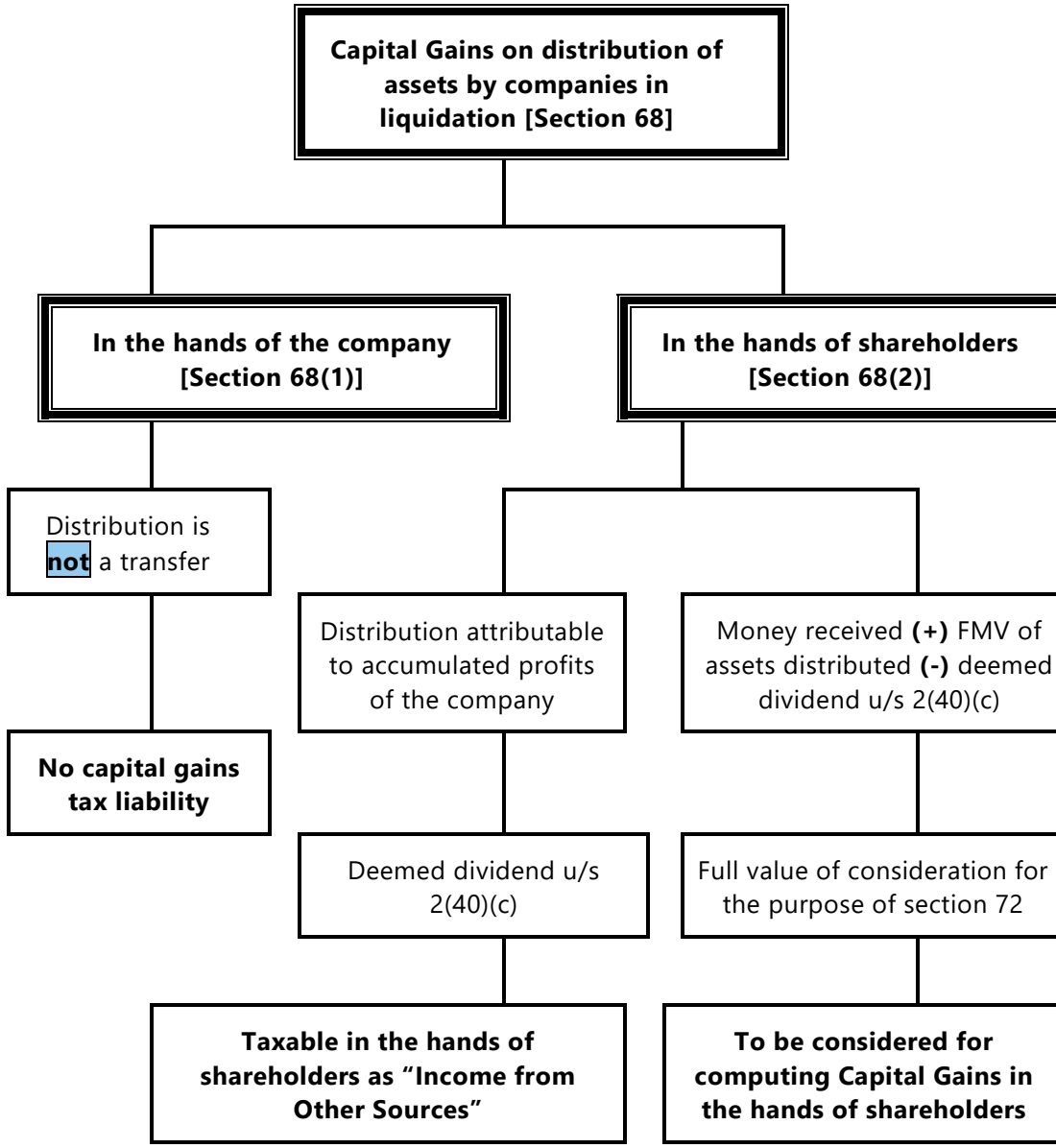
(1) **In the hands of liquidated company:** Where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall **not** be regarded as a transfer by the company for the purposes of section 67 [Section 68(1)].

The above section is restricted in its application to the circumstances mentioned therein *i.e.,* the assets of the company must be distributed in specie to shareholders on the liquidation of the company. If, however, the liquidator sells the assets of the company resulting in a capital gain and distributes the funds so collected, the company will be liable to pay tax on such gains.

(2) **In the hands of shareholders:** Shareholders receive money or other assets from the company on its liquidation. They will be chargeable to income-tax under the head 'capital gains' in respect of the market value of the assets received on the date of distribution, or the moneys so received by them. The portion of the distribution which is attributable to the accumulated profits of the company is to be treated as dividend income under section 2(40)(c), which would be taxable in the hands of shareholders under the head "Income from other sources". The same will be deducted from the amount received or fair market value or both for the purpose of determining the consideration for computation of capital gains.

(3) **Capital gains tax on subsequent sale by the shareholders:** If the shareholder, after receipt of any such asset on liquidation of the company, transfers it, then Fair Market Value on the date of distribution would be treated as cost of acquisition of such asset.

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7.	*On liquidation of XYZ Pvt. Ltd., shareholder Mr. X received cash of ₹ 3 lakhs and land having FMV of ₹ 7 lakhs. The accumulated profit of the company as on date was ₹ 2 lakhs. The full value of consideration for capital gains purposes in the hands of Mr. X would be:*	
	(a)	*₹ 10 lakhs*
	(b)	*₹ 8 lakhs*
	(c)	*₹ 7 lakhs*
	(d)	*₹ 5 lakhs*

4.8 CAPITAL GAINS ON BUYBACK OF SHARES OR SPECIFIED SECURITIES [SECTION 69]

(1) **Taxability of consideration received by shareholders of holder of other specified securities on buy-back of shares or specified securities:** Any consideration received by a shareholder or holder of other specified securities from any company on purchase of its own shares or other specified securities is chargeable to tax in the hands of the shareholder or the holder of specified securities.

(2) **Capital gains on buy-back of shares or specified securities:** The difference between the cost of acquisition and the value of consideration received by the shareholder or holder of other specified securities is chargeable to tax as capital gains in his hands. The computation of capital gains shall be made as per the provisions of section 72.

(3) **Year of Taxability:** Such capital gains shall be chargeable to tax in the year in which such shares or specified securities were purchased by the company.

(4) **Additional income-tax payable by promoters:** Where the shareholder or the holder of other specified securities is a person other than the promoter of the company, the capital gains arising on the transfer of such shares or specified securities shall be taxable at the applicable rate of tax.

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However, where the shareholder or the holder of other specified securities is a promoter of the company and the capital gains arising on the transfer of such shares or specified securities are taxable under section 196, 197 or 198, such promoter shall, in addition to the tax payable under the said sections, be liable to pay an additional income-tax on the capital gains arising from such transfer.

The rate of such additional income tax are as follow:

Sr. No.	Nature of Capital Gains	Rate of additional tax, where the promoter is a domestic company	Rate of additional tax, where the promoter is other than a domestic company
1.	Short-term capital gains referred to in section 196 arising from the transfer of such shares or specified securities.	2%	10%
2.	Long-term capital gains referred to in section 197 or section 198 arising from the transfer of such shares or specified securities.	9.5%	17.5%

(5) Surcharge on additional income tax: Further, **a flat surcharge @12% shall be levied on additional tax payable** on buy-back of shares, irrespective of the amount of the total income.

(6) Meaning of certain terms:

Sr. No.	Terms	Meaning
1.	Specified securities	As per *Explanation 1* to section 68 of the Companies Act, 2013, "specified securities" include employees' stock option or other securities as may be notified by the Central Government from time to time.

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2.	Promoter	**In the case of a company whose shares are listed on a recognised stock exchange in India** 'Promoter' shall have the same meaning as assigned to it in regulation 2(k) of the SEBI (Buy-Back of Securities) Regulations, 2018 made under the SEBI Act, 1992. **In any other case** "Promoter" means - a. a "promoter" as defined in section 2(69) of the Companies Act, 2013 i.e., a person who has been named as such in a prospectus or is identified by the company in the annual return or who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise or in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act except if such person who is acting merely in a professional capacity or b. a person who holds, directly or indirectly, more than 10% of the shareholding in the company.

ILLUSTRATION 4

ABC Pvt. Ltd. issued 20,000 equity shares to Mr. Amit, a promoter, on 8th April, 2020 at ₹20 per share (face value ₹10 per share). Subsequently, in May 2026, the company bought back 15,000 of these shares at ₹35 per share from Mr. Amit. What would be the tax treatment of buy back in the hands of Mr. Amit?

SOLUTION

On buy back of shares by ABC Pvt. Ltd., long-term capital gain would arise in the hands of Mr. Amit since equity shares were held for more than 24 months.

Long term capital gain = Value of consideration received - cost of acquisition

= ₹ 5,25,000 (15,000 x ₹ 35) - ₹ 3,00,000 (15,000 x ₹ 20)

= ₹ 2,25,000

Tax on long term capital gain u/s 197 = 12.5% of ₹ 2,25,000 = ₹ 28,125

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As Amit is a non-corporate promoter of ABC Pvt. Ltd., he is liable to pay additional income tax at the rate of 17.5%. Thus, additional income tax shall be ₹ 39,375 (17.5% of ₹ 2,25,000). Further, he is required a pay surcharge of 12% on additional income tax amounting to ₹ 4,725 (12% of ₹ 39,375).

Taxes on buy back in the hands of Amit –

Tax u/s 197 on long term capital gains = ₹ 28,125

Additional income tax on buy back = ₹ 39,375

Surcharge on additional income-tax = ₹ 4,725

4.9 IMPORTANT DEFINITIONS

(a) Amalgamation [Section 2(6)] - "Amalgamation", in relation to companies, means -



- the merger of one or more companies with another company or
- the merger of two or more companies to form one company

(the company or companies which so merge being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger, as the amalgamated company) in such a manner that -

(i) all the property of the amalgamating company or companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation;

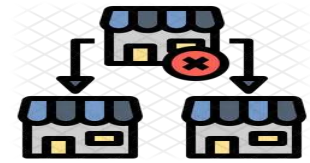
(ii) all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation;

(iii) the shareholders holding not less than three-fourth in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,

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otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first mentioned company.

(b) Demerger [Section 2(35)] - "Demerger", in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 230 to 232 of the Companies Act, 2013, by a demerged company of its one or more undertaking to any resulting company in such a manner that -



(i) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;

(ii) all the liabilities relatable to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;

(iii) the property and the liabilities of the undertaking or u ndertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger;

However, this provision does not apply where, in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015.

(iv) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis;

Note - If the resulting company is a shareholder of the demerged company, it cannot issue shares to itself. However, the resulting company has to issue shares to the other shareholders of the demerged company.

(v) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become shareholders of the resulting company or companies by virtue of the demerger, otherwise than as a

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result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;

(vi) the transfer of the undertaking is on a going concern basis;

(vii) the demerger is as per the conditions, if any, notified[7] by the Central Government in this behalf.

Reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if it has been made to transfer any asset of the demerged company to the resulting company and the resulting company –

(a) is a public sector company on the appointed day indicated in such scheme approved by the Central Government or any other body authorized under the Companies Act, 2013 or any other applicable law governing such public sector companies; and

(b) fulfils such other conditions as may be notified by the Central Government.

(c) Demerged Company - Demerged company means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company.

(d) Resulting Company - Resulting company means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger.

4.10 TRANSACTIONS NOT REGARDED AS TRANSFER [SECTION 70]

Section 70 specifies certain transactions which will not be regarded as transfer for the purpose of capital gains tax:

[7] under sub-section (7) of section 116

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(1) **Total or partial partition of a HUF**: Any distribution of capital assets on the total or partial partition of a HUF [Section 70(1)(a)].

(2) **A gift or will or an irrevocable trust by individual or HUF:** Any transfer of a capital asset by an individual or HUF under a gift or will or an irrevocable trust [Section 70(1)(b)].

(3) **Transfer of capital asset by holding company to its wholly owned Indian subsidiary company:** Any transfer of capital asset, not being stock-in-trade, by a company to its subsidiary company [Section 70(1)(c)].

Conditions:

(i) The parent company or its nominee must hold the whole of the shares of the subsidiary company; and

(ii) The subsidiary company must be an Indian company.

(4) **Transfer of capital asset by a subsidiary company to its 100% holding company, being an Indian company:** Any transfer of capital asset, not being stock-in-trade, by a subsidiary company to the holding company [Section 70(1)(d)].

Conditions:

(i) The whole of shares of the subsidiary company must be held by the holding company; and

(ii) The holding company must be an Indian company.

(5) **Transfer of capital asset by amalgamating company to amalgamated Indian company, in a scheme of amalgamation:** Any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company [Section 70(1)(e)].

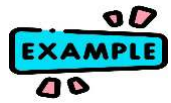
(6) **Transfer of shares by a shareholder in a scheme of amalgamation:** Any transfer by a shareholder, in a scheme of amalgamation, of shares held by him in the amalgamating company [Section 70(1)(f)].

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Conditions:

(i) The transfer is made in consideration of the allotment to him of any share/s in the amalgamated company, except where the shareholder itself is the amalgamated company;

(ii) The amalgamated company is an Indian company.



Let us take a case where A Ltd., an Indian company, holds 60% of shares in B Ltd. B Ltd. amalgamates with A Ltd. Since A Ltd. itself is the shareholder of B Ltd., A Ltd., being the amalgamated company, cannot issue shares to itself. However, A Ltd. has to issue shares to the other shareholders of B Ltd.

ILLUSTRATION 5

M held 2000 shares in a company ABC Ltd., an Indian company. This company amalgamated with another Indian company XYZ Ltd. during the tax year ending 31.3.2027. Under the scheme of amalgamation, M was allotted 1000 shares in the new company. The market value of shares allotted is higher by ₹ 50,000 than the value of holding in ABC Ltd. The Assessing Officer proposes to treat the transaction as an exchange and to tax ₹ 50,000 as capital gain. Is he justified?

SOLUTION

In the above example, the transaction is squarely covered by the exemption explained above and the proposal of the Assessing Officer to treat the transaction as a transfer is not justified.

(7) Transfer of capital asset by the demerged company to the resulting Indian company, in a scheme of demerger: Any transfer in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company [Section 70(1)(j)].

(8) Transfer or issue of shares by a resulting company, in a scheme of demerger: Any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company, if the transfer is made in consideration of the demerger of the undertaking [Section 70(1)(k)].

(9) Redemption of sovereign gold bonds: Redemption of sovereign gold bonds issued by RBI under the Sovereign Gold Bond Scheme, 2015 or

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subsequent Sovereign Gold Bond Scheme, if held by an individual from the date of original issue till maturity [Section 70(1)(x)]

(10) Conversion of gold into Electronic Gold Receipt or *vice versa*: Any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold [Section 70(1)(y)]

(11) Conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures: Any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company [Section 70(1)(z)]

(12) Conversion of preference shares into equity shares: Any transfer by way of conversion of preference shares of a company into equity shares of that company [Section 70(1)(zb)]

(13) Transfer of specified capital asset to the Government or university etc.: Any transfer of any of the following capital asset to the Government or to the University or the National Museum, National Art Gallery, National Archives or any other public museum or institution notified by the Central Government to be of national importance or to be of renown throughout any State

(i) work of art

(ii) archaeological, scientific or art collection

(iii) book

(iv) manuscript

(v) drawing

(vi) painting

(vii) photograph or

(viii) print [Section 70(1)(zc)].

(14) Transfer of capital asset under Reverse Mortgage: Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government [Section 70(1)(zh)].

The Reverse Mortgage scheme is for the benefit of senior citizens, who own a residential house property. In order to supplement their existing income,

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they can mortgage their house property with a scheduled bank or housing finance company, in return for a lump-sum amount or for a regular monthly/quarterly/annual income. The senior citizens can continue to live in the house and receive regular income, without the botheration of having to pay back the loan.

The loan will be given up to, say, 60% of the value of residential house property mortgaged. Also, the bank/housing finance company would undertake a revaluation of the property once every 5 years. The borrower can use the loan amount for renovation and extension of residential property, family's medical and emergency expenditure etc., amongst others However, he cannot use the amount for speculative or trading purposes.

The Reverse Mortgage Scheme, 2008, now includes within its scope, disbursement of loan by an approved lending institution, in part or in full, to the annuity sourcing institution, for the purposes of periodic payments by way of annuity to the reverse mortgagor. This would be an additional mode of disbursement i.e., in addition to direct disbursements by the approved lending institution to the Reverse Mortgagor by way of periodic payments or lump sum payment in one or more tranches.

An annuity sourcing institution has been defined to mean Life Insurance Corporation of India or any other insurer registered with the Insurance Regulatory and Development Authority.

Maximum Period of Reverse Mortgage Loan:

	Mode of disbursement	Maximum period of loan
(a)	Where the loan is disbursed directly to the Reverse Mortgagor	20 years from the date of signing the agreement by the reverse mortgagor and the approved lending institution.
(b)	Where the loan is disbursed, in part or in full, to the annuity sourcing institution for the purposes of periodic payments by way of annuity to the Reverse mortgagor	The residual life time of the borrower.

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The bank will recover the loan along with the accumulated interest by selling the house after the death of the borrower. The excess amount will be given to the legal heirs. However, before resorting to sale of the house, preference will be given to the legal heirs to repay the loan and interest and get the mortgaged property released.

Therefore, section 70(1)(zh) clarifies that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government would not amount to transfer for the purpose of capital gains.

Exemption of income received in a transaction of reverse mortgage [Schedule III (Table: S. No. 35): [Schedule III (Table: S. No. 35) provides that the amount received by the senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from income-tax.

ILLUSTRATION 6

In which of the following situations capital gains tax liability does not arise?

(i) Mr. A purchased gold in 1970 for ₹ 25,000. In the T.Y. 2026-27, he gifted it to his son at the time of marriage. Fair market value (FMV) of the gold on the day the gift was made was ₹ 1,00,000.

(ii) A house property is purchased by a Hindu undivided family in 1945 for ₹ 20,000. It is given to one of the family members in the T.Y. 2026-27 at the time of partition of the family. FMV on the date of partition was ₹ 12,00,000.

(iii) Mr. B purchased 50 convertible debentures for ₹ 40,000 in 1995 which are converted into 500 shares worth ₹ 85,000 in November 2026 by the company.

SOLUTION

We know that capital gains arises only when we transfer a capital asset. The liability of capital gains tax in the situations given above is discussed as follows:

(i) As per the provisions of section 70(1)(b), gift of a capital asset by an individual is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

(ii) As per the provisions of section 70(1)(a), distribution of a capital asset (being in kind) on the total or partial partition of Hindu undivided family is **not**

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regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

(iii) As per the provisions of section 70(1)(z), conversion of bonds or debentures, debenture stock or deposit certificates in any form of a company into shares or debentures of that company is **not** regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

ILLUSTRATION 7

Mr. Abhishek a senior citizen, mortgaged his residential house with a bank, under a notified reverse mortgage scheme. He was getting loan from bank in monthly installments. Mr. Abhishek did not repay the loan on maturity and hence gave possession of the house to the bank, to discharge his loan. How will the treatment of long-term capital gain be on such reverse mortgage transaction?

SOLUTION

Section 70(1)(zh) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be considered as a transfer for the purpose of capital gain.

Accordingly, the mortgaging of residential house with bank by Mr. Abhishek will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.

Further, Schedule III (Table: S. No. 35) provides that the amount received by the senior citizen as a loan, either in lump sum or in installment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly installment amounts received by Mr. Abhishek would not be taxable.

ILLUSTRATION 8

Examine, with reasons, whether the following statements are True or False.

(i) Alienation of a residential house in a transaction of reverse mortgage under a scheme made and notified by the Central Government is treated as "transfer" for the purpose of capital gains.

(ii) Zero coupon bonds of eligible corporation, held for 14 months, will be long-term capital assets.

(iii) Zero Coupon Bond means a bond on which no payment and benefits are received or receivable before maturity or redemption.

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SOLUTION

(i) **False:** As per section 70(1)(zh), such alienation in a transaction of reverse mortgage under a scheme made and notified by the Central Government is not regarded as "transfer" for the purpose of capital gains.

(ii) **True:** Section 2(101) defines the term 'short-term capital asset'. Under the proviso to section 2(101), zero coupon bond held for not more than 12 months will be treated as a short-term capital asset. Consequently, such bonds held for more than 12 months will be a long-term capital asset.

(iii) **True:** As per section 2(112), 'Zero Coupon Bond' means a bond issued by any infrastructure capital company or infrastructure capital fund or infrastructure debt fund or a public sector company, or Scheduled Bank on or after 1st June 2005, in respect of which no payment and benefit is received or receivable before maturity or redemption from such issuing entity and which the Central Government may notify in this behalf.

4.11 MODE OF COMPUTATION OF CAPITAL GAINS [SECTION 72]

(i) **Computation of capital gains:** The income chargeable under the head 'Capital gains' shall be computed by deducting the following items from the full value of the consideration received or accruing as a result of the transfer of the capital asset:

(1) Expenditure incurred wholly and exclusively in connection with such transfer like brokerage, stamp duty, registration fee, legal expenses etc.

(2) The cost of acquisition of the asset and cost of any improvement thereto.

(ii) **Cost inflation index:** In case of a resident individual or HUF, while computing tax on transfer of long term capital asset, being land or building or both, which was acquired before 23.7.2024, the excess income-tax computed by following formula shall be ignored -

E = A – B

E = Excess income-tax to be ignored

A = Long term capital gain without indexation benefit @12.5%

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B = Long term capital gain with indexation benefit @20%

Accordingly, for computing B under the aforesaid formula, the cost of acquisition and cost of improvement will be increased by applying the cost inflation index (CII). Once the cost inflation index is applied to the cost of acquisition and cost of improvement, it becomes indexed cost of acquisition and indexed cost of improvement.



It may be noted that the above provision to a resident individual or HUF is only while computing tax on LTCG under section 197 on transfer of land or building or both and not while computing Income under the head "Capital Gains" which would form part of gross total income/total income. Thus, for computing income under the head "Capital Gains" to be included in gross total income, indexation benefit is **not** to be given.

"Cost Inflation Index" in relation to a tax year means such index as may be notified by the Central Government having regard to 75% of average rise in the Consumer Price Index (Urban) for the immediately preceding tax year to such tax year.

Indexed cost of acquisition means an amount which bears to the cost of acquisition, the same proportion as CII for the year in which the asset is transferred bears to the CII for the first year in which the asset was held by the assessee or for the year beginning on 1st April, 2001, whichever is later.

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

The cost inflation indices for the financial years so far have been notified as under:

Financial Year	Cost Inflation Index
2001-02	100
2002-03	105
2003-04	109

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2004-05	113
2005-06	117
2006-07	122
2007-08	129
2008-09	137
2009-10	148
2010-11	167
2011-12	184
2012-13	200
2013-14	220
2014-15	240
2015-16	254
2016-17	264
2017-18	272
2018-19	280
2019-20	289
2020-21	301
2021-22	317
2022-23	331
2023-24	348
2024-25	363
2025-26	376
2026-27	**Yet to be notified**[8]

(iii) **No deduction in respect of interest and STT:** No deduction shall be allowed in computing the income chargeable under the head "Capital Gains" in respect of:

(a) the interest claimed as deduction under section 22(1)(b) or under Chapter VIII

[8] As on the date of release of this Study Material

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(b) any amount paid on account of securities transaction tax under Chapter VII of the Finance (No.2) Act, 2004.

(iv) Special provision for non-residents – In case of non-residents who invest foreign exchange to acquire capital assets, capital gains arising from the transfer of shares or debentures of an Indian company is to be computed in the following manner:

- The cost of acquisition, the expenditure incurred wholly and exclusively in connection with the transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset are to be converted into the same foreign currency which was initially utilized in purchase of the shares or debentures. The conversion has to be done at the average of Telegraphic Transfer Buying Rate (TTBR) and Telegraphic Transfer Selling Rate (TTSR) on the respective dates.
- The resulting capital gains shall be reconverted into Indian currency by applying the TTBR on the date of transfer.

The aforesaid manner of computation of capital gains shall be applied for every purchase and sale of shares or debentures in an Indian company. This will provide relief from risk of foreign currency fluctuation to non-residents.

Note – The provisions of currency fluctuation would not be applicable to the long-term capital gains arising from the transfer of equity share in a company on which STT is paid both at the time of acquisition and transfer as referred to in section 198.

4.12 ASCERTAINMENT OF COST IN SPECIFIED CIRCUMSTANCES [SECTION 73]

A person becomes the owner of a capital asset not only by purchase but also by several other methods. Section 73(1) gives guidelines as to how to compute the cost under different circumstances.

S. No.	Circumstance	Cost of acquisition
1.	**Cost to previous owner deemed as cost of acquisition of asset**	
	Where the capital asset became the property of the assessee:	Cost for which the previous owner of the property acquired

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	(i) under a gift or will; (ii) by succession, inheritance or devolution; (iii) on any distribution of assets on the liquidation of a company; (iv) under a transfer to revocable or an irrevocable trust; (v) in case of an HUF, by the mode referred to in section 99(3) i.e., conversion by an individual of his separate property into a HUF property; (vi) on any distribution of assets on the total or partition of a HUF; (vii) under any transfer of capital asset by a holding company to its wholly owned subsidiary Indian company or by a subsidiary company to its 100% holding Indian company, referred to in section 70(1)(c) and 70(1)(d), respectively; (viii) under any transfer referred to in section 70(1)(e) of a capital asset by amalgamating company to the amalgamated Indian company, in a scheme of amalgamation; (viii) under any transfer referred to in section 70(1)(j), of a capital asset by the demerged company to the resulting Indian company, in a scheme of demerger;	it. Previous owner of the property means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in (1). ***Notes*** – ***Cost of improvement*** – *To the cost of acquisition, the cost of improvement to the asset, incurred by the previous owner or the assessee on or after 1.4.2001 must be added.* ***Period of holding*** - *It may be noted that section 2(101)(c) provides that in all such cases, for determining the period for which the capital asset is held by the transferee, the period of holding of the asset by the previous owner shall also be considered.* *In case of gifted asset, the indexed cost of acquisition has to be computed with reference to the year in which the previous owner first held the asset and not the year in which the assessee became the owner of the asset*[9].
2.	**Shares received under the scheme of amalgamation**	
	Where shares in an amalgamated	The cost of acquisition to him of

[9] As decided in Bombay High Court, in CIT v. Manjula J. Shah 16 Taxman 42

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	company which is an Indian company become the property of the assessee in consideration of the transfer of shares referred to in section 70(1)(f) held by him in the amalgamating company under a scheme of amalgamation.	the shares in the amalgamated company shall be taken as the cost of acquisition of the shares in the amalgamating company.
3.	**Shares or debentures received during the process of conversion of bonds or debentures, debenture stock or deposit certificates**	
	Where a person becomes the owner of shares or debentures of a company in consideration of conversion of bonds or debentures, debenture stock or deposit certificates referred under section 70(1)(z).	That part of the cost of debentures, debenture stock, bond or deposit certificate in relation to which such asset (shares or debentures) is acquired by that person.
4.	**Specified security or sweat equity shares**	
	Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in section 17(1)(d)	Fair market value taken into account for perquisite valuation.
5.	**Equity shares received at the time of conversion of preference shares**	
	Where equity shares of a company, became the property of the assessee in consideration of transfer by way of conversion of preference shares of the company [Section 70(1)(zb)]	That part of the cost of the preference share in relation to which such equity shares are acquired by the assessee.
6.	**Shares received in the resulting company in the scheme of demerger**	
	Shares in the resulting company received in case of demerger	The cost of acquisition of the shares in the resulting company shall be computed as per following formula: $X = \frac{A \times B}{C}$

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		Where - X = Cost of acquisition of shares in the resulting company A = Cost of acquisition of shares held in the demerged company B = Net book value of the assets transferred in a demerger C = Net worth of the demerged company immediately before the demerger
"Net worth" means the total of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.		
7.	**Shares held in the demerged company**	
	Original shares held by the shareholder in the demerged company	The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived under serial number 6.
8.	**Property subject to tax under section 92(2)(m)**	
	Where the capital gain arises from the transfer of such property which has been subject to tax under section 92(2)(m)	The value taken into account for the purposes of section 92(2)(m).
9.	**Capital asset which was used by the assessee as an inventory before its conversion into capital asset**	
	Where the capital gain arises from the transfer of a capital asset which was used by the assessee as inventory earlier before its conversion into capital asset	The fair market value of the inventory as on the date on such conversion determined in the prescribed manner
10.	**Capital asset, being an Electronic Gold Receipt or Gold**	
	Where a capital asset, being an Electronic Gold Receipt issued by a	The cost of gold in the hands of the person in whose name

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	Vault Manager became the property of the person as consideration for transfer of gold [Section 70(1)(y)]	Electronic Gold Receipt is issued.
	Where gold is released against an Electronic Gold Receipt, which became the property of the person as consideration for transfer of Electronic Gold Receipt [Section 70(1)(y)]	The cost of the Electronic Gold Receipt in the hands of such person.

4.13 COST OF ACQUISITION [SECTION 90]

Cost of acquisition is the price that the assessee has paid, or the amount that the assessee has incurred, for acquisition of the asset. Expenses incurred for completing the title are a part of the cost of acquisition. For eg: Stamp duty.

Cost of acquisition in relation to the following assets is as follows:

(1) Goodwill of a business or profession or a trademark or brand name associated with a business or profession or any other intangible asset or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, tenancy rights, stage carriage permits and loom hours, or any other right

(i) In case of acquisition from previous owner [Section 90(3)(a)]: In the case of the above capital assets, if the assessee has purchased them from a previous owner, the cost of acquisition means the amount of the purchase price.



If A purchases a stage carriage permit from B for ₹2 lakhs, ₹2 lakhs will be the cost of acquisition for A.

(ii) In case of circumstances mentioned under section 73 (Table: S. No. 1) [Section 90(3)(b)]: In cases where the capital asset became the property of the assessee from the previous owner by any of the modes mentioned under Section 73 (Table Sl. No. 1) discussed above, and such capital assets were acquired by the previous owner by purchase, cost of acquisition to the assessee will be the amount of the purchase price for such previous owner.

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However, in both the above cases, if capital asset is a goodwill of a business or profession and the assessee has obtained depreciation under section 32(1) of the Income-tax Act,1961 in a tax year preceding the tax year 2020-21, then the amount of depreciation obtained before T.Y. 2020-21 shall be reduced from the amount of the purchase price.

(iii) **In any other case [Section 90(3)(c)]**: In any other case **i.e., when assets are self-generated**, the cost of acquisition of above assets will be taken to be Nil.

(2) **Financial assets [Section 90(5) and 90(6)] -** Many a time, persons who own shares or any other securities become entitled to subscribe to any additional shares or securities. Further, they are also allotted any additional shares or securities without any payment. Such shares or securities are referred to as financial assets. Section 90(5) and (6) provides the basis for ascertaining the cost of acquisition of such financial assets.

(i) **Original shares (which form the basis of entitlement of rights shares):** In relation to the original financial asset on the basis of which the assessee becomes entitled to any additional financial assets, cost of acquisition means the amount actually paid for acquiring the original financial assets.

(ii) **Rights entitlement (which is renounced by the assessee in favour of a person):** In relation to any right to renounce the said entitlement to subscribe to the financial asset, when such a right is renounced by the assessee in favour of any person, cost of acquisition shall be taken to be *nil* in the case of such assessee.

(iii) **Rights shares acquired by the assessee:** In relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, cost of acquisition means the amount actually paid by him for acquiring such asset.

(iv) **Bonus Shares:** In relation to the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial assets, **cost of acquisition shall be taken to be nil**.

In other words, where bonus shares are allotted without any payment on the basis of holding of original shares, the cost of such bonus shares will be nil.

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(v) Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement: In relation to any financial asset purchased by the person in whose favour the right to subscribe to such assets has been renounced, cost of acquisition means the total amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution for acquiring such financial asset.

(3) Long-term capital assets referred to in section 198 [Section 90(7)]

The cost of acquisition in relation to the long-term capital assets being,

- equity shares in a company on which STT is paid both at the time of purchase and transfer or
- unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer.

acquired before 1st February, 2018 shall be the higher of

(i) cost of acquisition of such asset; and

(ii) lower of

(a) the fair market value of such asset; and

(b) the full value of consideration received or accruing as a result of the transfer of the capital asset.

Meaning of Fair Market value [Section 90(8)(b)]

S. No.	Circumstance	Fair Market Value
(i)	In a case where the capital asset is listed on any recognized stock exchange as on 31.01.2018	**If there is trading in such asset on such exchange on 31.01.2018** The highest price of the capital asset quoted on such exchange on the said date **If there is no trading in such asset on such exchange on 31.01.2018** The highest price of such asset on such exchange on a date immediately preceding 31.01.2018

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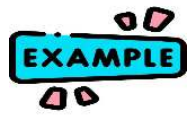
		when such asset was traded on such exchange.
(ii)	If the capital asset is a unit which is not listed on any recognized stock exchange as on 31.01.2018	The net asset value of such unit as on the said date
(iii)	If the capital asset is an equity share in a company which is - not listed on a recognized stock exchange as on 31.01.2018 but listed on such exchange on the date of transfer - not listed on a recognized stock exchange as on 31.01.2018 or which became the property of the assessee in consideration of shares which is not listed on such exchange as on 31.1.2018 by way of transaction not regarded as transfer under section 70 but listed on such exchange subsequent to the date of transfer (where transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer) - listed on a recognized stock exchange on the date of transfer and which became the property of the assessee in consideration of share	An amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the financial year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or on 01.04.2001, whichever is later.

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	which is not listed on such exchange as on 31.01.2018 by way of transaction not regarded as transfer under section 70	

(4) Any other capital asset [Section 90(9)]

(i) Where the capital asset become the property of the assessee before 1.4.2001 - The cost of acquisition means the cost of acquisition of the asset to the assessee or its fair market value on 1.4.2001, at the option of the assessee.



A house property was purchased by Mr. A on 1.1.1992 for ₹ 30,000 and the fair market value of the same was ₹ 1,40,000 as on 1.4.2001. Cost of acquisition of the said property would be ₹ 1,40,000.

However, in case of capital asset, being land or building or both, the fair market value of such asset on 1.4.2001 shall not exceed the stamp duty value, wherever available, of such asset as on 1.4.2001.



In the above example, if the stamp duty value of the property was ₹ 1,20,000 as on 1.4.2001, cost of acquisition of such property would be ₹ 1,20,000, being the stamp value as on 1.4.2001 and not ₹ 1,40,000.

(ii) Where the capital asset became the property of the assessee by any of the modes specified in section 73 (Table Sl. No. 1): The cost of acquisition to the assessee will be the cost of acquisition to the previous owner. Even in such cases, where the capital asset became the property of the previous owner before 1-4-2001, the assessee can opt the fair market value as on 1-4-2001 as the cost of acquisition.

However, in case of capital asset, being land or building or both, the fair market value of such asset on 1-4-2001 shall not exceed the stamp duty value, wherever available, of such asset as on 1-4-2001.

Note: *The provisions contained in (i) & (ii) of (4) above shall also apply to the financial assets mentioned in (i) to (v) of (2) and long term capital assets referred to in section 198 of (3) above.*

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(iii) **Where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation** and the assessee has been assessed to income tax under the head "capital gains" in respect of that asset under section 68, the cost of acquisition means the fair market value of the asset on the date of distribution.

(iv) **A share or a stock of a company** may become the property of an assessee under the following circumstances:

(a) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares.

(b) the conversion of any shares of the company into stock,

(c) the re-conversion of any stock of the company into shares,

(d) the sub-division of any of the shares of the company into shares of smaller amount, or

(e) the conversion of one kind of shares of the company into another kind.

In the above circumstances the cost of acquisition to the assessee will mean the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.

(5) **If the cost for which the previous owner acquired the property cannot be ascertained**, the cost of acquisition to the previous owner means the fair market value on the date on which the capital asset became the property of the previous owner. [Section 90(11)]

Cost of Acquisition of certain assets: At a Glance

Sl. No.	Nature of asset	Cost of acquisition
1	Goodwill of business or profession, trademark, brand name or any other intangible asset etc., - Self generated	Nil

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	- Acquired from previous owner	Purchase price
	However, in case of capital asset, being goodwill of a business or profession, in respect the assessee has obtained depreciation u/s 32(1) of Income Tax Act, 1961 in any T.Y. (upto T.Y. 2019-20)	Purchase price as reduced by the total amount of depreciation obtained by the assessee under the said section 32(1).
	- became the property of the assessee by way of distribution of assets on total or partial partition of HUF, under a gift or will by an individual or HUF by succession, inheritance, distribution of assets on liquidation of a company, etc. and previous owner has acquired it by purchase	Purchase price for such previous owner
	However, in case of capital asset, being goodwill of a business or profession which was acquired by the previous owner by purchase and in respect the assessee has obtained depreciation u/s 32(1) of the Income-tax Act, 1961 in any T.Y. (upto T.Y.2019-20)	Purchase price for such previous owner as reduced by the total amount of depreciation obtained by the assessee under the said section 32(1).
2.	**Bonus Shares:**	
	Allotted before 1.4.2001	FMV as on 1.4.2001
	Allotted on or after 1.4.2001	Nil
	Bonus shares allotted before 1.2.2018, on which STT has been paid at the time of transfer	The higher of – (i) Actual cost of acquisition (i.e., Nil, in case of bonus

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		shares allotted on or after 1.4.2001; and FMV on 1.4.2001, in case of bonus shares allotted before 1.4.2001) (ii) Lower of – (a) FMV as on 31.1.2018; and (b) Actual sale consideration
3.	**Rights Shares:** Original shares (which form the basis of entitlement of rights shares) Rights entitlement (which is renounced by the assessee in favour of a person) Rights shares acquired by the assessee Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement	 Amount actually paid for acquiring the original shares Nil Amount actually paid for acquiring the rights shares Purchase price paid to the renouncer of rights entitlement as well as the amount paid to the company which has allotted the rights shares.
4	**Long term capital assets being**, - **equity shares** in a company on which STT is paid both at the time of purchase and transfer or - **unit of equity oriented fund** or unit of business trust on which STT is paid at the time of transfer, **acquired before 1st February, 2018**	Cost of acquisition shall be the **higher of** (i) actual cost of acquisition of such asset; and (ii) lower of - the fair market value of such asset; and - the full value of consideration received or accruing as a result of the transfer of the capital asset.

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5	**Any other capital asset** Where such capital asset became the property of the assessee before 1.4.2001	Cost of the asset to the assessee, or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	Where capital assets became the property of the assessee by way of distribution of assets on total or partial partition of HUF, under a gift or will by an individual or HUF, by succession, inheritance, distribution of assets on liquidation of a company, etc. and the capital asset became the property of the previous owner before 1.4.2001	Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	The provisions contained in (5) above shall also apply to the assets mentioned in (3) and (4) above.	
6	Where cost of the property in the hands of previous owner **cannot be ascertained**	The **FMV on the date on which the capital asset become the property of the previous owner** would be considered as cost of acquisition.

ILLUSTRATION 9

Mr. A converts his capital asset acquired for an amount of ₹50,000 in June, 2004 into stock-in-trade in the month of November, 2025. The fair market value of the asset on the date of conversion is ₹4,50,000. The stock-in-trade was sold for an amount of ₹6,50,000 in the month of September, 2026. What will be the tax treatment?

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SOLUTION

The capital gains on the sale of the capital asset converted to stock-in-trade is taxable in the given case. It arises in the year of conversion (i.e. T.Y. 2025-26) but will be taxable only in the year in which the stock-in-trade is sold (i.e. T.Y. 2026-27). Profits from business will also be taxable in the year of sale of the stock-in-trade (T.Y. 2026-27).

The LTCG and business income for T.Y.2026-27 are calculated as under:

Particulars	₹	₹
Profits and Gains from Business or Profession		
Sale proceeds of the stock-in-trade	6,50,000	
Less: Cost of the stock-in-trade (FMV on the date of conversion)	4,50,000	2,00,000
Long Term Capital Gains		
Full value of the consideration (FMV on the date of the conversion)	4,50,000	
Less: Cost of acquisition	50,000	4,00,000

4.14 COST OF IMPROVEMENT [SECTION 90(1)]

(1) Goodwill or any other intangible asset of a business, etc. [Section 90(1)(a)]: In relation to a capital asset being goodwill or any other intangible asset of a business or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession or any other right, the cost of improvement shall be taken to be **Nil**.

(2) Any other capital asset [Section 90(1)(b)]:

Circumstance			Cost of improvement
(i)	**Where the capital asset became the property of the previous owner or the assessee before 1.4.2001**		
	(a)	**In a case covered u/s 73 (Table: S. No. 1)**, where the capital asset became the property of the previous owner and the assessee before 1.4.2001	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset **on or after 1.4.2001 by the assessee**.

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	(b)	**In a case covered u/s 73 (Table: S. No. 1)**, where the capital asset became the property of the previous owner before 1.4.2001 but became the property of the assessee on or after 1.4.2001	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset **on or after 1.4.2001 by the previous owner and the assessee.**
	(c)	**In a case <u>not</u> covered u/s 73 (Table: S. No. 1)**	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset **on or after 1.4.2001 by the assessee.**
(ii)	**Where the capital asset became the property of the previous owner and the assessee on or after 1.4.2001**		
	(a)	**In a case covered u/s 73 (Table: S. No. 1)**	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset **by the previous owner and the assessee**.
	(b)	**In a case not covered u/s 73 (Table: S. No. 1)**	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset **by the assessee after it became the assessee's property.**

In a nutshell, in a case covered under section 73 (Table: S. No. 1), cost of improvement would include expenditure of a capital nature on addition or alteration to the capital asset by the previous owner or the assessee or both on or after 1.4.2001. In a case not covered under section 73 (Table: S. No. 1), cost of improvement would include expenditure of a capital nature on addition or alteration to the capital asset by the assessee on or after 1.4.2001.

However, cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head "Income from house property", "Profits and gains of business or profession" or "Income from other sources". Routine expenses on repairs and maintenance do not form part of cost of improvement.

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8.	*Ms. Kavya inherited a residential plot after the death of her mother on 15th August, 2012. The plot had originally been purchased by her mother on 20th May, 1995 for ₹ 50,000. The fair market value of the plot as on 1st April, 2001 was ₹ 75,000 and its fair market value on the date of inheritance, i.e., 15th August, 2012 was ₹ 3,20,000. The cost of acquisition for Ms. Kavya would be –*	
	(a)	*₹ 50,000*
	(b)	*Nil*
	(c)	*₹ 75,000*
	(d)	*₹ 3,20,000*
9.	*Cost of Acquisition in case of bonus shares allotted before 1-4-2001 will be:*	
	(a)	*Nil*
	(b)	*FMV as on 1-4-2001*
	(c)	*₹ 10,000*
	(d)	*Cost of Original shares on the basis of which bonus shares are allotted.*
10.	*Compute the capital gains for the Tax Year 2026-27 if Mr. Arjun sells his personal motor car on 18-05-2026 for ₹ 3,20,000, which was acquired on 12-02-2018 for ₹ 7,50,000. Expenses incurred on transfer amounted to 3% of the selling price.*	
	(a)	*Nil*
	(b)	*₹ 4,30,000*
	(c)	*₹ 3,10,400*
	(d)	*₹ 4,39,600*
11.	*Mr. Karan sold the self-generated goodwill of his business on 15-03-2027 for ₹ 42,00,000. He had incurred expenditure towards improvement of such goodwill amounting to ₹ 6,20,000 on 1-4-2017. Compute the taxable capital gains arising on sale of goodwill.*	
	(a)	*₹ 42,00,000*
	(b)	*₹ 35,80,000*
	(c)	*Nil*
	(d)	*₹ 6,20,000*

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4.15 COMPUTATION OF CAPITAL GAINS IN CASE OF DEPRECIABLE ASSETS [SECTIONS 74 & 75]

(1) Transfer of depreciable assets [Section 74]: Section 74 provides for the computation of capital gains in case of depreciable assets. It may be noted that where the capital asset is a depreciable asset forming part of a block of assets, section 74 will have over-riding effect in spite of anything contained in section 2(101) which defines a short-term capital asset.

Accordingly, where the capital asset is an asset forming part of a block of assets in respect of which depreciation has been allowed, the provisions of sections 72 and 73 shall be subject to the following modifications:

- If, during the tax year, the full value of consideration received or accruing for the transfer of one or more assets exceeds the total of the following amounts:

  (1) expenditure incurred wholly and exclusively in connection with such transfer;

  (2) WDV of the block of assets at the start of the tax year;

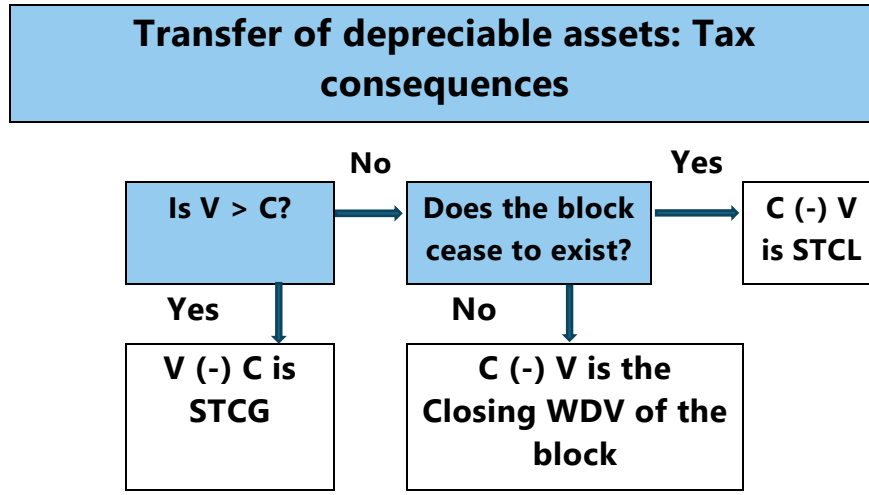
  (3) the actual cost of any asset falling within the block of assets acquired during the tax year

  such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets.

- If any block of assets cease to exist for the reason that all the assets in that block are transferred during the tax year then the cost of acquisition of the block of assets shall be the WDV of the block of assets at the beginning of the tax year as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the tax year.

  The income received or accruing will be deemed to be the capital gains arising from the transfer of short-term capital assets.

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Symbol	Description
V	Full value of consideration
C	Opening WDV of Block (+) Actual Cost of Asset acquired in the Block during the T.Y. (+) Expenses in connection with transfer of asset
STCG	Short Term Capital Gain
STCL	Short Term Capital Loss
WDV	Written Down Value

(2) Cost of acquisition in case of power sector assets [Section 75]: With respect to the power sector, in case of depreciable assets referred to in section 33(2), the provisions of sections 72 and 73 shall apply subject to the modification that the WDV of the asset [as defined in section 41], as adjusted, shall be taken to be the cost of acquisition.

ILLUSTRATION 10

Singhania & Co., a sole proprietorship owns six machines, put in use for business in March, 2024. The depreciation on these machines is charged@15%. The opening balance of the block for T.Y. 2026-27 was ₹8,50,000. Three of the old machines were sold on 10th June, 2026 for ₹ 11,00,000. A second hand plant was bought for ₹8,50,000 on 30th November, 2026.

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You are required to:

(i) determine the claim of depreciation for Tax Year 2026-27.

(ii) compute the capital gains liable to tax for Tax Year 2026-27.

(iii) If Singhania & Co. had sold the three machines in June, 2026 for ₹ 21,00,000, will there be any difference in your above workings? Explain.

SOLUTION

(i) **Computation of depreciation for T.Y.2026-27**

Particulars	₹
Opening balance of the block as on 1.4.2026 [i.e., W.D.V. as on 31.3.2026 after providing depreciation for T.Y. 2025-26]	8,50,000
Add: Purchase of second-hand plant during the year	8,50,000
	17,00,000
Less: Sale consideration of old machinery during the year	11,00,000
W.D.V of the block as on 31.03.2027	6,00,000

Since the value of the block as on 31.3.2027 comprises of a new asset which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is ₹ 45,000, being 7½% of ₹ 6,00,000.

(ii) The provisions under section 74 for computation of capital gains in the case of depreciable assets can be invoked only under the following circumstances:

(a) When one or more assets in the block are sold for consideration more than the value of the block.

(b) When all the assets are transferred for a consideration more than the value of the block.

(c) When all the assets are transferred for a consideration less than the value of the block.

Since in the first two cases, the sale consideration is more than the written down value of the block, the computation would result in short term capital gains.

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In the third case, since the written down value of the block exceeds the sale consideration, the resultant figure would be a short-term capital loss of the block.

In the given case, capital gains will not arise as the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the written down value of the block.

(iii) If the three machines are sold in June, 2026 for ₹ 21,00,000, then short term capital gains would arise, since the sale consideration is more than the aggregate of the written down value of the block at the beginning of the year and the additions made during the year.

Particulars	₹	₹
Sale consideration		21,00,000
Less: Opening balance of the block as on 1.4.2026 [i.e., W.D.V. as on 31.3.2026 after providing depreciation for T.Y. 2025-26]	8,50,000	
Purchase of second plant during the year	8,50,000	17,00,000
Short term capital gains		**4,00,000**



4.16 COMPUTATION OF CAPITAL GAINS IN CASE OF MARKET LINKED DEBENTURES, SPECIFIED MUTUAL FUND ETC. [SECTION 76]

(1) **Transfer of unit of a Specified Mutual Fund or Market Linked Debenture or unlisted bond or unlisted debenture:** Section 76 provides that capital gain on the transfer or redemption or maturity of unit of the following capital asset would always be treated as short term capital gains and accordingly chargeable to tax at normal rate of tax -

- unit of a Specified Mutual Fund acquired on or after 1.4.2023 or
- a Market Linked Debenture or
- an unlisted bond or unlisted debentures.

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Section 76 will have an overriding effect in spite of anything contained in section 2(101) which defines a short-term capital asset based on holding period and section 72 providing the manner of computation of capital gains.

(2) Computation of capital gains: The short term capital gain will be computed as per the following formula –

X = A – B – C

X = Short-term capital gains

A = Full value of consideration received or accruing as a result of the transfer or redemption or maturity of such debenture or unit or bond

B = the cost of acquisition of the debenture or unit or bond

C = the expenditure incurred wholly and exclusively in connection with such transfer or redemption or maturity

(3) No deduction in respect of STT: No deduction would be allowed in computing the income chargeable under the head "Capital Gains" in respect of any sum paid on account of securities transaction tax (STT).

(4) Meaning of certain terms:

S. No.	Term	Meaning
(i)	**Market Linked Debenture**	A security (i) which has an underlying principal component in the form of debt security; and (ii) where the returns are linked to market returns on other underlying securities or indices. It includes any security classified or regulated as a market linked debenture by the SEBI.
(ii)	**Specified Mutual Fund**	A Mutual Fund which invests more than 65% of its total proceeds in debt and money market instruments or a fund which invests 65% or more of its total proceeds in units of above fund. However, the percentage of investment in debt and money market instruments or in units of a

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		fund shall be computed with reference to the annual average of the daily closing figures.
(iii)	**Debt and money market instrument**	It includes any securities classified or regulated as debt and money market instruments by the SEBI.



12.	*Mr. Rohit owns two machines forming part of a block of assets eligible for depreciation @15%. The written down value (WDV) of the block as on 1-4-2026 was ₹ 90,000. No new asset was acquired during the year. Both the machines were sold during the Tax Year 2026-27 for ₹ 78,000. Compute the capital gain/loss arising from the transaction.*	
	(a)	*Short-term capital gain of ₹ 12,000*
	(b)	*Short-term capital loss of ₹ 12,000*
	(c)	*Long-term capital gain of ₹ 12,000*
	(d)	*No capital gain, since depreciation would continue to be allowable on the block*
13.	*A mutual fund investing more than 65% of its total proceeds in debt and money market instruments is known as:*	
	(a)	*Equity oriented fund*
	(b)	*Specified mutual fund*
	(c)	*Venture capital fund*
	(d)	*Infrastructure fund*
14.	*Capital gains arising on maturity of an unlisted debenture held for 10 years would be taxed at:*	
	(a)	*12.5% u/s 197 as long-term capital gains*
	(b)	*20% u/s 196 as short-term capital gains*
	(c)	*Normal rates applicable to short-term capital gains*
	(d)	*Not taxable*

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4.17 CAPITAL GAINS IN RESPECT OF SLUMP SALE [SECTION 77]

(1) Meaning of slump sale [Section 2(103)] – Slump sale means transfer of one or more undertakings, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such transfer.

Term	Meaning
Undertaking	It includes any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

The determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities.

(2) Capital gains – Whether long-term or short-term? - Any profits or gains arising from the slump sale effected in the tax year shall be chargeable to income-tax as long term capital gains shall be deemed to be the income of the tax year in which the transfer took place.

Any profits and gains arising from slump sale involving transfer of a capital asset being one or more undertakings or divisions owned and held by the assessee for 36 months or less, immediately before the date of its transfer, shall be deemed to be short-term capital gains.

(3) Deemed cost of acquisition and cost of improvement [Section 77(3)(a)] - The net worth of the undertaking or the division shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 72 and 73 in relation to capital assets of such undertaking or division transferred.

(4) Deemed full value of consideration [Section 77(3)(b)] – Fair market value of the capital assets as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

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Accordingly, Rule 53 prescribes that the fair market value (FMV) of capital assets would be the higher of –

(i) FMV 1, being the fair market value of capital assets transferred by way of slump sale (determined on the date of slump sale); or

(ii) FMV 2, being the fair market value of the consideration received or accruing as a result of transfer by way of slump sale

(5) Report of a Chartered Accountant [Section 77(4)] - Every assessee, in the case of slump sale, shall furnish in the prescribed form a report of a chartered accountant on or before 30th September of the year succeeding to the T.Y.[10] [i.e., the specified date referred under section 63, being the date one month prior to the due date for filing return of income under section 263(1)], and the report shall include the computation of net worth of the undertaking or division and certify that the net worth has been correctly arrived at as per the provisions of this section.

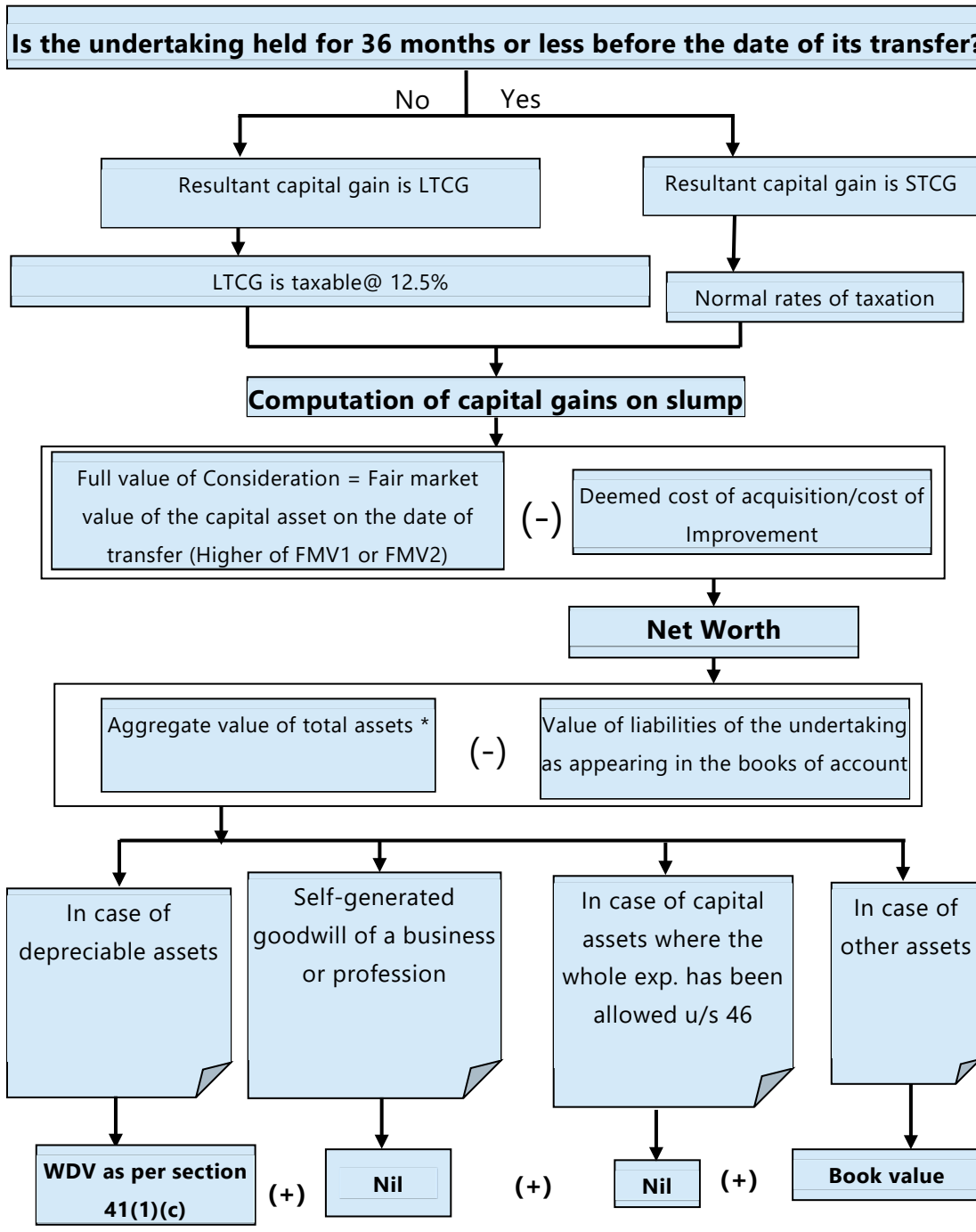
(6) Meaning of Certain Terms [Section 77(5)]:

Clause	Term	Particulars
(a)	Net worth	Aggregate value of total assets of the undertaking or division **as reduced by** the value of liabilities as appearing in the books of account. For computing net worth, any change in the value of assets due to revaluation of assets shall be ignored.
(b)	Aggregate value of total assets	**For depreciable assets:** The written down value of block of assets determined under Section 41(1)(c); **For capital asset, being goodwill of a business or profession, which has not been acquired by the assessee by purchase from a previous owner [Self-generated goodwill]:** Nil **For Capital asset for which the entire expenditure has been allowed or allowable as deduction u/s 46:** Nil **For other assets:** Book value

[10] In case of a person whose due date for filing return of income is 30th November of the financial year succeeding the relevant tax year, the specified date for tax audit would be 31st October of the financial year succeeding the relevant tax year

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Capital Gains on Slump Sale of an Undertaking [Section 77]



* *Ignore revaluation effect*

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15.	*Profits or gains arising from a slump sale effected during the tax year shall be chargeable to income-tax as:*	
	(a)	*Short-term capital gains only*
	(b)	*Short-term capital gains or long-term capital gains, depending upon the period for which the undertaking is held*
	(c)	*Long-term capital gains only*
	(d)	*Business income and not capital gains*
16.	*In the computation of capital gains arising on a slump sale, the _____ of the undertaking transferred shall be deemed to be its cost of acquisition.*	
	(a)	*Book value*
	(b)	*Net worth*
	(c)	*Written Down Value (WDV)*
	(d)	*Fair Market Value as on 1-4-2001*

ILLUSTRATION 11

Mr. A is a proprietor of Akash Enterprises, having 2 units. He transferred on 1.4.2026 his Unit 1 by way of slump sale for a total consideration of ₹ 25 lakhs. The fair market value of capital assets of unit 1 on 1.4.2026 is ₹ 30 lakhs. Unit 1 was started in the year 2006-07. The expenses incurred for this transfer were ₹ 28,000. His Balance Sheet as on 31.3.2026 is as under:

Liabilities	***Total (₹)***	***Assets***	***Unit 1(₹)***	***Unit 2 (₹)***	***Total (₹)***
Own Capital	*15,00,000*	*Land*	*12,00,000*	*2,00,000*	*14,00,000*
Revaluation Reserve (for land of unit 1)	*3,00,000*	*Machinery*	*3,00,000*	*1,00,000*	*4,00,000*
Bank loan (70% for unit 1)	*2,00,000*	*Debtors*	*1,00,000*	*40,000*	*1,40,000*
Trade creditors (25% for unit 1)	*1,50,000*	*Other assets*	*1,50,000*	*60,000*	*2,10,000*
Total	***21,50,000***	***Total***	***17,50,000***	***4,00,000***	***21,50,000***

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Other information:

(i) Revaluation reserve is created by revising upward the value of the land of Unit 1.

(ii) No individual value of any asset is considered in the transfer deed.

(iii) Other assets of Unit 1 include patents acquired on 1.7.2024 for ₹ 50,000 on which no depreciation has been charged.

(iv) The value of machinery represents the written down value as per the Income-tax Act, 2025.

Compute the capital gain for the tax year 2026-27.

SOLUTION

Computation of capital gains on slump sale of Unit 1

Particulars	₹
Full value of consideration [Higher of FMV of capital assets of Unit 1 on 1.4.2026 or FMV of monetary consideration received]	30,00,000
Less: Expenses for transfer	28,000
	29,72,000
Less: Net worth ***(See Note 1 below)***	12,50,625
Long-term capital gain	**17,21,375**

Notes:

1. Computation of net worth of Unit 1 of Akash Enterprises

Particulars	₹	₹
Land (excluding ₹ 3 lakhs on account of revaluation)		9,00,000
Machinery		3,00,000
Debtors		1,00,000
Patents **(See Note 2 below)**		28,125
Other assets (₹ 1,50,000 – ₹ 50,000)		1,00,000
Total assets		14,28,125
Less: Creditors (25% of ₹ 1,50,000)	37,500	
Bank Loan (70% of ₹ 2,00,000)	1,40,000	1,77,500
Net worth		**12,50,625**

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2. Written down value of patents as on 1.4.2026

Value of patents:	₹
Cost as on 1.7.2024	50,000
Less: Depreciation @ 25% for Tax Year 2024-25	12,500
Balance as on 1.4.2025	37,500
Less: Depreciation for Financial Year 2025-26	9,375
Balance as on 1.4.2026	28,125

3. Since the Unit is held for more than 36 months, capital gain arising would be long term capital gain.

4.18 DEEMED FULL VALUE OF CONSIDERATION FOR COMPUTING CAPITAL GAINS [SECTIONS 78, 79 & 80]

S. No.	Capital Asset	Section	Circumstance	Deemed Full Value of consideration for computing Capital Gains
1.	Land or Building or both	78	(1) If Stamp Duty Value >**110%** of consideration received or accruing as a result of transfer	Stamp Duty Value
			(a) If date of agreement fixing the consideration and the date of registration for the transfer of capital asset are not the same and part or full consideration is received on or before the date of agreement in specified banking or online mode	Stamp Duty Value on the date of agreement
			(b) If date of agreement fixing the consideration and the date of registration for the transfer of	Stamp Duty Value on the date of

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			capital asset are not the same but the part or full consideration is not received on or before the date of agreement in specified banking or online mode	registration for transfer
			If the stamp duty value on the date of agreement or the date of transfer, as the case may be ≤ 110% of the sale consideration received	Actual consideration so received
			 Let us take a case where for transfer of building – • the actual consideration is ₹ 100 lakhs; • the stamp duty value on the date of agreement is ₹ 109 lakhs; and • the stamp duty value on the date of registration for transfer is ₹ 112 lakhs **(i) If any part of the consideration is received by "specified banking or online mode" on or before the date of agreement** The actual consideration of ₹ 100 lakhs would be the full value of consideration, since stamp duty value of ₹ 109 lakhs on the date of agreement does not exceed 110% of actual consideration of ₹ 100 lakhs. **(ii) If no part of the consideration is received by "specified banking or online mode" on or before the date of agreement** Stamp duty value of ₹ 112 lakhs on the date of registration for transfer would be the full value of consideration, since the same	

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			exceeds 110% of actual consideration of ₹ 100 lakhs.	
			(2) The Assessing Officer may refer the valuation of the capital asset to a Valuation Officer, where the assessee's claim that the stamp duty value > the FMV of the property as on the date of transfer and the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or High Court	
			(a) If Valuation by Valuation Officer > Stamp Duty Value	Stamp Duty Value
			(b) If Valuation by Valuation Officer < Stamp Duty Value	Valuation by Valuation Officer

For the above purposes, "specified banking or online mode", as defined in section 66(32) shall mean transaction by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as may be prescribed.

As per Rule 48 of the Income-tax Rules, 2026, "other electronic modes of payment" are the following:

- Credit Card;
- Debit Card;
- Net Banking;
- IMPS (Immediate Payment Service);
- UPI (Unified Payment Interface);
- RTGS (Real Time Gross Settlement);
- NEFT (National Electronic Funds Transfer);
- BHIM (Bharat Interface for Money) Aadhaar Pay, and
- Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC.

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2.	Shares other than quoted shares	79	If consideration received or accruing as a result of transfer < FMV of such share determined in the prescribed manner The provisions of this section would not, however, apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed.	FMV of such share determined in the prescribed manner
	Meaning of Quoted Shares: The share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.			
3.	Any Capital asset	80	Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined	FMV of the said asset on the date of transfer



17.	*Mr. R entered into an agreement to sell a property on 10.1.2027 for ₹ 1 crore. The registration for transfer took place on 15.3.2027. The Stamp duty value on agreement date was ₹ 1.08 crore and on registration date was ₹ 1.20 crore. An advance of ₹ 20 lakhs was received by Mr. R through account payee cheque before agreement date. In this case, the full value of consideration would be:*	
	(a)	*₹ 1 crore*
	(b)	*₹ 1.08 crore*
	(c)	*₹ 1.20 crore*
	(d)	*₹ 1.10 crore*
18.	*Where consideration received on transfer of unquoted shares is lower than FMV determined in prescribed manner, the full value of consideration shall be:*	
	(a)	*Actual consideration*
	(b)	*Book value*
	(c)	*FMV determined in prescribed manner*
	(d)	*Indexed value*

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4.19 ADVANCE MONEY RECEIVED [SECTION 81]

It is possible for an assessee to receive some advance in regard to the transfer of capital assets. Due to the break-down of the negotiation, the assessee may have retained the advance.

Section 81 provides that in computing the cost of acquisition, the above advance received and retained by the assessee shall be reduced from the cost of acquisition or WDV or the FMV, as the case may be.

If advance has been received and retained by the previous owner and not the assessee himself, then the same will not go to reduce the cost of acquisition of the assessee.

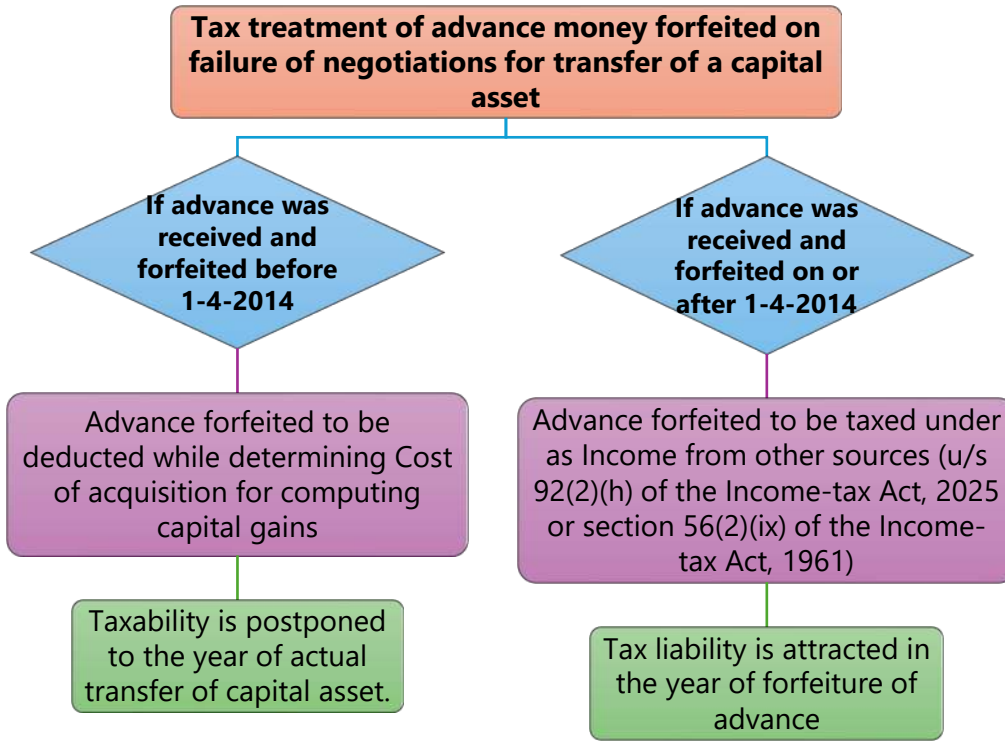
Section 92(2)(h) provides for the taxability of any sum of money received as an advance or otherwise during negotiations for the transfer of a capital asset. As per that section, such sum shall be chargeable to income-tax under the head 'Income from other sources', if such sum is forfeited and the negotiations do not result in transfer of such capital asset.

Further, section 56(2)(ix) of the Income-tax Act, 1961 also provided for the taxability under the head 'Income from other sources' of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if such sum had been forfeited on or after 1st April 2014 till 31.3.2026.

In order to avoid double taxation of the advance received and retained, section 81 provides that where any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset has been included in the total income of the assessee for any tax year as per section 92(2)(h) of the Income-tax Act, 2025 or section 56(2)(ix) of the Income-tax Act, 1961, then, such amount shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be.

Consequently, any such sum of money forfeited before 1st April, 2014 only, will be deducted from the cost of acquisition, for computing capital gains.

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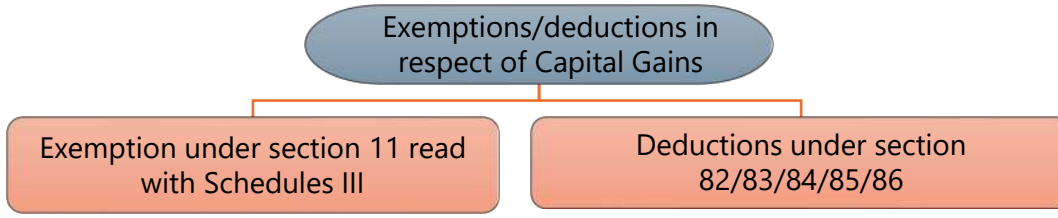




19.	*Mr. A inherited land from his father, Mr. Ramesh. Mr. Ramesh had forfeited advance money received before 1.4.2014 during negotiations for sale of that land. While computing capital gains in hands of Mr. A:*	
	(a)	*Advance forfeited by Ramesh reduces cost of acquisition*
	(b)	*Advance forfeited by Ramesh is to be ignored*
	(c)	*Cost becomes nil*
	(d)	*FMV alone is considered*

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4.20 EXEMPTIONS/DEDUCTIONS IN RESPECT OF CAPITAL GAINS



I. Exemptions under section 11 read with Schedule III

The following are the exemptions in respect of capital gains in schedule III

i. Exemption of capital gains on compulsory acquisition of agricultural land situated within specified urban limits [Schedule III (Table: S. No. 18)]

This entry aims to exempt the capital gains arising to an individual or a HUF from transfer of agricultural land provided the following conditions are satisfied:

- such land is situated in specified urban limits
- such land was being **used for agricultural purposes** by such individual or HUF or a parent of his during the period of 2 years immediately preceding the date of transfer
- such transfer is by way of compulsory acquisition under any law or a transfer, the consideration for which is determined or approved by the Central Government or the RBI and
- such income has arisen from the compensation or consideration for such transfer received by such assessee on or after 1.4.2004.

ii Income in respect of any award or agreement made under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [Schedule III (Table: Sl. No. 38C)]

Any income arising to an individual or a HUF in respect of any award or agreement made on account of compulsory acquisition of any land shall be exempt from tax if such award or agreement is made under the provisions of

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the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, except under section 46 of the said Act.

II. Deductions in respect of Capital Gains under section 82/83/84/85/86

(i) Capital Gains on sale of property used for residence [Section 82]

Eligible assessees – Individual & HUF

Conditions to be fulfilled

- There should be a transfer of buildings or lands appurtenant thereto, being a residential house
- Assessee must have long-term capital gains
- Income from such house should be chargeable under the head "Income from house property"
- Where the amount of capital gain exceeds ₹ 2 crore, **one residential house in India** should be –
  - purchased within 1 year before or 2 years after the date of transfer; (or)
  - constructed within a period of 3 years after the date of transfer.

Where the amount of capital gains > ₹ 2 crores

- Where the amount of capital gains does not exceed ₹ 2 crore, the assessee i.e., individual or HUF, may at his option,
  - purchase **two residential houses in India** within 1 year before or 2 years after the date of transfer (or)
  - construct **two residential houses in India** within a period of 3 years after the date of transfer.

Where the amount of capital gains ≤ ₹ 2 crores

If during any tax year, the assessee has exercised the option to purchase or construct two residential houses in India, he shall not be subsequently entitled to exercise the option for the same tax year or any other tax year.

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This implies that if an assessee has availed the option of claiming benefit of section 82 in respect of purchase of two residential houses in Jaipur and Jodhpur, say, in respect of capital gains of ₹ 1.50 crores arising from transfer of residential house at Mumbai in the T.Y.2026-27 then, he will not be entitled to avail the benefit of section 82 again in respect of purchase of two residential houses in, say, Pune and Baroda, in respect of capital gains of ₹ 1.20 crores arising from transfer of residential house in Jaipur in the T.Y.2028-29, even though the capital gains arising on transfer of the residential house at Jaipur does not exceed ₹ 2 crore.

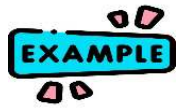
- If such investment is not made before filing the return of income under section 263, then the unutilized amount has to be deposited in a specified bank or institution and utilized as per the scheme notified by the Central Government [CGAS] before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). [Refer points (vi) and (vii) of this sub-heading (2)]. If the capital gain exceeds ₹ 10 crores, the amount exceeding ₹ 10 crores would not be taken into account for the purpose of deposit in a specified bank or institution.
- Amount utilized by the assessee for purchase or construction of new asset and the amount so deposited shall be deemed to be the cost of new asset. The deemed cost of the new asset would be restricted to ₹ 10 crores for the purpose of deduction under section 82.

Quantum of Deduction

- If long-term capital gains > cost of new residential house or houses, as the case may be, long-term capital gains to the extent of cost of new residential house is allowed as deduction and the excess shall be charged under section 67.
- If long-term capital gains ≤ cost of new residential house or houses, as the case may be, entire long-term capital gains is allowed as deduction and no capital gain shall be charged under section 67.

However, if the cost of new residential house(s) exceeds ₹ 10 crores, the amount exceeding ₹ 10 crore would not be taken into account for deduction. It means the maximum deduction that can be claimed by the assessee u/s 82 is ₹ 10 crore.

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1. If the long-term capital gains is ₹ 2.05 crore and the cost of the new house is ₹ 3 crore, then, the entire long-term capital gains of ₹ 2.05 crore is allowed as deduction and no capital gain shall be charged under section 67.

2. If long-term capital gains is ₹ 2.05 crore and cost of new house is ₹ 1.55 crore, then, long-term capital gains is allowed as deduction only upto ₹ 1.55 crore. Balance ₹ 50 lakhs is taxable u/s 67.



(1)	(2)	(3)	(4)	(5)
S. No.	**LTCG computed**	**Cost of new residential house**	**Amount in column (3) or ₹ 10 crore, whichever is lower**	**Deduction in respect of LTCG [Lower of column (2) and column (4)]**
(1)	₹ 7 crore	₹ 12 crore	₹ 10 crore	₹ 7 crore
(2)	₹ 12 crore	₹ 14 crore	₹ 10 crore	₹ 10 crore
(3)	₹ 11 crore	₹ 9 crore	₹ 9 crore	₹ 9 crore
(4)	₹ 15 crore	₹ 13 crore	₹ 10 crore	₹ 10 crore



1. If the LTCG is ₹ 8 crore and the assessee has incurred ₹ 5 crore in construction of new residential house upto the due date u/s 263(1) i.e., 31.7.2027/ 31.8.2027/31.10.2027, as the case may be, then, as per section 82(2), he can deposit the amount of ₹ 3 crore not appropriated by him towards construction of house upto 31.7.2027/31.8.2027/31.10.2027, as the case may be, in Capital Gains Account Scheme (CGAS) for claiming deduction under section 82. If he deposits, say, ₹ 2 crore, in CGAS on or before the due date u/s 263(1), the deemed cost of the new residential house would be ₹ 7 crore (₹ 5 crore + ₹ 2 crore). The amount of deduction u/s 82 would be ₹ 7 crore.

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2. *If the LTCG is ₹ 14 crore and the assessee has already incurred ₹ 7 crore in construction of new residential house upto 31.7.2027/31.8.2027/ 31.10.2027, as the case may be, then, as per section 82(2), he can deposit the difference of ₹ 3 crore (₹ 10 crore - ₹ 7 crore) in CGAS for claiming deduction u/s 82. If he deposits, say, ₹ 2 crore in CGAS on or before the due date u/s 263(1), the deemed cost of the new residential house would be ₹ 9 crore (₹ 7 crore + ₹ 2 crore). The amount of deduction under section 82 would be ₹ 9 crore.*

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not fully utilised for purchasing or constructing the new asset within 3 years from the date of transfer, then the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of 3 years from the date of the transfer of the original asset expires.
- The assessee is entitled to withdraw such unutilised amount in accordance with the scheme

Consequences of transfer of new asset before 3 years

- If the new asset is transferred before 3 years from the date of its acquisition or construction, then cost of the asset will be reduced by capital gains allowed as deduction earlier for computing capital gains.



The long-term capital gains is ₹ 2.05 crore and the cost of the new house is ₹ 3 crore, the entire long-term capital gains of ₹ 2.05 crore will be allowed as deduction. If the new house was sold after 18 months for ₹ 5 crore, then, short term capital gain chargeable to tax would be –

Particulars	₹
Net Consideration	5,00,00,000
Less: Cost of acquisition **minus** capital gains allowed as deduction earlier (₹ 3,00,00,000 – ₹ 2 ,05,00,000)	95,00,000
Short term capital gains chargeable to tax	**4,05,00,000**

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ILLUSTRATION 12

Mr. Cee purchased a residential house on July 20, 2024 for ₹ 10,00,000 and made some additions to the house incurring ₹ 2,00,000 in August 2024. He sold the house property in April 2026 for ₹ 20,00,000. Out of the sale proceeds, he spent ₹ 5,00,000 to purchase another house property in September 2026.

What is the amount of capital gains taxable in the hands of Mr. Cee for the T.Y.2026-27?

SOLUTION

The house is sold before 24 months from the date of purchase. Hence, the house is a short-term capital asset

Particulars	₹
Sale consideration	20,00,000
Less: Cost of acquisition	10,00,000
Cost of improvement	2,00,000
Short-term capital gains	**8,00,000**

Note - *The deduction from capital gains under section 82 is available only in case of long-term capital gain arising from transfer of a residential house. As short-term capital gain arise on transfer, Mr. Cee cannot claim deduction under section 82. Thus, the amount of taxable short-term capital gains is ₹ 8,00,000.*



20.	*For claiming deduction under section 82, new residential house property must be purchased within _____after the date of transfer of capital asset:*	
	(a)	*1 year*
	(b)	*2 years*
	(c)	*3 years*
	(d)	*4 years*

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21.	*For claiming deduction under section 82, which of the following amounts would qualify for deduction?*	
	(a)	*Amount invested in purchase or construction of one residential house property up to the due date of filing return of income only*
	(b)	*Amount deposited in the Capital Gains Account Scheme up to the due date of filing return of income only*
	(c)	*Amount invested in purchase or construction of one residential house property up to the due date of filing return of income and amount deposited in the Capital Gains Account Scheme up to such due date*
	(d)	*Amount invested in purchase or construction after three years from the date of transfer*

(ii) Capital gains on transfer of agricultural land [Section 83]

Eligible assessee – Individual & HUF

Conditions to be fulfilled

- There should be a transfer of urban agricultural land.
- Such land must have been used by the assessee, being an individual or his parent, or a HUF for agricultural purpose in 2 years immediately preceding the date of transfer.
- He should purchase another agricultural land (urban or rural) within 2 years from the date of transfer.
- If such investment is not made before filing the return of income under section 263, then the unutilized amount has to be deposited in a specified bank or institution and utilized as per the scheme notified by the Central Government [CGAS] before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). [Refer points (vi) and (vii) of this sub-heading (2)]
- Amount utilised by the assessee for purchase of new asset and the amount so deposited shall be deemed to be the cost of new asset

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Quantum of deduction

- If capital gains > cost of new agricultural land, capital gains to the extent of cost of new agricultural land is allowed as deduction and the excess shall be charged under section 67.
- If capital gains ≤ cost of new agricultural land, entire capital gains is allowed as deduction and no capital gain shall be charged under section 67.



1. If the capital gains is ₹ 3 lakhs and the cost of the new agricultural land is ₹ 4 lakhs, then, the entire capital gains of ₹ 3 lakhs is allowed as deduction.

2. If capital gains is ₹ 3 lakhs and cost of new agricultural land is ₹ 2 lakhs, then, capital gains is allowed as deduction only upto ₹ 2 lakhs.

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not fully utilised for purchasing the new asset within 2 years from the date of transfer, then the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of 2 years from the date of the transfer of the original asset expires.
- The assessee is entitled to withdraw such unutilised amount in accordance with the scheme.

Consequences of transfer of new agricultural land before 3 years

- If the new agricultural land is transferred before 3 years from the date of its acquisition, then cost of the land will be reduced by capital gains allowed as deduction earlier for computing capital gains of new agricultural land.
- However, if the new agricultural land is a rural agricultural land, there would be no capital gains on transfer of such land.
- Continuing in the above example 1, if the new agricultural land (urban land) is sold after, say, 1 year for ₹ 6 lakhs, then short term capital gain chargeable to tax would be –

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Particulars	₹
Net consideration	6,00,000
Less: Cost of acquisition **minus** capital gains allowed as deduction earlier (₹ 4,00,000 – ₹ 3,00,000)	1,00,000
Short-term capital gains chargeable to tax	**5,00,000**

(iii) Capital Gains on compulsory acquisition of lands and buildings of an industrial undertaking [Section 84]

Eligible assessee – Any assessee

Conditions to be fulfilled

- There must be compulsory acquisition of land or building or any right in land or building forming part of an industrial undertaking belonging to assessee.
- The land and building should have been used by the assessee for the business of the industrial undertaking in the 2 years immediately preceding the date of transfer.
- The assessee must purchase any other land or building or construct any building (for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking) within 3 years from the date of transfer.
- If such investment is not made before filing the return of income under section 263, then the unutilized amount has to be deposited in a specified bank or institution and utilized as per the scheme notified by the Central Government [CGAS] before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). [Refer points (vi) and (vii) of this sub-heading (2)].
- Amount utilised by the assessee for purchase of new asset and the amount so deposited shall be deemed to be the cost of new asset.

Quantum of deduction

- If capital gains > cost of new asset, capital gains to the extent of cost of new asset is allowed as deduction and the excess shall be charged under section 67.

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- If capital gains ≤ cost of new asset, entire capital gains is allowed as deduction and no capital gain shall be charged under section 67.

Note: The deduction in respect of capital gains from transfer of capital asset would be available even in respect of short-term capital asset, being land or building or any right in any land or building, provided such capital asset is used by assessee for the industrial undertaking belonging to him, even if he was not the owner for the said period of 2 years.

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not fully utilised for purchasing or constructing the new asset within 3 years from the date of transfer, then the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of 3 years from the date of the transfer of the original asset expires.
- The assessee is entitled to withdraw such unutilised amount in accordance with the scheme.

Consequences of transfer of new asset before 3 years

- If the new asset is transferred before 3 years from the date of its acquisition, then cost of the asset will be reduced by capital gains allowed as deduction earlier for computing capital gains.

(iv) Capital Gains not chargeable on investment in certain bonds [Section 85]

Eligible assessee – Any assessee

Conditions to be fulfilled

- Assessee must have long-term capital gains on transfer of **land or building or both**.
- The long term capital gains arising from such transfer should be invested in a long-term specified asset within 6 months after the date of transfer.
- **Long-term specified asset** means any bonds, redeemable after 5 years, issued on or after 1.4.2018 by the National Highways Authority of India (NHAI) or the Rural Electrification Corporation Limited (RECL) or any other bond notified by the Central Government in this behalf [Bonds of Power

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Finance Corporation (PFC), Indian Railways Finance Corporation (IRFC)]. Bonds, redeemable after 5 years, issued on or after 1.4.2025 by Housing and Urban Development Corporation Limited (HUDCO) and bonds, redeemable after 5 years, issued on or after 9.7.2025 by the Indian Renewable Energy Development Agency (IREDA) are also specified by the Central Government for this purpose.

- The assessee should not transfer or convert or avail loan or advance on the security of such bonds within **5 years** from the date of acquisition of such bonds.

Note - In case of conversion of capital asset into stock in trade and subsequent sale of stock in trade - Period of 6 months to be reckoned from the date of sale of stock in trade for the purpose of section 85 deduction *[CBDT Circular No.791 dated 2-6-2000]*.

Quantum of deduction

- Capital gains or amount invested in long term specified asset, whichever is lower.
- The maximum investment which can be made in long term specified asset from capital gains arising from transfer of one or more assets, during any tax year or in the year of transfer of original asset and in the subsequent tax year **cannot exceed ₹ 50 lakhs**.

Violation of condition

- In case of transfer or conversion of such bonds or availing loan or advance on security of such bonds within *5* years, the capital gain allowed as deduction earlier shall be taxed as long-term capital gain in the year of violation of condition.

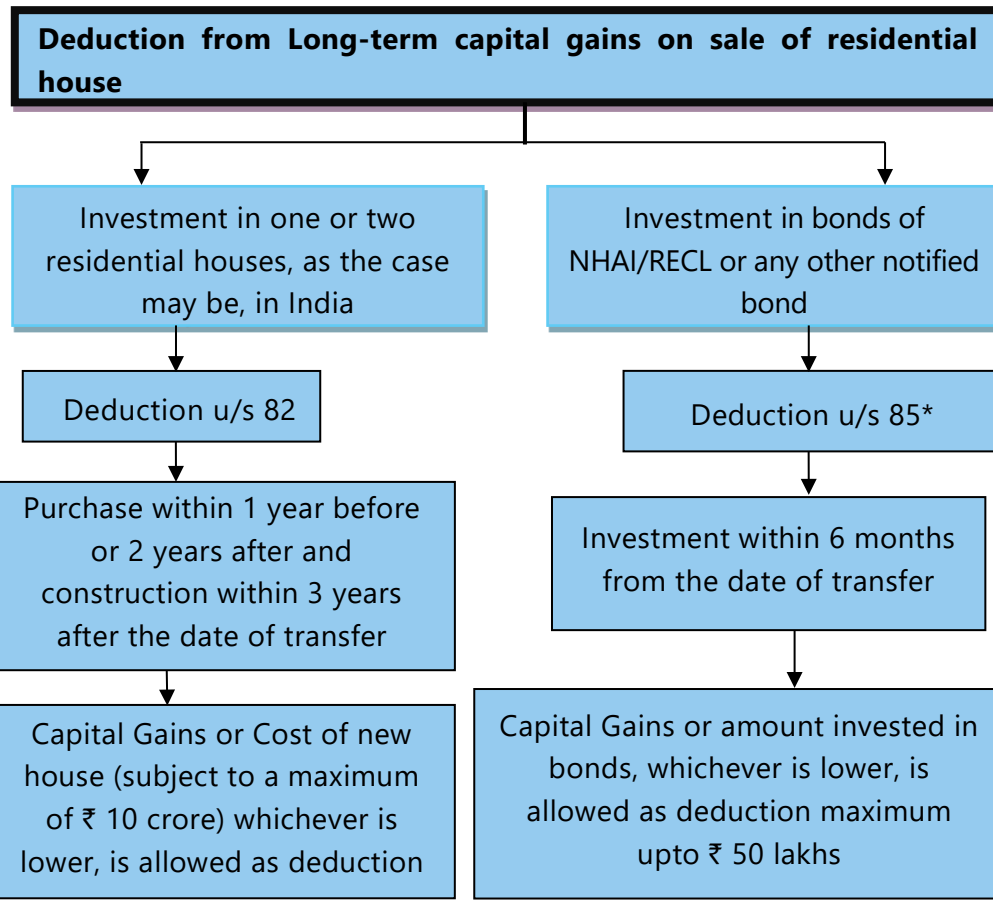
ILLUSTRATION 13

Long term capital gain of ₹ 75 lakhs arising from transfer of building on 1.5.2026 will be allowed as deduction if such capital gain is invested in the bonds redeemable after five years, issued by NHAI under section 85. Examine with reasons whether the given statement is true or false having regard to the provisions of the Income-tax Act, 2025.

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SOLUTION

False: The deduction under section 85 has been restricted, by limiting the maximum investment in long term specified assets (i.e. bonds of NHAI or RECL or any other bond notified by Central Government in this behalf, redeemable after 5 years) to ₹ 50 lakhs. Therefore, in this case, the deduction under section 85 can be allowed only to the extent of ₹ 50 lakhs, provided the investment is made before 1.11.2026 (i.e., within six months from the date of transfer).



**The deduction under section 85 is available in respect of capital gains on transfer of capital asset, being land or building or both.*

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(v) Capital gains in case of investment in residential house [Section 86]

Eligible assessees: Individuals/ HUF

Conditions to be fulfilled

- There must be transfer of a **long-term capital asset**, not being a residential house.
- Transfer of plot of land is also eligible for deduction
- The assessee should -
  - Purchase **one residential house situated in India** within a period of 1 year before or 2 years after the date of transfer; or
  - **Construct one residential house in India** within 3 years from the date of transfer.
- If such investment is not made before filing the return of income under section 263, then the unutilized amount has to be deposited in a specified bank or institution and utilized as per the scheme notified by the Central Government [CGAS] before the filing of the return and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). [Refer points (vi) and (vii) of this sub-heading (2)]. If the net consideration exceeds ₹ 10 crores, the amount exceeding ₹ 10 crores would not be taken into account for the purpose of deposit in a specified bank or institution.
- Amount utilized by the assessee for purchase or construction of new asset and the amount so deposited shall be deemed to be the cost of new asset. The deemed cost of new asset would be restricted to ₹ 10 crores for the purpose of deduction under section 84.
- The assessee should **not** own more than one residential house on the date of transfer.
- The assessee should **not** –
  - purchase any other residential house within a period of 2 years or
  - construct any other residential house within a period of 3 years

  from the date of transfer of the original asset.

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- Income from such residential house should be chargeable under the head "Income from house property"

Quantum of deduction

- If the net consideration > cost of new residential house, only proportionate capital gains is allowed as deduction i.e.

$$\text{LTCG} \times \frac{\text{Amount invested in new residential house}}{\text{Net sale consideration}}$$

- If the net consideration ≤ cost of new residential house, entire long-term capital gains is allowed as deduction and no capital gain shall be charged under section 67

  However, if the cost of new residential house/ amount invested in new residential house exceeds ₹ 10 crore, the amount exceeding ₹ 10 crore would not be taken into account for deduction.



(1)		*(2)*	*(3)*	*(4)*	*(5)*
	Net Consider-ation	***LTCG computed***	***Cost of new residential house***	***Amount in column (3) or ₹ 10 crores, whichever is lower***	***Deduction in respect of LTCG***
(1)	*₹ 15 crore*	*₹ 7.5 crore*	*₹ 12 crore*	*₹ 10 crore*	*₹ 7.5 crore x 10/15 = ₹ 5 crore*
(2)	*₹ 20 crore*	*₹ 12 crore*	*₹ 15 crore*	*₹ 10 crore*	*₹ 12 crore x 10/20 = ₹ 6 crore*
(3)	*₹ 16 crore*	*₹ 12 crore*	*₹ 8 crore*	*₹ 8 crore*	*₹ 12 crore x 8/16 = ₹ 6 crore*
(4)	*₹ 10 crore*	*₹ 6 crore*	*₹ 10 crore*	*₹ 10 crore*	*₹ 6 crore x 10/10 = ₹ 6 crore*
(5)	*₹ 12 crore*	*₹ 6 crore*	*₹ 12 crore*	*₹ 10 crore*	*₹ 6 crore x 10/12 = ₹ 5 crore*

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1. *If the net consideration is ₹9 crore, the capital gain is ₹4.50 crore and the amount incurred for construction of new residential house upto 31.7.2027/31.8.2027/31.10.2027, as the case may be, is ₹5 crore, then, as per section 86(4), the assessee can deposit the amount of ₹4 crore (i.e., ₹9 crore – ₹5 crore) not appropriated towards construction upto 31.7.2027/ 31.8.2027/31.10.2027, as the case may be, in CGAS for claiming deduction u/s 86. If the assessee has deposited, say, ₹ 3 crore on or before 31.7.2027/ 31.8.2027/31.10.2027, as the case may be, the deemed cost of new residential house would be ₹8 crore (₹5 crore + ₹3 crore). The deduction u/s 86 would be ₹4 crore [i.e., ₹4.50 crore x ₹8 crore/ ₹9 crore].*

2. *If the net consideration is ₹15 crore, the capital gain is ₹7.50 crore and the amount incurred for construction of new residential house upto 31.7.2027/31.8.2027/31.10.2027, as the case may be, is ₹6 crore, the assessee can deposit ₹4 crore [i.e., ₹10 crore – ₹6 crore] on or before 31.7.2027/31.8.2027/31.10.2027, as the case may be, in CGAS for claiming deduction u/s 86. If the assessee has deposited, say, ₹3 crore on or before the due date of filing return u/s 263(1), the deemed cost of new residential house would be ₹9 crore (₹6 crore + ₹3 crore). The deduction u/s 86 would be ₹4.50 crore [i.e., ₹7.50 crore x ₹9 crore/₹15 crore].*

If the amount deposited in CGAS is not fully utilized

- If the amount deposited in CGAS is not fully utilised for purchasing or constructing the new asset within 3 years from the date of transfer, then the following amount shall be charged to tax under section 67 as the income of the tax year in which the period of 3 years from the date of the transfer of the original asset expires.

  Capital gains allowed as deduction earlier - Capital gains that would have been deducted, if the cost of the new asset had been taken to be the amount actually utilised for purchase or construction of the new asset

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- The assessee is entitled to withdraw such unutilised amount in accordance with the scheme.

Consequences where the assessee purchases any other residential house within a period of 2 years or constructs any other residential house within a period of 3 years from the date of transfer of original asset

The capital gains allowed as deduction earlier under section 86 shall be deemed to be taxable as long-term capital gains in the tax year in which such residential house is purchased or constructed.

Consequences if the new house is transferred within a period of 3 years from the date of its purchase

- Capital gains would arise on transfer of the new house; and
- The capital gains allowed as deduction earlier under section 86 would be taxable as long-term capital gains.

Note – In case the new residential house is sold after 2 years, the capital gains would be long-term capital gains.

(vi) Capital Gains Account Scheme (CGAS)

Under sections 82, 83, 84 and 86, capital gains is allowed as deduction to the extent of investment of such gains/ net consideration (in the case of section 86) in specified assets within the specified time. If such investment is not made before filing the return of income, then the capital gain or net consideration (in case of deduction under section 86) has to be deposited under the CGAS. However, the capital gain in excess of ₹ 10 crore would not be taken into account for the purpose of deposit in CGAS in case of section 82 and the net consideration in excess of ₹ 10 crore would not be taken into account for the purpose of deposit in CGAS in case of section 86.

Time limit

Such deposit in CGAS should be made before filing the return of income and not later than the due date applicable in the case of the assessee for filing the return of income under section 263(1). In such cases, the amount already utilized for purchase or construction of new asset plus the amount deposited under the CGAS on or before due date u/s 263(1) would be deemed to be the cost of new asset. However, for the purpose of sections 82 and 86, the amount so deemed to be the cost of the new asset cannot exceed ₹ 10 crore.

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Proof of such deposit should be attached with the return. The deposit can be withdrawn for utilization for the specified purposes in accordance with the scheme.

Consequences if the amount deposited in CGAS is not utilized within the stipulated time of 2 years / 3 years

If the amount deposited is not utilized for the specified purpose within the stipulated period, then the **unutilized amount shall be charged as capital gain** of the tax year in which the specified period expires. In the case of section 86, proportionate amount will be taxable.

CBDT Circular No.743 dated 6.5.96 clarifies that in the event of death of an individual before the stipulated period, the unutilized amount is not chargeable to tax in the hands of the legal heirs of the deceased individual. Such unutilized amount is not income but is a part of the estate devolving upon them.

(vii) Extension of time for acquiring new asset or depositing or investing amount of Capital Gain [Section 89]

In case of compulsory acquisition of the original asset, where the compensation is not received by the assessee on the date of transfer, then the period available for acquiring a new asset or making investment in CGAS under sections 82, 83, 84, 85 and 86 would be considered from the date of receipt of such compensation and not from the date of the transfer.



22.	*To claim deduction under section 85, the assessee must invest the long-term capital gains in specified bonds within a period of _____ after the date of transfer.*	
	(a)	*36 months*
	(b)	*4 months*
	(c)	*6 months*
	(d)	*12 months*

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23.	*The maximum investment that can be made in specified bonds for claiming deduction under section 85 is:*	
	(a)	*₹ 10 lakhs*
	(b)	*No limit*
	(c)	*₹ 25 lakhs*
	(d)	*₹ 50 lakhs*
24.	*For claiming deduction under section 86, the assessee is required to invest _____ in the purchase or construction of a residential house property.*	
	(a)	*Full value of consideration*
	(b)	*Net consideration*
	(c)	*Amount of capital gains only*
	(d)	*Cost of the asset transferred*

4.21 REFERENCE TO VALUATION OFFICER [SECTION 91]

Section 91 provides that the Assessing Officer may refer the valuation of a capital asset to a Valuation Officer in the following circumstances for ascertaining the fair market value of a capital asset for the purposes of capital gains -

(i) If the value of the asset claimed by the assessee is as per the estimate by a registered valuer, but the Assessing Officer is of the opinion that the value so claimed is at variance with its fair market value.

Under this provision, the Assessing Officer can make a reference to the Valuation Officer in cases where the fair market value is taken to be the sale consideration of the asset. An Assessing Officer can also make a reference to the Valuation Officer in a case where the fair market value of the asset as on 01.04.2001 is taken as the cost of the asset, if he is of the view that there is any variation between the value as on 01.04.2001 claimed by the assessee as per the estimate made by a registered valuer and the fair market value of the asset on that date.

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(ii) If the Assessing Officer is of the opinion that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than the prescribed percentage of value of such asset or the Assessing Officer is of the opinion that, having regard to the nature of asset and other relevant circumstances, it is necessary to make the reference.

4.22 TAX ON SHORT TERM CAPITAL GAINS IN RESPECT OF EQUITY SHARES/ UNITS OF AN EQUITY ORIENTED FUND [SECTION 196]

(i) **Applicability of concessional rate of tax**: This section provides for a concessional rate of tax on the short-term capital gains on transfer of -

(1) an equity share in a company; or

(2) a unit of a business trust[11]; or

(3) a unit of an equity oriented fund

(ii) **Concessional rate of tax in respect of STCG on transfer of certain assets**: The concessional rate of tax on the short-term capital gain in respect of transfer of above-mentioned assets is 20%.

Tax @20%

(iii) **Condition**: The transaction of sale of such equity shares or units should be chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.

However, short-term capital gains arising from transactions undertaken in foreign currency on a recognized stock exchange located in an International Financial Services Centre (IFSC) would be taxable at a concessional rate of 20%, even though STT is not leviable in respect of such transaction.

(iv) **Adjustment of unexhausted basic exemption limit:** In the case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then, such short-term capital gain will be reduced by the unexhausted basic exemption limit and only the balance would be taxed at

[11] Chapter XIII-F of the Income-tax Act, 2025 and the related provisions dealing with the taxation aspects of business trust would be dealt with at the Final level.

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20%. However, the benefit of adjustment of unexhausted basic exemption limit is not available in the case of non-residents.

(v) No deduction under Chapter VIII against STCG taxable under section 196: Deductions under Chapter VIII cannot be availed in respect of such short-term capital gains on equity shares of a company or units of an equity oriented mutual fund or unit of a business trust included in the total income of the assessee.

4.23 TAX ON LONG TERM CAPITAL GAINS [SECTION 197]

(i) Concessional rate of tax: Long term capital gains on transfer of all long-term capital assets (other than referred u/s 198) would be taxable 12.5%.

In case of non-residents, LTCG on transfer of unlisted securities, or shares of a closely held company, would be taxable @12.5% without foreign currency fluctuation adjustments mentioned in section 72(6).

Important Points to remember –

(1) For Individuals or HUF (Residents): In the case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then, such long-term capital gain will be reduced by the unexhausted basic exemption limit and only the balance would be taxed at 12.5%. However, the benefit of adjustment of unexhausted basic exemption limit is not available in the case of non-residents.

(2) Non-residents and Foreign Companies: Long-term capital gains from the transfer of listed shares (other than listed equity shares covered u/s 198) or debentures of an Indian company (acquired in foreign currency) will be taxed at 12.5% (with foreign currency fluctuation adjustments).

(3) No deduction under Chapter VIII against LTCG taxable under section 197: The provisions of section 197 make it clear that the deductions under Chapter VIII cannot be availed in respect of the long-term capital gains included in the total income of the assessee.

(ii) Benefit of indexation: In case of resident individual or HUF, in case of long-term capital gains arising on transfer of land or building or both which was

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acquired before 23.7.2024, the excess income-tax computed as per the following formula shall be ignored :––

E = A – B

where––

E = excess income tax to be ignored;

A = income-tax on long term capital gains computed without indexation @12.5%;

B = income-tax on long-term capital gains computed with indexation @20%.

4.24TAX ON LONG TERM CAPITAL GAINS ON CERTAIN ASSETS [SECTION 198]

(i) Applicability of the section: Section 198 provides that irrespective of anything contained in section 197, rate of tax of 12.5% will be leviable on the long-term capital gains exceeding ₹ 1,25,000 on transfer of –

(a) an equity share in a company; or

(b) a unit of a business trust; or

(c) a unit of an equity oriented fund

(ii) Conditions: The conditions for availing the benefit of Section 198 are –

(a) In case of equity share in a company, STT has been paid on acquisition and transfer of such capital asset

(b) In case of unit of an equity oriented fund or unit of business trust, STT has been paid on transfer of such capital asset.

The requirement of payment of STT is not applicable in respect of long-term capital gains arising from transfer undertaken on a recognized stock exchange located in an International Financial Service Centre (IFSC), where the consideration for transfer is received or receivable in foreign currency

The Central Government may, by notification, specify the nature of acquisition of equity share in a company on which the condition of payment of STT on acquisition would not be applicable.

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(iii) Adjustment of unexhausted basic exemption limit: In the case of resident individuals or HUF, if the basic exemption limit is not fully exhausted by any other income, then such long-term capital gain will be reduced by the unexhausted basic exemption limit and only the balance exceeding ₹ 1,25,000 would be taxed at 12.5%.

However, the benefit of adjustment of unexhausted basic exemption limit is not available in the case of non-residents.

(iv) No deduction under Chapter VIII against LTCG taxable under section 198: Deductions under Chapter VIII cannot be availed in respect of such long-term capital gains on equity shares of a company or units of an equity oriented mutual fund or unit of a business trust included in the total income of the assessee.

(v) No benefit of rebate under section 156 against LTCG taxable under section 198: Rebate under section 156 is not available in respect of tax payable @12.5% on LTCG under section 198.

ILLUSTRATION 14

Calculate the income-tax liability for the tax year 2026-27 in the following cases:

	Mr. A (age 45)	***Mrs. B (age 62)***	***Mr. C (age 81)***	***Mr. D (age 82)***
Status	***Non-resident***	***Non-resident***	***Resident***	***Non-resident***
Total income other than long-term capital gain	*2,40,000*	*4,10,000*	*5,90,000*	*4,80,000*
Long-term capital gain	*85,000 from sale of vacant site*	*10,000 from sale of listed equity shares (STT paid on sale and purchase of shares)*	*60,000 from sale of agricultural land in rural area*	*Nil*

(i) If Mr. A, Mrs. B, Mr. C and Mr. D pay tax under default tax regime u/s 202(1).

(ii) If Mr. A, Mrs. B, Mr. C and Mr. D exercise the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act.

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SOLUTION

(i) If Mr. A, Mrs. B, Mr. C and Mr. D pay tax under default tax regime u/s 202(1).

Computation of income-tax liability for the T.Y.2026-27

Particulars	Mr. A (age 45)	Mrs. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Residential Status	Non-resident	Non-resident	Resident	Non-resident
Applicable basic exemption limit	₹ 4,00,000	₹ 4,00,000	₹ 4,00,000	₹ 4,00,000
Asset sold	Vacant site	Listed equity shares (STT paid on both sale and purchase of shares)	Rural agricultural land	-
Long-term capital gain (on sale of above asset)	₹ 85,000 [Taxable @12.5% u/s 197]	₹ 10,000 [Exempt u/s 198 since it is less than ₹ 1,25,000]	₹ 60,000 (Exempt – not a capital asset)	-
Other income	₹ 2,40,000	₹ 4,10,000	₹ 5,90,000	₹ 4,80,000
Tax liability				
On LTCG	₹ 10,625	-	-	-
On Other income	Nil	₹ 500	₹ 9,500	₹ 4,000
	₹ 10,625	₹ 500	₹ 9,500	₹ 4,000
Less: Rebate u/s 156	-	-	₹ 9,500	-
	₹ 10,625	₹ 500	Nil	₹ 4,000
Add: Health & education cess (HEC) @4%	₹ 425	₹ 20	Nil	₹ 160
Total tax liability	**₹ 11,050**	**₹ 520**	**Nil**	**₹ 4,160**

Note: Since Mr. C is a resident whose total income does not exceed ₹ 12 lakhs, he is eligible for rebate of ₹ 60,000 or the actual tax payable, whichever is lower, under section 156.

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(ii) If Mr. A, Mrs. B, Mr. C and Mr. D exercise the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act

Computation of income-tax liability for the T.Y.2026-27

Particulars	Mr. A (age 45)	Mrs. B (age 62)	Mr. C (age 81)	Mr. D (age 82)
Residential Status	Non-resident	Non-resident	Resident	Non-resident
Applicable basic exemption limit	₹ 2,50,000	₹ 2,50,000	₹ 5,00,000	₹ 2,50,000
Asset sold	Vacant site	Listed equity shares (STT paid on both sale and purchase of shares)	Rural agricultural land	-
Long-term capital gain (on sale of above asset)	₹ 85,000 [Taxable @12.5% u/s 197]	₹ 10,000 [Exempt u/s 198 since it is less than ₹ 1,25,000]	₹ 60,000 (Exempt – not a capital asset)	-
Other income	₹ 2,40,000	₹ 4,10,000	₹ 5,90,000	₹ 4,80,000
Tax liability				
On LTCG	₹ 10,625	-	-	-
On Other income	Nil	₹ 8,000	₹ 18,000	₹ 11,500
	₹ 10,625	₹ 8,000	₹ 18,000	₹ 11,500
Less: Rebate u/s 156	-	-	-	-
	₹ 10,625	₹ 8,000	₹ 18,000	₹ 11,500
Add: Health & education cess (HEC) @4%	₹ 425	₹ 320	₹ 720	₹ 460
Total tax liability	**₹ 11,050**	**₹ 8,320**	**₹ 18,720**	**₹ 11,960**

Notes:

Since Mrs. B and Mr. D are non-residents, they cannot avail the higher basic exemption limit of ₹ 3,00,000 and ₹ 5,00,000 for persons over the age of 60 years and 80 years, respectively. Also, they along with Mr. A, being non-residents are not eligible for rebate under section 156 even though their total income does not exceed ₹ 5 lakh.

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LET US RECAPITULATE

Scope and year of chargeability [Section 67]

Any profits or gains arising from the transfer of a capital asset effected in the tax year will be chargeable to tax under the head 'Capital Gains', and shall be deemed to be the income of the tax year in which the transfer took place [Section 67(1)]

Section	Profits and gains arising from the following transactions chargeable as income	T.Y. in which income is chargeable to tax	Deemed Full Value of consideration for computation of capital gains under section 72
67(2)	Money or other asset received under an insurance from an insurer on account of damage/ destruction of any capital asset, as a result of, flood, hurricane, cyclone, earthquake or other convulsion of nature, riot or civil disturbance, accidental fire or explosion, action by an enemy or action taken in combating an enemy	The tax year in which such money or other assets are received.	The value of money or the fair market value of other assets received.

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67(6)	Transfer by way of conversion of a capital asset into or its treatment by the owner as stock-in-trade of a business carried on by him.	The tax year in which such stock-in-trade is sold or otherwise transferred by him	The fair market value of the capital asset on the date of such conversion or treatment
67(12)	Transfer by way of compulsory acquisition under any law, or a transfer, the consideration for which was determined or approved by the Central Government or RBI	The tax year in which the consideration or part thereof is first received.	Compensation or consideration determined or approved in the first instance by the Central Government or RBI
	If the compensation or consideration is further enhanced by any court, Tribunal or other authority, the enhanced amount will be deemed to be the income However, any amount of compensation received in pursuance of an interim order of a court, Tribunal	The tax year in which the amount was received by the assessee.	Amount by which the compensation or consideration is enhanced or further enhanced. For this purpose cost of acquisition and cost of improvement shall be taken as 'Nil'.

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	or other authority shall be deemed to be income chargeable under the head "Capital Gains" of the tax year in which the final order of such court, Tribunal or other authority is made.		

Definitions [Section 2]		
Section	**Term**	**Definition**
2(22)	Capital Asset	**Capital Asset** means – (a) property of any kind held by an assessee, whether or not connected with his business or profession; (b) any securities held by a FII which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992 or an investment fund[12] which has invested such securities in accordance with the SEBI regulations or IFSC regulations; (c) any unit linked insurance policy (ULIP) to which exemption under Schedule II (Table: Sl. No. 2) does not apply. **Exclusions from the definition of Capital Asset:** ➢ Stock in trade [other than securities referred to in (b) above], raw materials or consumables held for business or profession; ➢ Personal effects except jewellery, archeological collections, drawings, paintings, sculptures or any work of art;

[12] specified in section 224(10)(a)

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<table>
<tr>
<td></td>
<td></td>
<td>
➢ Rural agricultural land in India i.e. agricultural land not situated within specified urban limits.
The agricultural land described in (a) and (b) below, being land situated within the specified urban limits, would fall within the definition of "capital asset", and transfer of such land would attract capital gains tax -
(a) agricultural land situated in any area within the jurisdiction of a municipality or cantonment board having population of not less than 10,000, or
(b) agricultural land situated in any area within such distance, measured aerially, in relation to the range of population as shown hereunder -
<table>
<tr><th></th><th>Aerial distance from the local limits of a municipality or cantonment board referred to in item (a)</th><th>Population according to the last preceding census of which the relevant figures have been published before the first day of the tax year.</th></tr>
<tr><td>(i)</td><td>≤ 2 kms</td><td>> 10,000 but ≤ 1,00,000</td></tr>
<tr><td>(ii)</td><td>≤ 6 kms</td><td>> 1,00,000 but ≤ 10,00,000</td></tr>
<tr><td>(iii)</td><td>≤ 8 kms</td><td>> 10,00,000</td></tr>
</table>
➢ Gold Deposits Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 and Gold Monetisation Scheme, 2019 notified by the Central Government;
Note: 'Property' includes any rights in or in relation to an Indian company, including rights of management or control or any other rights.
</td>
</tr>
<tr>
<td>2(101)/ 2(67)</td>
<td>Short-term capital asset/ long-term capital asset</td>
<td>
<table>
<tr><th>Capital Asset</th><th>STCG, if held for</th><th>LTCG, if held for</th></tr>
<tr><td>• Security listed in a recognized stock exchange in India</td><td>≤ 12 months immediately preceding</td><td>> 12 months immediately preceding</td></tr>
</table>
</td>
</tr>
</table>

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		• Unit of equity-oriented fund/unit of UTI • Zero Coupon bond	the date of its transfer	the date of its transfer
		• Other capital assets	**≤ 24 months** immediately preceding the date of its transfer	**> 24 months** immediately preceding the date of its transfer
	Note – *As per section 76, capital gains arising from transfer of the following assets would always be short-term capital gain irrespective of the period of holding of such assets:* - *units of a specified mutual fund acquired on or after 1.4.2023,* - *market linked debentures and* - *unlisted bond and unlisted debenture.*			

Transactions not regarded as transfer [Section 70]: Some Examples

- Any distribution of capital assets on the **total or partial partition of a HUF**
- Any transfer of capital asset by an individual or HUF under a **gift or will or an irrevocable trust**
- Any transfer of capital asset by a **holding company to its 100% subsidiary Indian company or by a subsidiary company to its 100% holding Indian company**
- Any transfer **by a shareholder in a scheme of amalgamation** of shares held by him in the amalgamating company
- Any transfer or **issue of shares by the resulting company, in a scheme of demerger** to the shareholders of the demerged company
- Any transfer by an individual of **sovereign gold bonds issued by RBI by way of redemption**
- Any transfer of a capital asset, being **conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold**.
- Any transfer by way of **conversion of bonds, debentures, debenture stock, deposit certificates of a company, into shares or debentures of that company.**

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- Any transfer by way of **conversion of preference shares of a company into equity shares** of that company
- Any transfer of a capital asset in a **transaction of reverse mortgage** under a scheme made and notified by the Central Government

Mode of computation of Capital Gains [Section 72]

Computation of long-term capital gains

Full value of consideration received or accruing as a result of transfer	xx
Less: Expenditure incurred wholly and exclusively in connection with such transfer (e.g. brokerage on sale)	xx
(Note: Deduction on account of STT paid and in respect of interest u/s 22(1)(b) or under the provisions of Chapter VIII will not be allowed)	
Net Sale Consideration	xx
***Less*:** Cost of acquisition and Cost of improvement	xx
Less: Deduction under sections 82/83/84/85/86	xx
Long-term capital gains	**xx**

Notes:

(i) In case of a resident individual or HUF, **while computing tax** on transfer of long term capital asset, being land or building or both, which was acquired before 23.7.2024, the excess income-tax computed by following formula shall be ignored –

E = A – B

E = Excess income-tax to be ignored

A = Long term capital gain without indexation benefit @12.5%

B = Long term capital gain with indexation benefit @20%

(ii) Indexed Cost of Acquisition =

$$\text{Cost of acquisition} \times \frac{\text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the asset was first held by the assessee or 2001-02, whichever is later}}$$

(iii) Indexed Cost of Improvement =

$$\text{Cost of improvement} \times \frac{\text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the improvement took place}}$$

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Computation of short-term capital gains	
Full value of consideration received or accruing as a result of transfer	xxx
Less: Expenditure incurred wholly and exclusively in connection with such transfer (e.g. brokerage on sale)	xxx
(Note: Deduction on account of STT paid and in respect of interest u/s 22(1)(b) or under the provisions of Chapter VIII will not be allowed)	
Net Sale Consideration	xxx
Less: Cost of acquisition and cost of improvement	xxx
Less: Deduction under sections 83/84	xxx
Short-term capital gains	**xxx**

Capital Gains: Special Provisions

Section	Particulars
74	Any income from transfer of depreciable assets is deemed to be **capital gains arising from transfer of short-term capital assets**, irrespective of the period of holding.
76	Any income from transfer of unit of a Specified Mutual Fund acquired on or after 1.4.2023 or Market Linked Debenture or unlisted bond and unlisted debenture is deemed to be short-term capital gain.
77	**Capital Gains on Slump Sale** Any profits and gains arising from slump sale effected in the tax year shall be chargeable to income-tax as capital gains arising from the transfer of capital assets and shall be deemed to be the income of the tax year in which the transfer took place. Where the undertaking being transferred under slump sale is held for more than 36 months, the resultant gain is long-term. If the undertaking is held for less than 36 months, the resultant gain is short-term**.** **Net worth is deemed to be the cost of acquisition and the cost of improvement -** 'Net worth' shall be aggregate value of total assets *minus* value of liabilities of such undertaking as per books of account. **Fair market value is deemed to be the full value of consideration -** Fair market value of the capital asset as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full

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value of the consideration received or accruing as a result of the transfer of such capital asset.

Accordingly, Rule 53 prescribes that the fair market value (FMV) of capital assets would be the higher of –

(i) **FMV 1**, being the fair market value of capital assets transferred by way of slump sale (determined on the date of slump sale); or

(ii) **FMV 2**, being the fair market value of the consideration (monetary and non-monetary) received or accruing as a result of transfer by way of slump sale

Capital gains = Fair market value – Net Worth

Aggregate value of total assets would be the aggregate of the following:

i) Written Down Value of depreciable assets;

ii) Nil, in case of self generated goodwill

iii) Nil, in case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as deduction under section 46; and

iv) Book value for other assets.

Revaluation of assets shall be ignored for computing Net Worth.

78 **Computation of capital gains on sale of land or building or both**

Sl. No.	Condition	Deemed Sale Consideration
1.	Stamp Duty Value > Actual Consideration If Stamp Duty Value > **110%** of actual consideration If Stamp Duty Value ≤ **110%** of actual sale consideration	 Stamp Duty Value Actual sale consideration
2.	Actual Consideration **>** Stamp Duty Value	Actual Sale Consideration
3.	Value ascertained by Valuation Officer **>** Stamp Duty Value	Stamp Duty Value
4.	Value ascertained by Valuation Officer **<** Stamp Duty Value	Value ascertained by Valuation Officer

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	Note – If the date of agreement is different from the date of transfer, stamp duty value on the date of agreement can be considered, if whole or part of the consideration is received by way of specified banking or online mode on or before the date of agreement. Otherwise, stamp duty value on the date of transfer has to be considered.
79	**Fair Market Value deemed to be full value of consideration in case of transfer of unlisted shares in certain cases**
	If consideration received or accruing as a result of transfer of unquoted share < FMV of such share determined in the prescribed manner The provisions of this section would not, however, be applicable to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed. — FMV of such share determined in the prescribed manner would be deemed as the full value of consideration
80	**Fair Market Value deemed to be full value of consideration in certain cases**
	Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined — FMV of the said asset on the date of transfer would be deemed as the full value of consideration
81	**Advance money received and forfeited upto 31.3.2014** Where the assessee has received advance money on an earlier occasion for transfer of capital asset, but the transfer could not be effected due to failure of negotiations, then, the advance money forfeited by the assessee has to be reduced from the cost of acquisition (and indexation, if any would be calculated on the cost so reduced) while computing capital gains, when the capital asset is transferred or sold. **Advance money received and forfeited on or after 1.4.2014** Such advance money received on or after 1.4.2014 would be taxable under the head "Income from other sources". Therefore, advance money received and forfeited on or after 1.4.2014 should not be

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	deducted from the cost while computing capital gains arising on transfer of the asset.
196	**Tax on short-term capital gains on transfer of equity shares and units of equity oriented fund on which STT is chargeable** ➢ Any short-term capital gains on transfer of equity shares or units of an equity oriented fund on which securities transaction tax has been paid on such sale shall be liable to tax **@20%**. ➢ In case of **resident individuals and HUF**, the short-term capital gain shall be **reduced by the unexhausted basic exemption limit** and the balance shall be taxed at 20%. ➢ **No deduction under Chapter VIII** can be claimed in respect of such short-term capital gain. ➢ Short-term capital gains arising from transaction undertaken in foreign currency on a recognized stock exchange located in an International Financial Services Centre (IFSC) would be taxable at a concessional rate of 20%, even when STT is not paid in respect of such transaction.
197	**Tax on long term capital gains on transfer of capital asset other than referred to in section 198** ➢ LTCG on transfer of all long-term capital assets (other than referred u/s 198) would be **taxable @12.5%.** However, in case of an **individual or HUF, being a resident** in India, while computing **long-term capital gains arising on transfer of long-term capital asset, being land or building or both** if acquired before 23.7.2024, the excess income-tax computed as per the following formula shall be ignored :–– **E = A – B** E = excess income tax to be ignored; A = income-tax on long term capital gains computed without indexation @12.5% B = income-tax on long term capital gains computed with indexation @20% ➢ Further, in case of **non-residents, LTCG** on transfer of **unlisted securities, or shares of a closely held company**, would be taxable **@12.5% without foreign currency fluctuation.**

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	➢ **For Individuals or HUF (Residents):** If their total income (excluding long-term capital gains) is below the basic exemption limit, the unadjusted basic exemption limit can be reduced from the long-term capital gains. The remaining amount of long-term capital gains will be taxed at 12.5%. ➢ **Non-Residents and Foreign Companies:** Long-term capital gains from the transfer of listed shares or debentures of an Indian company (acquired in foreign currency) will be taxed at 12.5% (with foreign currency fluctuation adjustments). ➢ **No Chapter VIII deduction against LTCG:** The provisions of section 197 make it clear that the deductions under Chapter VIII cannot be availed in respect of the long-term capital gains included in the total income of the assessee.
198	**Tax on long-term capital gains on certain assets** ➢ Any long-term capital gains **exceeding ₹ 1,25,000** on transfer of equity shares or units of an equity oriented fund shall be liable to tax **@12.5%** on capital gains, if securities transaction tax has been paid on acquisition and such sale in case of equity share, and on such sale in case of units of an equity oriented mutual fund. ➢ In case of **resident individuals and HUF**, the long-term capital gain shall be **reduced by the unexhausted basic exemption limit and the balance shall be taxed at 12.5%**. ➢ **No deduction under Chapter VIII or rebate under section 156** can be claimed in respect of such long-term capital gain. ➢ Long-term capital gains (in excess of ₹ 1,25,000) arising from transaction undertaken on a recognized stock exchange located in an International Financial Services Centre (IFSC) would be taxable at a concessional rate of 12.5%, where the consideration for transfer is received or receivable in foreign currency, even when STT is not paid in respect of such transaction.

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Cost of Acquisition [Section 90]

Sl. No.	Nature of asset	Cost of acquisition
1	Goodwill of business or profession, trademark, brand name or any other intangible asset etc., (a) Self generated (b) Acquired from previous owner (c) In case of circumstances mentioned under Section 73 (Table S. No.1) However, in points (b) and (c) above, in case of capital asset, being goodwill of a business or profession, in respect of which depreciation u/s 32(1) of Income-tax Act 1961, has been obtained by the assessee in any T.Y. (upto T.Y.2019-20) The cost of improvement of such assets would be Nil.	 Nil Purchase price Purchase price for such previous owner Purchase price as reduced by the total amount of depreciation obtained by the assessee under section 32(1) of Income-tax Act 1961.
2.	**Bonus shares** If bonus shares are allotted before 1.4.2001 If bonus shares are allotted on or after 1.4.2001 Bonus shares allotted before 1.2.2018, on which STT has been paid at the time of transfer	 FMV on 1.4.2001 Nil The higher of – (i) Actual cost of acquisition (i.e., Nil, in case of bonus shares allotted on or after 1.4.2001; and FMV on 1.4.2001, in case of bonus shares allotted before 1.4.2001) (ii) Lower of – (a) FMV as on 31.1.2018; and (b) Actual sale consideration

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3.	**Rights Shares** Original shares (which forms the basis of entitlement of rights shares) Rights shares subscribed for by the assessee Rights entitlement (which is renounced by the assessee in favour of a person) Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement	 Amount actually paid for acquiring the original shares Amount actually paid for acquiring the rights shares Nil Purchase price paid to the renouncer of rights entitlement as well as the amount paid to the Co. which has allotted the rights shares.
4.	**Long term capital assets** being, - **equity shares** in a company on which STT is paid both at the time of purchase and transfer or - **unit of equity oriented fund** on which STT is paid at the time of transfer. **acquired before 1st February, 2018**	Cost of acquisition shall be the higher of - (i) cost of acquisition of such asset; and (ii) lower of - the FMV of such asset on 31.1.2018; and - the full value of consideration received or accruing as a result of the transfer of the capital asset.
5.	**Any other capital asset** Where such capital asset became the property of the assessee before 1.4.2001	Cost of the asset to the assessee, or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	Where capital assets became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1).	Cost to the previous owner or FMV as on 1.4.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as

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		on 1.4.2001 shall not exceed stamp duty value as on 1.4.2001.
	The provisions contained in (5) above shall also apply to the assets mentioned in (3) and (4) above.	
	Cost of the property in the hands of previous owner **cannot be ascertained**	The FMV on the date on which the capital asset become the property of the previous owner would be considered as cost of acquisition.

Cost of improvement of certain assets [Section 90]

Sl. No.	Nature of asset	Cost of improvement
1	Goodwill or any other intangible asset of a business, right to manufacture, produce or process any article or thing, right to carry on any business or profession or any other right.	Nil
2	Where the capital asset became the property of the previous owner or the assessee before 1-4-2001	All expenditure of a capital nature incurred in making any addition or alteration to the capital asset on or after 1.4.2001 by the previous owner or the assessee.
3	In relation to any other capital asset	All capital expenditure incurred in making additions or alterations to the capital asset on or after 1.4.2001 – - by the assessee after it became his property; and - by the previous owner [in a case where the assessee acquired the property by modes specified in section 73(1)].

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Capital Gains: Exemptions under section 11

Schedule	Particulars
Schedule III (Table: S. No. 18)	Where any individual or HUF owns urban agricultural land which has been **used for agricultural purposes for a period of two years** immediately preceding the date of transfer by such individual or a parent of his or by such HUF and the same is compulsorily acquired under any law or the consideration for such transfer is determined or approved by the Central Government or the RBI, resultant capital gain will be exempt provided the compensation or consideration for such transfer is received on or after 1.4.2004.
Schedule III (Table: S. No. 35)	The amount received by the senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from income-tax.
Schedule III (Table: S. No. 38C)	Any income arising to an individual or a HUF in respect of any award or agreement made on account of compulsory acquisition of any land shall be exempt from tax if such award or agreement is made under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, except under section 46 of the said Act.

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Deduction in respect of Capital Gains [Sections 82 to 86]						
S. No.	**Particulars**	**Section 82**	**Section 83**	**Section 84**	**Section 85**	**Section 86**
1	**Eligible Assessee**	Individual/ HUF	Individual/ HUF	Any assessee	Any assessee	Individual/ HUF
2	**Asset transferred**	Residential House (LTCG)	Urban Agricultural Land	Land & building forming part of an industrial undertaking	Land or building or both (LTCG)	Any LTCA other than Residential House.
3	**Other Conditions**	Income from such house should be chargeable under the head "Income from house property"	Land should be used for agricultural purposes by assessee or his parents or HUF for 2 years immediately preceding the date of transfer	Land & building have been used for business of undertaking for at least 2 years immediately preceding the date of transfer. The transfer should be by	-	Assessee should **not** own more than one residential house on the date of transfer. He should **not** purchase within 2 years or construct within 3 years after the date of transfer, another residential house.

				way of compulsory acquisition of the industrial undertaking		
4	**Qualifying asset i.e., asset in which capital gains has to be invested**	One Residential House situated in India/Two residential houses in India, at the option of the assessee, where capital gains does **not** exceed ₹ 2 crore	Land for being used for agricultural purpose (Urban/ Rural)	Land or Building or right in land or building	Bonds of NHAI or RECL or any other bond notified by C.G. (Redeemable after 5 years)	One Residential House situated in India
5	**Time limit for purchase/ construction**	Purchase within 1 year before or 2 years after the date of transfer **(or)** construct within 3 years after the date of transfer	Purchase within a period of 2 years after the date of transfer	Purchase/ construct within 3 years after the date of transfer, for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking.	Purchase within a period of 6 months after the date of transfer	Purchase within 1 year before or 2 years after the date of transfer **(or)** Construct within 3 years after the date of transfer

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6	**Amount of Deduction**	Cost of new Residential House or two houses, as the case may be or Capital Gain, whichever is lower, is allowed as deduction. However, if the cost of new residential house exceeds ₹ 10 crore, the amount exceeding ₹ 10 crore would not be taken into account for deduction. The maximum deduction that can be claimed by the assessee is ₹ 10 crore.	Cost of new Agricultural Land or Capital Gain, whichever is lower, is allowed as deduction	Cost of new asset or Capital Gain, whichever is lower.	Capital Gain or amount invested in specified bonds, whichever is lower. Maximum permissible investment out of capital gains arising in any financial year is ₹ 50 lakhs, whether such investment is made in the current TY or subsequent TY or both.	Cost of new Residential House ≥ Net sale consideration of original asset, entire Capital gain is allowed as deduction. Cost of new Residential House < Net sale consideration of original asset, proportionate capital gain is allowed as deduction. However, if the cost of new residential house exceeds ₹ 10 crore, the amount exceeding ₹ 10 crore would not be taken into account for deduction.



TEST YOUR KNOWLEDGE

1. *Mr. Mithun purchased 100 equity shares of M/s Goodmoney Co. Ltd. on 01-04-2007 at rate of ₹ 1,000 per share in public issue of the company by paying securities transaction tax.*

   Company allotted bonus shares in the ratio of 1:1 on 01.12.2025. He has also received dividend of ₹ 10 per share (gross) on 01.05.2026.

   He sold all the shares on 01.10.2026 at the rate of ₹ 4,000 per share through a recognized stock exchange and paid brokerage of 1% and securities transaction tax of 0.02%.

   Compute his total income and tax liability for T.Y. 2026-27 if Mr. Mithun opts out of the default tax regime, assuming that he is having other income of ₹ 8,00,000. Fair market value of each share of M/s Goodmoney Co. Ltd. on 31.1.2018 is ₹ 2,000.

2. *Aarav converts his plot of land purchased in July, 2004 for ₹ 80,000 into stock-in-trade on 31st March, 2026. The fair market value as on 31.3.2026 was ₹ 3,00,000. The stock-in-trade was sold for ₹ 3,25,000 in the month of January, 2027.*

   Find out the taxable income, if any, and if so under which head of income and for which Tax Year?

3. *Mrs. Harshita purchased a land at a cost of ₹ 35 lakhs in the T.Y. 2004-05 and held the same as her capital asset till 20th March, 2025.*

   She started her real estate business on 21st March, 2025 and converted the said land into stock-in-trade of her business on the said date, when the fair market value of the land was ₹ 210 lakhs.

   She constructed 15 flats of equal size, quality and dimension. Cost of construction of each flat is ₹ 10 lakhs. Construction was completed in February, 2027. She sold 10 flats at ₹ 30 lakhs per flat in March, 2027. The remaining 5 flats were held in stock as on 31st March, 2027.

   She invested ₹ 50 lakhs in bonds issued by National Highways Authority of India on 31st March, 2027 and another ₹ 50 lakhs in bonds of Rural Electrification Corporation Ltd. in April, 2027.

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Compute the amount of chargeable capital gain and business income in the hands of Mrs. Harshita arising from the above transactions for T.Y. 2026-27 indicating clearly the reasons for treatment for each item.

4. *Mr. A is an individual carrying on business. His stock and machinery were damaged and destroyed in a fire accident which occurred in December 2026.*

The value of stock lost (total damaged) was ₹ 6,50,000. Certain portion of the machinery could be salvaged. The opening balance of the block as on 1.4.2026 (i.e., WDV as on 31.3.2026 after providing depreciation for T.Y. 2025-26) was ₹ 10,80,000.

During the process of safeguarding machinery and in the fire fighting operations, Mr. A lost his gold chain and a diamond ring, which he had purchased in April, 2005 for ₹ 1,20,000. The market value of these two items as on the date of fire accident was ₹ 1,80,000.

Mr. A received the following amounts from the insurance company:

(i)	*Towards loss of stock*	*₹ 4,80,000*
(ii)	*Towards damage of machinery*	*₹ 6,00,000*
(iii)	*Towards gold chain and diamond ring*	*₹ 1,80,000*

You are requested to briefly comment on the tax treatment of the above three items under the provisions of the Income-tax Act, 2025.

5. *Mr. Sarthak entered into an agreement with Mr. Jaikumar to sell his residential house located at Kanpur on 16.08.2026 for ₹ 1,50,00,000.*

The sale proceeds were to be paid in the following manner:

(i) 20% through account payee bank draft on the date of agreement.

(ii) 60% on the date of the possession of the property.

(iii) Balance after the completion of the registration of the title to the property.

Mr. Jaikumar was handed over the possession of the property on 15.12.2026 and the registration process was completed on 14.01.2027. He paid the sale proceeds as per the sale agreement.

The value determined by the Stamp Duty Authority-

(a) on 16.08.2026 was ₹ 1,70,00,000;

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(b) on 15.12.2026 was ₹ 1,71,00,000; and

(c) on 14.01.2027 was ₹ 1,71,50,000.

Mr. Sarthak had acquired the residential house at Kanpur on 01.04.2001 for ₹ 30,00,000. After recovering the sale proceeds from Jaikumar, he purchased two residential house properties, one in Kanpur for ₹ 20,00,000 on 24.3.2027 and another in Delhi for ₹ 35,00,000 on 28.5.2027.

Compute the income chargeable under the head "Capital Gains" of Mr. Sarthak for the Tax Year 2026-27.

6. *Mrs. Yuvika bought a vacant land for ₹ 80 lakhs in May 2005. Registration and other expenses were 10% of the cost of land. She constructed a residential building on the said land for ₹ 100 lakhs during the financial year 2007-08.*

She entered into an agreement for sale of the above said residential house with Mr. Johar (not a relative) in April 2015. The sale consideration was fixed at ₹ 700 lakhs and on 23.4.2015, Mrs. Yuvika received ₹ 20 lakhs as advance in cash by executing an agreement. However, due to failure on part of Mr. Johar, the said negotiation could not materialise and hence, the said amount of advance was forfeited by Mrs. Yuvika.

Mrs. Yuvika, again entered into an agreement on 01.05.2026 for sale of this house at ₹ 810 lakhs. She received ₹ 80 lakhs as advance by RTGS. The stamp duty value on the date of agreement was ₹ 890 lakhs. The sale deed was executed and registered on 14.07.2026 for the agreed consideration. However, the State stamp valuation authority had revised the values, hence, the value of property for stamp duty purposes was ₹ 900 lakhs. Mrs. Yuvika paid 1% as brokerage on sale consideration received.

Subsequent to sale, Mrs. Yuvika made following acquisition/investments:

(i) Acquired two residential houses at Delhi and Chandigarh for ₹ 130 lakhs and ₹ 50 lakhs, respectively, on 31.1.2027 and 15.5.2027

(ii) Acquired a residential house at UK for ₹ 180 lakhs on 23.3.2027.

(iii) Subscribed to NHAI capital gains bond (approved under section 85) for ₹ 50 lakhs on 30.11.2026 and for ₹ 40 lakhs on 9.1.2027.

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Compute the income chargeable under the head 'Capital Gains' of Mrs. Yuvika for T.Y.2026-27. The choice of deduction must be in the manner most beneficial to the assessee.

7. *Mr. Shiva purchased a house property on February 15, 1979 for ₹ 3,24,000. In addition, he has also paid stamp duty @10% on the stamp duty value of ₹ 3,50,000.*

In April, 2008, Mr. Shiva entered into an agreement with Mr. Mohan for sale of such property for ₹ 14,35,000 and received an amount of ₹ 1,11,000 as advance. However, the sale consideration did not materialize and Mr. Shiva forfeited the advance. In May 2015, he again entered into an agreement for sale of said house for ₹ 20,25,000 to Ms. Deepshikha and received ₹ 1,51,000 as advance. However, as Ms. Deepshikha did not pay the balance amount, Mr. Shiva forfeited the advance. In August, 2015, Mr. Shiva constructed the first floor by incurring a cost of ₹ 3,90,000.

On November 15, 2026, Mr. Shiva entered into an agreement with Mr. Manish for sale of such house for ₹ 30,50,000 and received an amount of ₹ 1,50,000 as advance through an account payee cheque. Mr. Manish paid the balance entire sum and Mr. Shiva transferred the house to Mr. Manish on February 20, 2027. Mr. Shiva has paid the brokerage @1% of sale consideration to the broker.

On April 1, 2001, fair market value of the house property was ₹ 11,85,000 and Stamp duty value was ₹ 10,70,000. Further, the Stamp duty Value of such house on 15th November, 2026 was ₹ 39,00,000 and on 20th February, 2027 was ₹ 41,00,000.

Compute the capital gains in the hands of Mr. Shiva for T.Y.2026-27.

8. *Determine the capital gains/loss on transfer of listed equity shares (STT paid both at the time of acquisition and transfer of shares) and units of equity oriented mutual fund (STT paid at the time of transfer of units) for the T.Y.2026-27 and tax, if any, payable thereon, in the following cases, assuming that these are the only transactions covered under section 198 during the T.Y.2026-27 in respect of these assessees:*

   (i) Mr. Shagun purchased 300 shares in A Ltd. on 20.5.2017 at a cost of ₹ 400 per share. He sold all the shares of A Ltd. on 31.5.2026 for ₹ 1200. The price at which these shares were traded in National Stock Exchange on 31.1.2018 is as follows –

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Particulars	*Amount in ₹*
Highest Trading Price	*700*
Average Trading Price	*680*
Lowest Trading Price	*660*

(ii) Mr. Raj purchased 200 units of equity-oriented fund, Fund A on 1.2.2017 at a cost of ₹ 550 per unit. The units were not listed at the time of purchase. Subsequently, units of Fund A were listed on 1.1.2018 on the National Stock Exchange. Mr. Raj sold all the units on 3.4.2026 for ₹ 900 each. The details relating to quoted price on National Stock Exchange and net asset value of the units are given hereunder:

Particulars	*Fund A*
	Amount in ₹
Highest Trading Price	*750 (on 31.1.2018)*
Average Trading Price	*700 (on 31.1.2018)*
Lowest Trading Price	*650 (on 31.1.2018)*
Net Asset Value on 31.1.2018	*800*

ANSWERS

1. Computation of total income & tax liability of Mr. Mithun for T.Y. 2026-27

Particulars	₹
Long term capital gains on sale of original shares	
Gross sale consideration (100 x ₹ 4,000)	4,00,000
Less: Brokerage@1%	4,000
Net sale consideration	3,96,000
Less: Cost of acquisition (100 x ₹ 2,000) **(Refer Note 1)**	2,00,000
Long term capital gains	**1,96,000**
Short term capital gains on sale of bonus shares	
Gross sale consideration (100 x ₹ 4,000)	4,00,000
Less: Brokerage@1%	4,000
Net sale consideration	3,96,000

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Less: Cost of acquisition of bonus shares [Nil as such shares are allotted after 1.04.2001]		NIL
Short term capital gains [Since bonus shares are held for less than 12 months before sale]		**3,96,000**
Income from other sources		
Dividend received from M/s Goodmoney Co. Ltd. is taxable in the hands of shareholders [200 shares x 10 per share]		2,000
Other income		8,00,000
Total Income		**13,94,000**
Tax Liability		
Tax on STCG u/s 196		
20% of ₹ 3,96,000		79,200
Tax on LTCG u/s 198		
12.5% of ₹ 71,000 (₹ 1,96,000 - ₹ 1,25,000)		8,875
Tax on other income of ₹ 8,02,000		
₹ 2,50,000 to ₹ 5,00,000@5%	12,500	
₹ 5,00,000 to ₹ 8,02,000 @20%	60,400	72,900
		1,60,975
Add: Health and education cess @4%		6,439
Tax liability		**1,67,414**
Tax liability (rounded off)		**1,67,410**

Notes:

(1) Cost of acquisition of such equity shares acquired before 1.2.2018 is higher of

- Cost of acquisition i.e., ₹ 1,000 per share and
- lower of

  Fair market value of such asset i.e., ₹ 2,000 per share and

  Full value of consideration i.e., ₹ 4,000 per share.

Therefore, the cost of acquisition of original share is ₹ 2,000 per share.

(2) Securities transaction tax is not allowable as deduction.

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2. Conversion of a capital asset into stock-in-trade is a transfer within the meaning of section 2(109) in the tax year in which the asset is so converted. However, the capital gains will be charged to tax only in the year in which the stock-in-trade is sold.

The fair market value on the date of conversion would be deemed to be the full value of consideration for transfer of the asset as per section 67(6). The sale price less the fair market value on the date of conversion would be treated as the business income of the year in which the stock-in-trade is sold.

Therefore, in this problem, both capital gains and business income would be charged to tax in the T.Y. 2026-27.

Particulars	₹	
Profits & Gains of Business or Profession		
Sale price of stock-in-trade	3,25,000	
Less: Fair market value on the date of conversion	3,00,000	
Capital Gains		**25,000**
Full value of consideration (Fair market value on the date of conversion)	3,00,000	
Less: Cost of acquisition	80,000	
Long-term capital gain		**2,20,000**
Taxable Income		**2,45,000**

3. **Computation of capital gains and business income of Harshita for T.Y. 2026-27**

Particulars	₹
Business Income	
Sale price of flats [10 × ₹ 30 lakhs]	3,00,00,000
Less: Cost of flats	
Fair market value of land on the date of conversion [₹ 210 lakhs × 2/3]	1,40,00,000
Cost of construction of flats [10 × ₹ 10 lakhs]	1,00,00,000
Business income chargeable to tax for T.Y.2026-27	**60,00,000**

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Capital Gains	
Fair market value of land on the date of conversion deemed as the full value of consideration for the purposes of section 67(6)	2,10,00,000
Less: Cost of acquisition	35,00,000
	1,75,00,000
Proportionate capital gains arising during T.Y. 2026-27 [₹ 1,75,00,000 x 2/3]	1,16,66,667
Less: Deduction under section 85	50,00,000
Capital gains chargeable to tax for T.Y.2026-27	**66,66,667**

Notes:

(1) The conversion of a capital asset into stock-in-trade is treated as a transfer under section 2(109). It would be treated as a transfer in the year in which the capital asset is converted into stock-in-trade (i.e., T.Y.2024-25, in this case).

(2) As per section 67(6), the capital gains arising from the transfer by way of conversion of capital assets into stock-in-trade will be chargeable to tax only in the year in which the stock-in-trade is sold.

(3) For the purpose of computing capital gains in such cases, the fair market value of the capital asset on the date on which it was converted into stock-in-trade shall be deemed to be the full value of consideration received or accruing as a result of the transfer of the capital asset.

In this case, since only 2/3rd of the stock-in-trade (10 flats out of 15 flats) is sold in the T.Y.2026-27, only proportionate capital gains (i.e., 2/3rd) would be chargeable to tax in the T.Y.2026-27.

(4) On sale of such stock-in-trade, business income would arise. The business income chargeable to tax would be the difference between the price at which the stock-in-trade is sold and the fair market value on the date of conversion of the capital asset into stock-in-trade.

(5) In case of conversion of capital asset into stock-in-trade and subsequent sale of stock-in-trade, the period of 6 months is to be reckoned from the date of sale of stock-in-trade for the purpose of deduction under section 85 [*CBDT Circular No.791 dated 2.6.2000]*. In this case, since the investment in bonds of NHAI has been made within 6 months of sale of

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flats, the same qualifies for deduction under section 85. With respect to long-term capital gains arising on land or building or both in any financial year, the maximum deduction under section 85 would be ₹ 50 lakhs, whether the investment in bonds of NHAI or RECL are made in the same financial year or next financial year or partly in the same financial year and partly in the next financial year.

Therefore, even though investment of ₹ 50 lakhs has been made in bonds of NHAI during the T.Y. 2026-27 and investment of ₹ 50 lakhs has been made in bonds of RECL during the T.Y. 2027-28, both within the stipulated six month period, the maximum deduction allowable for T.Y. 2026-27, in respect of long-term capital gain arising on sale of long-term capital asset(s) during the T.Y. 2026-27, is only ₹ 50 lakhs.

4. (i) **Compensation towards loss of stock:** Any compensation received from the insurance company towards loss/damage to stock in trade is to be construed as a trading receipt. Hence, ₹ 4,80,000 received as insurance claim for loss of stock has to be assessed under the head "Profit and gains of business or profession".

Note - The assessee can claim the value of stock destroyed by fire as revenue loss, eligible for deduction while computing income under the head "Profits and gains of business or profession".

(ii) **Compensation towards damage to machinery:** The question does not mention whether the salvaged machinery is taken over by the Insurance company or whether there was any replacement of machinery during the year. Assuming that the salvaged machinery is taken over by the Insurance company, and there was no fresh addition of machinery during the year, the block of machinery will cease to exist. Therefore, ₹ 4,80,000 being the excess of written down value (i.e. ₹ 10,80,000) over the insurance compensation (i.e. ₹ 6,00,000) will be assessable as a short-term capital loss.

Note – If new machinery is purchased in the next year, it will constitute the new block of machinery, on which depreciation can be claimed for that year.

(iii) **Compensation towards loss of gold chain and diamond ring:** Gold chain and diamond ring are capital assets as envisaged by section 2(22). They are not "personal effects", which alone are to be excluded. If any

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profit or gain arises in a tax year owing to receipt of insurance claim, the same shall be chargeable to tax as capital gains. The capital gains has to be computed by reducing the cost of acquisition of jewellery from the insurance compensation of ₹ 1,80,000.

5. Computation of income chargeable under the head "Capital Gains" of Mr. Sarthak for T.Y. 2026-27

Particulars	₹
Capital Gains on sale of residential house	
Actual sale consideration ₹ 1,50,00,000	
Value adopted by Stamp Valuation Authority on the date of agreement ₹ 1,70,00,000	
[As per section 78, where the actual sale consideration is less than stamp duty value, the stamp duty value on the date of agreement may be taken as full value of consideration if the date of agreement and the date of registration are not same and part or full consideration is received on or before the date of agreement in specified banking or online mode and such stamp duty value exceed 110% of the consideration received.	
In this case, since 20% of ₹ 150 lakhs is received through account payee bank draft on the date of agreement and stamp duty value on the date of agreement exceed 110% of consideration, stamp duty value on the date of agreement would be considered for determining the full value of consideration]	
Full value of sale consideration	1,70,00,000
Less: Cost of acquisition of residential house	30,00,000
Long-term capital gains [Since the residential house property was held by Mr. Sarthak for more than 24 months immediately preceding the date of its transfer]	**1,40,00,000**
Less: **Deduction u/s 82**	55,00,000
Since, long-term capital gains does not exceed ₹ 2 crore, he would be eligible for deduction in respect of both the residential house properties purchased in India. The capital gain arising on transfer of a long-term residential property shall not be chargeable to tax to the extent such capital	

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gain is invested in the purchase of these residential house properties in India within one year before or two years after the date of transfer of original asset. Thus, he would be eligible for deduction of ₹ 55,00,000 being ₹ 20,00,000 and ₹ 35,00,000 invested on acquisition of residential house property in Kanpur and Delhi, respectively.	
Long term capital gains chargeable to tax	**85,00,000**

Note: It may be noted that since Sarthak has transferred residential house which was acquired before 23.7.2024, the excess income-tax computed by following formula shall be ignored –

E = A – B

E = Excess income-tax to be ignored

A = Tax on long term capital gain without indexation benefit @12.5%

B = Tax on long term capital gain with indexation benefit @20%.

6. Computation of income chargeable under the head "Capital Gains" of Mrs. Yuvika for T.Y.2026-27

Particulars	₹ (in lakhs)	₹ (in lakhs)
Capital Gains on sale of residential building		
Actual sale consideration ₹ 810 lakhs		
Stamp duty value on the date of agreemnt ₹ 890 lakhs		
[Where the actual sale consideration is less than stamp duty value, the stamp duty value on the date of agreement may be taken as full value of consideration if the date of agreement and the date of registration are not same and part or full consideration is received on or before the date of agreement in specified banking or online mode. However, if such stamp duty value does not exceed 110% of the consideration received, such consideration shall be deemed to be the full value of consideration.		

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In this case, advance of ₹ 80 lakh is received by RTGS. However, stamp duty value on the date of agreement does not exceed 110% of consideration. Therefore, actual sale consideration would be taken as the full value of consideration]		
Gross Sale consideration		810.00
Less: Brokerage @1% of sale consideration (1% of ₹ 810 lakhs)		8.10
Net Sale consideration		801.90
Less: Cost of acquisition		
- Cost of vacant land, ₹ 80 lakhs, *plus* registration and other expenses i.e., ₹ 8 lakhs, being 10% of cost of land	88	
- Construction cost of residential building	100	188.00
Long-term capital gains		**613.90**
Since the residential house property was held by Mrs. Yuvika for more than 24 months immediately preceding the date of its transfer, the resultant gain is a long-term capital gain]		
Less: **Deduction under section 82**		130.00
Where long-term capital gains exceed ₹ 2 crore, the capital gain arising on transfer of a long-term residential property shall not be chargeable to tax to the extent such capital gain is invested in the purchase of one residential house property in India, one year before or two years after the date of transfer of original asset.		
Therefore, in the present case, the deduction would be available only in respect of the one residential house		

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acquired in India and not in respect of the residential house in UK. It would be more beneficial for her to claim the cost of acquisition of residential house at Delhi, i.e., ₹ 130 lakhs as deduction.		
***Less:* Deduction under section 85**		50.00
Amount invested in capital gains bonds of NHAI within six months after the date of transfer (i.e., on or before 13.1.2027), of long-term capital asset, being land or building or both, would qualify for deduction, to the maximum extent of ₹ 50 lakhs, whether such investment is made in the current financial year or subsequent financial year. Therefore, in the present case, deduction can be availed only to the extent of ₹ 50 lakh out of ₹ 90 lakhs, even if the both the investments are made on or before 13.1.2027 (i.e., within six months after the date of transfer).		
Long term capital gains chargeable to tax		**433.90**

Notes:

(1) Advance of ₹ 20 lakhs received from Mr. Johar, would have been chargeable to tax under the head "Income from other sources", in the T.Y. 2015-16, since the same was forfeited on or after 01.4.2015 as a result of failure of negotiation. Hence, the same should not be deducted while computing indexed cost of acquisition.

(2) It may be noted that since Yuvika has transferred residential building which was acquired before 23.7.2024, the excess income-tax computed by following formula shall be ignored –

E = A – B

E = Excess income-tax to be ignored

A = Tax on long term capital gain without indexation benefit @12.5%

B = Tax on long term capital gain with indexation benefit @20%.

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7. **Computation of Capital gains in the hands of Mr. Shiva for T.Y. 2026-27**

Particulars	Amount (₹)	Amount (₹)
Actual sale consideration	30,50,000	
Stamp duty Value on the date of agreement	39,00,000	
(Where the actual sale consideration is less than stamp duty value, the stamp duty value on the date of agreement may be taken as full value of consideration if the date of agreement and the date of registration are not same and part or full consideration is received on or before the date of agreement in specified banking or online mode and such stamp duty value exceed 110% of the consideration received. In the present case, since part of consideration is received by account payee cheque on the date of agreement and stamp duty value on the date of agreement exceed 110% of consideration, stamp duty value on the date of agreement would be considered for determining the full value of consideration]		
Deemed Full value of consideration		**39,00,000**
Less: Expenses on transfer (Brokerage @1% of ₹ 30,50,000)		30,500
Net sale consideration		**38,69,500**
Less: Cost of acquisition **(Note 1)**	9,59,000	
Less: Cost of improvement	3,90,000	13,49,000
Long term capital gain		**25,20,500**

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Notes:

(1) Computation of cost of acquisition

Particulars	Amount (₹)	Amount (₹)
Cost of acquisition,		10,70,000
Being the higher of		
(i) lower of Fair market value i.e., ₹ 11,85,000 and Stamp duty value i.e., ₹ 10,70,000, on April 1, 2001	10,70,000	
(ii) Actual cost of acquisition (₹ 3,24,000 + ₹ 35,000, being stamp duty @10% of ₹ 3,50,000)	3,59,000	
Less: Advance money taken from Mr. Mohan and forfeited		1,11,000
Cost of acquisition		**9,59,000**

(2) Where advance money has been received by the assessee, and retained by him, as a result of failure of the negotiations, section 81 will apply. The advance retained by the assessee will go to reduce the cost of acquisition. Accordingly, cost of acquisition after reducing the advance money forfeited would be ₹ 9,59,000 [i.e. ₹ 10,70,000 – ₹ 1,11,000 (being the advance money forfeited during the T.Y. 2008-09)]. However, where the advance money is forfeited during the tax year 2015-16 or thereafter, the amount forfeited would be taxable under the head "Income from Other Sources" and such amount will not be deducted from the cost of acquisition of such asset while calculating capital gains. Hence, ₹ 1,51,000, being the advance received from Ms. Deepshikha and retained by him, would have been taxable under the head "Income from other sources" in the hands of Mr. Shiva in T.Y.2015-16.

8. For the purpose of computation of long-term capital gains chargeable to tax under section 198, the cost of acquisition in relation to the long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust acquired before 1st February, 2018 shall be the higher of

(a) cost of acquisition of such asset, i.e., actual cost; and

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(b) lower of

(i) the fair market value of such asset as on 31.1.2018; and

(ii) the full value of consideration received or accruing as a result of the transfer of the capital asset.

(i) The fair market value of listed equity shares as on 31.1.2018 is the highest price quoted on the recognized stock exchange as on that date.

Accordingly, long-term capital gain on transfer of STT paid listed equity shares by Mr. Shagun would be determined as follows:

The FMV of shares of A Ltd. would be ₹ 700, being the highest price quoted on National Stock Exchange on 31.1.2018. The cost of acquisition of each equity share in A Ltd. would be ₹ 700, being higher of actual cost i.e., ₹ 400 and ₹ 700 [being the lower of FMV of ₹ 700 as on 31.1.2018 (i.e., the highest trading price) and actual sale consideration of ₹ 1,200]. Thus, the long-term capital gain would be ₹ 1,50,000 i.e., (₹ 1,200 – ₹ 700) x 300 shares. The long-term capital gain of ₹ 25,000 (i.e., the amount in excess of ₹ 1,25,000) would be subject to tax@12.5% under section 198 (*plus* cess@4%), without benefit of indexation. The tax on capital gain @13% would be ₹ 3,250 (₹ 25,000 x 13%)

(ii) In the case of units listed on recognised stock exchange on the date of transfer, the FMV as on 31.1.2018 would be the highest trading price on recognised stock exchange as on 31.1.2018 (if units are listed on that date), else, it would be the net asset value as on 31.1.2018 (where units are unlisted on that date).

Accordingly, the FMV of units of Fund A as on 31.1.2018 would be ₹ 750 (being the highest trading price on 31.1.2018, since the units of Fund A are listed on that date).

The cost of acquisition of a unit of Fund A would be ₹ 750, being higher of actual cost i.e., ₹ 550 and ₹ 750 (being the lower of FMV of ₹ 750 as on 31.1.2018 and actual sale consideration of ₹ 900). Thus, the long-term capital gains on sale of units of Fund A would be ₹ 30,000 (₹ 900 – ₹ 750) x 200 units.

Since the long-term capital gains on sale of units of Fund A is ₹ 30,000, which is less than ₹ 1,25,000, the said sum is not chargeable to tax under section 198.

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Q.NO.	ANSWERS	
1.	(c)	Land held by Mr. A is capital asset and land held by Mr. B is stock-in-trade
2.	(b)	Capital gains
3.	(c)	Jewellery used personally
4.	(c)	24 Months
5	(b)	preference shares is also included
6	(a)	the final order of such Court, Tribunal or other authority is made.
7	(b)	₹ 8 lakhs
8	(c)	₹ 75,000
9.	(b)	FMV as on 1-4-2001
10.	(a)	Nil
11.	(a)	₹ 42,00,000
12	(b)	Short-term capital loss of ₹ 12,000
13	(b)	Specified mutual fund
14	(c)	Normal rates applicable to short-term capital gains
15.	(b)	Short-term capital gains or long-term capital gains, depending upon the period for which the undertaking is held.
16.	(b)	Net worth
17.	(a)	₹ 1 crore
18.	(c)	FMV determined in prescribed manner
19.	(b)	Advance forfeited by Ramesh is to be ignored
20.	(b)	2 years
21.	(c)	Amount invested in purchase or construction of one residential house property up to the due date of filing return of income and amount deposited in the Capital Gains Account Scheme up to such due date
22.	(c)	6 months
23.	(d)	₹ 50 lakhs
24.	(b)	Net consideration

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UNIT – 5 : INCOME FROM OTHER SOURCES

LEARNING OUTCOMES

After studying this unit, you would be able to-

- **identify** the income, which are chargeable to tax under the head "Income from other sources";
- **examine** the transactions of receipt of money and property without consideration or for inadequate consideration to determine whether such receipts are chargeable to tax under this head;
- **identify and comprehend** the admissible deductions while computing income under this head;
- **identify and comprehend** the inadmissible deductions while computing income under this head;
- **compute** the tax on casual income by applying the rate of tax applicable on such income;
- **compute** the income chargeable to tax under this head.

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Proforma for computation of "Income from Other Sources"

	Particulars		Amt
(i)	Dividend Income [Section 92(2)(a)]		xxx
(ii)	Casual Income (winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc.) [Section 92(2)(b)]		xxx
(iii)	Advance forfeited due to failure of negotiations for transfer of a capital asset [Section 92(2)(h)]		xxx
(iv)	Interest received on compensation/ enhanced compensation deemed to be income in the year of receipt [Section 92(2)(i)]		xxx
(v)	Compensation or other payment, due to or received by any person, in connection with termination of his employment or the modification of the terms and conditions [Section 92(2)(j)]		xxx
(vi)	Sum, including bonus allocated, received under a LIP other than under a ULIP and keyman insurance policy, which is not excluded from the total income under Schedule II (Table: Sl. No. 2) [Section 92(2)(l)]		xxx
(vii)	Sum of money or property received by any person [Section 92(2)(m)]		xxx
(viii)	The following income, if not chargeable to tax under the head "Profits and gains of business or profession"		
	(a) Any sum received by an employer from his employees as contributions to any provident fund, superannuation fund or any other fund for the welfare of the employees	xxx	
	(b) Any sum received under a Keyman insurance policy including bonus allocated on such policy (if not chargeable to tax under the head "Salaries" also)	xxx	
	(c) Interest on securities	xxx	
	(d) Income from letting out on hire of machinery, plant or furniture	xxx	
	(e) Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting	xxx	xxx
(ix)	Any income chargeable to tax under the Act, but not falling under any other head of income		xxx

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(x)	Deemed income u/s 95 – Remission or cessation of a liability or receipt of any amount in respect of loss or expenditure allowed as deduction in an earlier T.Y.		xxx
			xxx
Less: **Deductions allowable [Section 93]**			
(a)	**In case of interest on securities** ♦ Any reasonable sum paid as commission or remuneration to a banker or any other person	xxx	
(b)	**Income consists of recovery from employees as contribution to any PF, superannuation fund etc.** ♦ Amount of contribution remitted before the due date of filing of return of income u/s 263(1), as per section 29(1)(e)	xxx	
(c)	**Income from letting on hire of machinery, plant and furniture, with or without building** ♦ current repairs to the machinery, plant, furniture or building ♦ insurance premium ♦ depreciation/unabsorbed depreciation	xxx	
(d)	**Family Pension –** 1/3 of such income or ₹ 15,000 (in case of optional tax regime) or ₹ 25,000 (in case of default tax regime u/s 202), whichever is less.	xxx	
(e)	**Interest on compensation/enhanced compensation received –** 50% of such interest	xxx	
(f)	Any other expenditure not in the nature of capital expenditure incurred wholly and exclusively for earning such income	xxx	
(g)	**Commutation of pension received from LIC –** the entire amount	xxx	
(h)	**Gratuity received under the Pension Code or Regulations applicable to members of the Defence service/ members of the All-India services/ members of civil services/ local authority employee on the death of the employee –** the entire amount	xxx	xxx
Income from Other Sources			xxx

Note – No deduction shall be allowed in respect of any dividend, income from units of a mutual fund or income from units of a specified company.

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Deductions not allowable [Section 94]	
(a)	Any personal expense of the assessee.
(b)	Any interest chargeable under the Act which is payable outside India on which tax has not been paid or deducted at source.
(c)	Any payment chargeable under the head "Salaries", if it is payable outside India unless tax has been paid thereon or deducted at source therefrom.
(d)	30% of sum payable to a resident on which tax is deductible at source, if such tax has not been deducted or after deduction has not been paid upto the due date of return specified in section 263(1).
(e)	Any expenditure for which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV.
(f)	Any expenditure in respect of which a payment or aggregate payments in a day to a person is made exceeding ₹ 10,000 or ₹ 35,000, as the case may be and such payment is not made through specified banking or online mode.

Tax on Income from Other Sources				
Income	Winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc. (other than winning from any online game)	Unexplained cash credits/ investments/ money, bullion, jewellery etc./ expenditure, etc.	Net winnings from online games	Other Income
Section	Section 194(1) (Table: Sl. No. 1)	Section 195	Section 194(1) (Table: Sl. No. 5)	-

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Tax rate	30% of such winnings (further increased by surcharge, if applicable, and health and education cess@4%)	30% of such income *plus* surcharge @25% of tax (Effective rate of tax is 39%, including health and education cess@4%)	30% of such winnings (further increased by surcharge, if applicable, and health and education cess@4%)	Normal rates of tax
Other conditions	♦ No expenditure or allowance can be allowed from such income. ♦ Deduction under Chapter VIII is not allowable from such income. ♦ Adjustment of unexhausted basic exemption limit is also not permitted against such income. ♦ Set-off of losses is not permissible against such income.			Deductions specified in section 93 allowable, subject to limits mentioned thereunder. Section 94 specifies the deductions not allowable.

5.1 Structured Sectional Learning

Section	Particulars
2(40)	Dividend
7(2)	Dividend deemed to be income in a tax year
92	Income from other sources
93	Deductions
94	Amounts not deductible
95	Profits chargeable to tax
276	Method of accounting

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5.2 INTRODUCTION

Any income, profits or gains includible in the total income of an assessee, which cannot be included under any of the preceding heads of income, is chargeable under the head 'Income from other sources'. Thus, this head is the residuary head of income and brings within its scope all the taxable income, profits or gains of an assessee which fall outside the scope of any other head. Therefore, when any income, profit or gain does not fall precisely under any of the other specific heads but is chargeable under the provisions of the Act, it would be charged under this head.

5.3 METHOD OF ACCOUNTING [SECTION 276]



Income chargeable under the head "Income from other sources" has to be computed as per either cash or mercantile system of accounting regularly employed by the assessee.

5.4 INCOMES CHARGEABLE UNDER THIS HEAD [SECTION 92]

The income chargeable only under the head 'Income from other sources'

(1) Dividend income [Section 92(2)(a)]



Dividend income is always taxable under the head "Income from other sources". The term 'dividend' as used in the Act has a wider scope and meaning than under the general law.

Deemed dividend [Sections 2(40)(a) to (e)]:

According to section 2(40), the following receipts are deemed to be dividend:

(a) Distribution of accumulated profits, entailing the release of company's assets - Any distribution by a company of accumulated profits, whether capitalised or not, if it entails the release by the company to its shareholders of all or any part of its assets will be deemed as dividend.

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If accumulated profits are distributed in cash, cheque, RTGS, NEFT, etc, it is dividend in the hands of the shareholders. Where accumulated profits are distributed in kind, for example by delivery of shares etc. entailing the release of company's assets, the market value of such shares on the date of such distribution is deemed dividend in the hands of the shareholder.

(b) Distribution of debentures, deposit certificates to shareholders and bonus shares to preference shareholders - Any distribution to its shareholders by a company of debentures, debenture stock or deposit certificate in any form, with or without interest, and any distribution of bonus shares to preference shareholders to the extent to which the company possesses accumulated profits, whether capitalised or not, will be deemed as dividend.

The market value of such bonus shares is deemed as dividend in the hands of the preference shareholder.

In the case of debentures, debenture stock etc., their value is to be taken at the market rate and if there is no market rate they should be valued according to accepted principles of valuation.



Bonus shares given to equity shareholders are not treated as dividend.

(c) Distribution on liquidation - Any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not, is deemed to be dividend income.



Any distribution made out of the profits of the company after the date of the liquidation cannot amount to dividend. It is a repayment towards capital.

(d) Distribution on reduction of capital - Any distribution to its shareholders by a company on the reduction of its capital to the extent to which the company possessed accumulated profits, whether capitalised or not, shall be deemed to be dividend.

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(e) Advance or loan by a closely held company to its shareholder, a specified concern or for benefit of such shareholder - Any payment by a company in which the public are not substantially interested, of any sum

- as an advance or loan to a shareholder who is the beneficial owner of shares holding not less than 10% of the voting power; or
- as an advance or loan to any concern (i.e., HUF/ Firm/ AOP/ BOI/Company) in which such shareholder is a member or a partner and in which he has a substantial interest (i.e., not less than 20% share of the income of the concern); or
- made on behalf or for the individual benefit of any such shareholder

will be deemed to be dividend to the extent of the accumulated profits of company.

If the loan is not covered by the accumulated profits, it is not deemed to be dividend.



Subsequent repayment of loan or charge of interest at market rate does not make any difference in the applicability of section 2(40)(e).

Exceptions: The following do not constitute "dividend" –

(i) Distribution in respect of non-participating shares issued for full cash consideration – Any distribution made under (c) or (d) in respect of any share issued for full cash consideration and the holder of such share is not entitled in the event of liquidation to participate in the surplus asset.

(ii) Loan granted in the ordinary course of business - If the advance or loan to the shareholder or the said concern by a company is in the ordinary course of its business and lending of money is a substantial part of the company's business.

(iii) Dividend paid is set off against the deemed dividend - Where a loan had been treated as dividend and subsequently, the company declares and distributes dividend to all its shareholders including the borrowing shareholder, and the dividend so paid is set off by the company against

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the previous borrowing, the adjusted amount will not be again treated as a dividend.

(iv) Distribution of shares to the shareholders on demerger by the resulting company - Any distribution of shares on demerger by the resulting companies to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).

(v) Advance or loan between two group entities – Any advance or loan between two group entities, where one of the group entity is a Finance company or a Finance Unit, the other group entity to the transaction is located in a country or territory outside India and the parent entity or principal entity of such group is listed on the stock exchange in a country or territory outside India as specified by the Central Government.

Meaning of "accumulated profits"

Accumulated profits in point (a), (b), (d) and (e) above include all profits of the company up to the date of distribution or payment of dividend.

Accumulated profits in point (c) include all profits of the company up to the date of liquidation whether capitalised or not.

In the case of an amalgamated company, the accumulated profits, whether capitalized or not, of the amalgamating company on the date of amalgamation shall be included in the accumulated profits, whether capitalized or not or loss, as the case may be, of the amalgamated company.

Clarification regarding trade advance not to be treated as deemed dividend under 2(40)(e) – [Circular No. 19/2017, dated 12.06.2017]

Section 2(40)(e) provides that "dividend" includes any payment by a company in which public are not substantially interested, of any sum by way of advance or loan to a shareholder who is the beneficial owner of shares holding not less than 10% of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits.

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The CBDT observed that some Courts in the recent past have held that trade advances in the nature of commercial transactions would not fall within the ambit of the provisions of section 2(40)(e) and such views have attained finality.

In view of the above, the CBDT has, vide this circular, clarified that it is a settled position that trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(40)(e) and therefore, the same would not to be treated as deemed dividend.

Dividend deemed to be income in a tax year [Section 7(2)]

Deemed dividend u/s 2(40)(a) to (e) – Any dividend declared by a company or distributed or paid by it which is deemed as dividend u/s 2(40)(a) to (e) would be deemed to be the income of the tax year in which it is so declared, distributed or paid.

Interim dividend – Interim dividend would be deemed to be the income of the tax year in which such dividend is unconditionally made available by the company to the members who is entitled to it.

Tax rate on dividend income

Any income by way of dividends received by a resident from a company, whether domestic or foreign, is taxable in the hands of a resident shareholder at normal rates of tax.



1.	*Alpha Pvt. Ltd., a closely held company, advanced ₹ 15 lakhs to Mr. Raj, who holds 14% voting power in the company. The company possesses accumulated profits of ₹ 10 lakhs. How much amount shall be taxable as deemed dividend?*	
	(a)	*₹ 15 lakhs*
	(b)	*₹ 14 lakhs*
	(c)	*₹ 10 lakhs*
	(d)	*Nil*

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2.	*XYZ Ltd. distributed bonus shares to its equity shareholders out of accumulated profits. What will be the tax treatment in the hands of equity shareholders?*	
	(a)	*Taxable as dividend*
	(b)	*Taxable as capital gains*
	(c)	*Not treated as dividend*
	(d)	*Taxable as salary*
3.	*A company distributed accumulated profits by transferring certain assets to shareholders. In such case, the amount taxable as dividend shall be:*	
	(a)	*Book value of assets*
	(b)	*Cost of acquisition of assets*
	(c)	*Market value of assets on date of distribution*
	(d)	*Stamp duty value on the date of purchase of assets*

ILLUSTRATION 1

Rahul, a resident Indian, holding 28% of equity shares in a company, took a loan of ₹5,00,000 from the same company. On the date of granting the loan, the company had accumulated profit of ₹4,00,000. The company is engaged in some manufacturing activity.

(i) Is the amount of loan taxable as deemed dividend, if the company is a company in which the public are substantially interested?

(ii) What would be your answer if the lending company is a private limited company (i.e., which is not a company in which the public are substantially interested)?

SOLUTION

Any payment by a company, other than a company in which the public are substantially interested, of any sum by way of advance or loan to an equity shareholder, being a person who is the beneficial owner of shares holding not less than 10% of the voting power, is deemed as dividend under section 2(40)(e), to the extent the company possesses accumulated profits.

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(i) The provisions of section 2(40)(e), however, will not apply where the loan is given by a company in which public are substantially interested. In such a case, the loan would not be taxable as deemed dividend.

(ii) However, if the loan is taken from a private company (i.e., a company in which the public are not substantially interested), which is a not a company where lending of money is a substantial part of the business of the company, the provisions of section 2(40)(e) would be attracted. In this case, since the company is a manufacturing company and not a lending company and Rahul holds more than 10% of the equity shares in the company, the provisions of section 2(40)(e) would be attracted.

The amount chargeable as deemed dividend cannot, however, exceed the accumulated profits held by the company on the date of giving the loan. Therefore, the amount taxable as deemed dividend would be limited to the accumulated profit i.e., ₹ 4,00,000 and not the amount of loan which is ₹ 5,00,000.

(2) Casual Income [Section 92(2)(b)]



Casual income means income in the nature of winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, gambling, betting etc.

Casual income is chargeable to tax under the head "Income from Other Sources".

(3) Advance forfeited due to failure of negotiations for transfer of a capital asset to be taxable as "Income from other sources" [Section 92(2)(h)]

(i) Prior to 1st April, 2014, any advance retained or received in respect of a negotiation for transfer which failed to materialise is reduced from the cost of acquisition of the asset or the written down value or the fair market value of the asset, at the time of its transfer to compute the capital gains arising therefrom.

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(ii) Section 56(2)(ix) of the Income-tax Act, 1961 provided for the taxability under the head 'Income from other sources' of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if such sum had been forfeited on or after 1st April 2014.



(iii) Section 92(2)(h) provides for the taxability of any sum of money received as an advance or otherwise during negotiations for the transfer of a capital asset. As per this section, such sum shall be chargeable to income-tax under the head 'Income from other sources', if such sum is forfeited on or after 1st April 2026 and the negotiations do not result in transfer of such capital asset.

(iv) It may be noted that advance received and forfeited upto 31.3.2014 has to be reduced from cost of acquisition while computing capital gains, since such advance would not have been subject to tax under section 56(2)(ix) of the Income-tax Act, 1961. The advance received and forfeited on or after 1.4.2026 would be subject to tax under section 92(2)(h). Hence, such advance would not be reduced from the cost of acquisition for computing capital gains.

(4) Interest received on compensation/ enhanced compensation deemed to be income in the year of receipt and taxable under the head "Income from Other Sources" [Sections 92(2)(i)]

(i) As per section 276(1), income chargeable under the head "Profits and gains of business or profession" or "Income from other sources", shall be computed as per either cash or mercantile system of accounting regularly employed by the assessee.

(ii) Section 278(1) provides that the interest received by an assessee on any compensation or on enhanced compensation shall be deemed to be his income for the tax year in which it is received, irrespective of the method of accounting followed by the assessee.



(iii) Section 92(2)(i) provides that income by way of interest received on compensation or on enhanced compensation referred to in section 278(1) shall be assessed as "Income from other sources" in the tax year in which it is received.

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(5) Compensation or any other payment received in connection with termination of his employment [Section 92(2)(j)]

Any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions, shall be chargeable to tax under this head. However, if it is received from employer, then it is taxable u/s 18(1)(a) under the head "Income from Salaries".



4.	*Mr. A received an advance of ₹6 lakhs on 20th May 2026 during negotiations for transfer of land. The negotiations failed and the advance was forfeited by Mr. A. What would be the tax treatment of ₹ 6 lakhs in the hands of Mr. A:*	
	(a)	*Reduced from cost of acquisition of land*
	(b)	*Exempt from tax*
	(c)	*Taxable under the head "Income from Other Sources"*
	(d)	*Taxable as capital gains*
5.	*Mr. G received interest on enhanced compensation of ₹ 5,00,000 during the tax year 2026-27. Out of such interest, ₹ 1,50,000 relates to T.Y. 2020-21, ₹ 1,65,000 relates to T.Y. 2021-22 and ₹ 1,85,000 relates to T.Y. 2022-23. In which year the interest on enhanced compensation would be taxable?*	
	(a)	*It shall be taxable in the respective years to which it relates.*
	(b)	*Entire interest shall be taxable in T.Y. 2026-27 under the head "Income from Other Sources" after providing 50% deduction*
	(c)	*Only ₹ 1,85,000 shall be taxable in T.Y. 2026-27.*
	(d)	*Interest on enhanced compensation is exempt from tax.*

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(6) Sum, including bonus allocated, received during a tax year under a LIP other than sum received under a ULIP and keyman insurance policy, which is not excluded from the total income under Schedule II (Table: Sl. No. 2) [Section 92(2)(l)]

Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy would not be included in the total income of a person [Schedule II (Table: Sl. No. 2)].

The following table summarizes the conditions to be satisfied for exemption specified in Schedule II (Table: S. No. 2) vis-a-vis the date of issue of such policies-

Period of Issue of Policy	Condition for Exemption: Premium to sum assured ratio
In respect of policies issued before 1.4.2003	Any sum received under a LIP including the sum allocated by way of bonus is exempt without any further condition.
In respect of policies issued between 1.4.2003 and 31.3.2012	Exemption would be available only if the premium to sum assured ratio is ≤ 20%.
In respect of policies issued between 1.4.2012 and 31.3.2013	Exemption would be available only if the premium to sum assured ratio is ≤ 10%.
In respect of policies issued between 1.4.2013 to 31.3.2023	**(a) Where the insurance is on the life of a person with disability or severe disability as referred to in section 154 or a person suffering from disease or ailment as specified under section 128.**
	Exemption would be available only if the premium to sum assured ratio is ≤ 15% for "special policies". "Special policy" means any policy issued on life of any person, who is - (i) a person with disability or a person with severe disability as referred to in section 154; or (ii) suffering from disease or ailment as specified in the rules made under section 128.

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	(b) Where the insurance is on the life of any person, other than mentioned in (a) above
	Exemption would be available only if the premium to sum assured ratio is ≤ 10% for other policies.
In respect of policies issued on or after 1.4.2023	Exemption would be available if the premium to sum assured ratio is ≤ 15% for "special policies" and ≤ 10% for other policies. Further, the aggregate of premium for all such policies should ≤ ₹ 5,00,000 in any of the tax years during the term of all such policies.
Any sum is received on the death of a person is exempt irrespective of the annual premium payable on the policy.	
Meaning of premium to sum assured ratio – It means the highest % of annual premium payable to the actual capital sum assured, during the term of the policy.	
The following sums shall not be eligible for exclusion from the total income – (i) any sum received under section 127(4) i.e., In the event of the death of the dependent disabled, in respect of whom an individual or the member of the HUF has paid or deposited any amount in any scheme of LIC or any other insurer, before such individual or member of the HUF, the amount so paid or deposited shall be deemed to be the income of the assessee of the tax year in which such amount is received. (ii) any sum received under a keyman insurance policy	

For removal of difficulties, the CBDT may issue guidelines with the previous approval of the Central Government, which shall be binding on the income-tax authority and the assessee. Accordingly, the CBDT has, with the approval of the Central Government, vide this circular, issued the following guidelines in respect of LIPs (other than ULIPs)–



Guidelines under Schedule II (Table: Sl. No. 2) of the Income-tax Act, 2025 [Circular No. 15/2023 dated 16.08.2023]

Situation 1: No sum of any nature including bonus (such sum hereinafter referred as "consideration") is received by the assessee on any LIPs which are issued on or after 1.4.2023 (such LIPs hereinafter referred as "eligible LIPs") during any tax year preceding the current tax year (being the T.Y. in which

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consideration is received and its taxability is being examined) or consideration has been received on such eligible LIPs in an earlier tax year but has not been claimed exempt. In such a situation, the exemption would be determined as under:

I. Where the assessee has received consideration, during the current T.Y., under one eligible LIP only

Circumstance	Eligibility for exemption under schedule II (Table: Sl. No. 2)
If the amount of premium payable on such eligible LIP does not exceed ₹ 5,00,000 in any of the TYs during the term of such eligible LIP and premium to sum assured ratio does not exceed 10%.	Such consideration would be eligible for exemption under schedule II (Table: Sl. No. 2). **[Refer Example 1 and 2 given below]**
If the amount of premium payable on such eligible LIP > ₹ 5,00,000 for any of the TYs during the term of such eligible LIP	Such consideration would **not** be eligible for exemption under schedule II (Table: Sl. No. 2). **[Refer Example 3 given below]**

Example 1:

LIP	A
Date of issue	1.4.2014
Annual premium	6,00,000
Sum assured	60,00,000
Consideration received as on 01.11.2026 on maturity	70,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2026-27.	

Eligibility for exemption under schedule II (Table: Sl. No. 2) - The consideration received under LIP "A" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2026-27 since premium to sum assured does not exceed 10%. Moreover, as the policy has been issued before 1.4.2023, limit of ₹ 5,00,000 of amount of premium payable is not applicable, since it is not an eligible LIP.

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Example 2:

LIP	A
Date of issue	1.4.2023
Annual premium	5,00,000
Sum assured	50,00,000
Consideration received as on 01.11.2033 on maturity	52,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2033-34.	

Eligibility for exemption under schedule II (Table: Sl. No. 2) - The consideration received would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34, since the annual premium payable on the policy does not exceed ₹ 5,00,000 and also premium to sum assured does not exceed 10%.

Example 3:

LIP	A
Date of issue	1.4.2023
Annual premium	6,00,000
Sum assured	60,00,000
Consideration received as on 01.11.2033 on maturity	70,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2033-34.	

Eligibility for exemption under schedule II (Table: Sl. No. 2) - The consideration received would **not** be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34 since the annual premium payable on the eligible LIP exceeds ₹ 5,00,000.

II. Where the assessee has received consideration, during the current T.Y., under more than one eligible LIP

Circumstance	Eligibility for exemption under schedule II (Table: Sl. No. 2)
If the aggregate of premium payable on such eligible LIPs does not exceed ₹ 5,00,000 in any of the TYs during the	Such consideration would be eligible for exemption under schedule II (Table: Sl. No. 2).

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term of such eligible LIPs and the premium to sum assured is ≤ 10%.	**[Refer Example 4 given below]**
If the aggregate of premium payable on such eligible LIPs > ₹ 5,00,000 in any of the TYs during the term of such eligible LIP	Consideration in respect of any of those eligible LIPs whose aggregate of premium does not exceed ₹ 5,00,000 in any of the TYs during their term would be eligible for exemption under schedule II (Table: Sl. No. 2), provided their premium to sum assured is ≤ 10%. **[Refer Examples 5, 6 and 7 given below]**

Example 4:

LIP	A	B
Date of issue	1.4.2023	1.4.2023
Annual premium	3,00,000	2,00,000
Sum assured	30,00,000	20,00,000
Consideration received as on 01.11.2033 on maturity	32,00,000	21,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2033-34.		

Eligibility for exemption under schedule II (Table: Sl. No. 2) – In this case, the aggregate of premium payable for LIP "A" and LIP "B" does not exceed ₹ 5,00,000 during the term of these policies.

Further, premium to sum assured in respect of LIP "A" and LIP "B" does not exceed 10%. Therefore, the consideration received under LIP "A" and "B" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34.

Example 5:

LIP	A	B
Date of issue	1.4.2023	1.4.2023
Annual premium	4,50,000	5,50,000
Sum assured	45,00,000	55,00,000

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Consideration received as on 01.11.2033 on maturity	52,00,000	60,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2033-34.		

Eligibility for exemption under schedule II (Table: Sl. No. 2) – In this case, the aggregate of premium payable for LIP "A" and LIP "B" exceeds ₹ 5,00,000 during the term of these policies.

However, the consideration received under LIP "A" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34, since its annual premium does not exceed ₹ 5,00,000 in any tax year during the term of the policy and also its premium to sum assured does not exceed 10%.

Consequently, the consideration received under LIP "B" alone would **not** be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34.

Example 6:

LIP	A	B	C
Date of issue	1.4.2023	1.4.2023	1.4.2023
Annual premium	1,00,000	3,50,000	6,00,000
Sum assured	10,00,000	35,00,000	60,00,000
Consideration received as on 01.11.2033 on maturity	12,00,000	40,00,000	70,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2033-34.			

Eligibility for exemption under schedule II (Table: Sl. No. 2) - The aggregate of annual premium payable for LIP "A", LIP "B" and LIP "C" exceeds ₹ 5,00,000 during the term of these policies.

However, the consideration received under LIPs "A" and "B" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34, since aggregate of premium payable for these two policies does not exceed ₹ 5,00,000 in any tax year during the term of these two policies and premium to sum assured in respect of these policies does not exceed 10%.

Consequently, the consideration received under LIP "C" alone would not be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34.

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Example 7:

LIP	X	A	B	C
Date of issue	1.4.2022	1.4.2023	1.4.2023	1.4.2023
Annual premium	5,50,000	1,00,000	3,50,000	6,00,000
Sum assured	55,00,000	10,00,000	35,00,000	60,00,000
Consideration received as on 01.11.2032 on maturity	62,00,000			
Consideration received as on 01.11.2033 on maturity		12,00,000	40,00,000	70,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2033-34, except LIP X in T.Y. 2032-33.				

Eligibility for exemption under schedule II (Table: Sl. No. 2) - The consideration received under LIP "X" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2032-33, since premium to sum assured does not exceed 10%. Moreover, as the policy has been issued before 1.4.2023, limit of ₹ 5,00,000 on amount of premium payable is not applicable, since LIP "X" is not an eligible LIP.

The aggregate of premium payable for LIP "A", LIP "B" and LIP "C" (being LIPs issued on or after 1.4.2023) exceeds ₹ 5,00,000 during the term of these policies.

However, the consideration received under LIPs "A" and "B" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34, since aggregate of premium payable for these two policies does not exceed ₹ 5,00,000 in any tax year during the term of these two policies and premium to sum assured in respect of these policies does not exceed 10%.

Consequently, the consideration received under LIP "C" alone would not be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34.

Situation 2: Consideration has been received by the assessee under any one or more eligible LIPs (i.e., issued on or after 1.4.2023) during any T.Y. preceding the current T.Y. and it has been claimed to be exempt. Such eligible LIPs are referred as "Earlier Exempt Eligible LIPs (EEE LIPs)" in this paragraph and corresponding

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examples and reference to eligible LIPs shall not include EEE LIPs. The exemption under schedule II (Table: Sl. No. 2) would be determined as under:

I. Where the assessee has received consideration, during the current T.Y., under one eligible LIP only

Circumstance	Eligibility for exemption under schedule II (Table: Sl. No. 2)
If aggregate of premium payable on such eligible LIP and EEE LIPs does not exceed ₹ 5,00,000 in any of the TYs during the term of such eligible LIP and premium to sum assured in respect of eligible LIP does not exceed 10%.	Consideration under such eligible LIP would be eligible for exemption under schedule II (Table: Sl. No. 2).
If aggregate of premium payable on such eligible LIP and EEE LIPs > ₹ 5,00,000 in any of the TYs during the term of such eligible LIP	Consideration under such eligible LIP would **not** be eligible for exemption under schedule II (Table: Sl. No. 2).

II. Where the assessee has received consideration, during the current T.Y., under more than one eligible LIP

Circumstance	Eligibility for exemption under schedule II (Table: Sl. No. 2)
If aggregate of premium payable on such eligible LIPs and EEE LIPs does not exceed ₹ 5,00,000 in any of the TYs during the term of such eligible LIPs and premium to sum assured in respect of eligible LIPs also does not exceed 10%.	Consideration received would be eligible for exemption under schedule II (Table: Sl. No. 2).
If aggregate of premium payable on such eligible LIPs and EEE LIPs > ₹ 5,00,000 in any of the TYs during the term of such eligible LIPs	Consideration in respect of any of those eligible LIPs (whose aggregate of premium along with the aggregate of premium of EEE LIPs does not exceed ₹ 5,00,000 in any of the TYs during their term) would be eligible for exemption under schedule II (Table: Sl. No. 2). **[Refer Examples 8, 9 and 10 given below]**

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Example 8:

LIP	X	A	B	C
Date of issue	1.4.2023	1.4.2024	1.4.2024	1.4.2024
Annual premium	4,50,000	1,00,000	1,50,000	6,00,000
Sum assured	45,00,000	10,00,000	15,00,000	60,00,000
Consideration received as on 01.11.2033 on maturity	50,00,000			
Consideration received as on 01.11.2034 on maturity		12,00,000	18,00,000	70,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2034-35, except LIP X in T.Y. 2033-34.				

Eligibility for exemption under schedule II (Table: Sl. No. 2) - The consideration under LIP "X" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34, since the annual premium does not exceed ₹ 5,00,000 and also its premium to sum assured does not exceed 10%.

In this case, the aggregate of the annual premium payable for LIP "A", LIP "B" and LIP "C" along with the premium for LIP "X" exceeds ₹ 5,00,000 during the term of these policies.

The aggregate of the annual premium payable for LIP "A" and the premium for LIP "X" also exceeds ₹ 5,00,000 during the term of these policies.

Consequently, the consideration received under LIP "A", LIP "B" and LIP "C" would not be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2034-35.

Example 9:

LIP	X	A	B	C
Date of issue	1.4.2023	1.4.2024	1.4.2024	1.4.2024
Annual premium	2,50,000	2,00,000	2,50,000	6,00,000
Sum assured	25,00,000	20,00,000	25,00,000	60,00,000
Consideration received as on 01.11.2033 on maturity	30,00,000			
Consideration received as on 01.11.2034 on maturity		24,00,000	38,00,000	70,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2034-35, except LIP X in T.Y. 2033-34.				

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Eligibility for exemption under schedule II (Table: Sl. No. 2) - The consideration under LIP "X" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34, since the annual premium does not exceed ₹ 5,00,000 and also its premium to sum assured does not exceed 10%.

In this case, the aggregate of the annual premium payable for LIP "A", LIP "B" and LIP "C" along with the premium for LIP "X" exceeds ₹ 5,00,000 during the term of these policies.

However, the consideration received under LIPs "A" or "B" (any one) can be claimed as exempt under schedule II (Table: Sl. No. 2) in T.Y. 2034-35.

If the consideration received under LIP "A" is claimed to be exempt as aggregate of premium payable for LIP "X" and "A" did not exceed ₹ 5,00,000 in any of the TYs., the consideration received under LIP "B" would not be exempt.

If the consideration received under LIP "B" is claimed to be exempt as aggregate of premium payable for LIP "X" and "B" did not exceed ₹ 5,00,000 in any of the TYs., the consideration received under LIP "A" would not be exempt. Exemption for consideration received under LIP "B" is preferred as it is more beneficial to the assessee.

Alternative treatment: If the consideration under LIP "X" was not claimed to be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34 by the assessee, then, the consideration received under LIP "A" and LIP "B" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2034-35 since the aggregate of premium payable for the LIPs "A" and "B" together did not exceed ₹ 5,00,000 in any of the tax years during the term of these two policies. However, the most beneficial treatment is to claim LIP "X" and "B" as exempt.

It may be noted that in every case, the consideration received for LIP "C" would not be exempt under schedule II (Table: Sl. No. 2).

Example 10:

LIP	X	Y	A	B	C
Date of issue	1.4.2023	1.4.2023	1.4.2024	1.4.2024	1.4.2024
Annual premium	2,00,000	2,00,000	2,00,000	3,00,000	6,00,000
Sum assured	20,00,000	20,00,000	20,00,000	30,00,000	60,00,000

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Consideration received on surrender as on 1.7.2033	12,00,000				
Consideration received as on 01.11.2034 on maturity		24,00,000			
Consideration received as on 01.11.2035 on maturity			24,00,000	36,00,000	70,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier T.Y. preceding the T.Y.2035-36, except LIP "X" and "Y".					

Eligibility for exemption under schedule II (Table: Sl. No. 2) - The consideration under LIP "X" would be exempt under schedule II (Table: Sl. No. 2) in T.Y.2033-34, since the annual premium does not exceed ₹ 5,00,000 and also its premium to sum assured does not exceed 10%.

The consideration received under LIP "Y" would be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2034-35, since the aggregate of premium payable for LIP "X" and "Y" does not exceed ₹ 5,00,000 and premium to sum assured payable for LIP "Y" does not exceed 10%.

The consideration received under LIPs "A", LIP "B" and LIP "C" would not be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2035-36, since aggregate of premium payable for these three policies and LIP "X" and "Y" exceeds ₹ 5,00,000.

Alternative treatment: If the consideration on surrender under LIP "X" was not claimed to be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2033-34 by the assessee, then the consideration received under LIP "Y" would be exempt and the consideration received under LIP "A" **or** LIP "B" (any one) can be exempt under schedule II (Table: Sl. No. 2) in T.Y. 2035-36. If the consideration received under LIP "A" is claimed to be exempt, as aggregate of premium payable for LIP "Y" and "A" did not exceed ₹ 5,00,000 in any of the TYs., the consideration received under LIP "B" would not be exempt.

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If the consideration received under LIP "B" is claimed to be exempt as aggregate of premium payable for LIP "Y" and "B" did not exceed ₹ 5,00,000 in any of the TYs., the consideration received under LIP "A" would not be exempt. Exemption for consideration received under LIP "B" is preferred as it is more beneficial to the assessee.

If the consideration on surrender of LIP "X" and on maturity of LIP "Y" were not claimed to be exempt under schedule II (Table: Sl. No. 2) in T.Y.2033-34 and T.Y.2034-35, respectively, then consideration received under both LIP "A" and LIP "B" would be exempt in T.Y.2035-36 (being LIPs issued on or after 1.4.2023, whose aggregate premium does not exceed ₹ 5,00,000).

It may be noted that, in every case, consideration received under LIP "C" would not be exempt under schedule II (Table: Sl. No. 2).

Clarification on GST Component: It is also clarified by the CBDT that the premium payable/ aggregate premium payable for a life insurance policy/policies, other than a ULIP, issued on or after 1.4.2023, for any tax year, would be exclusive of the amount of GST payable on such premium.

Clarification on premium of Term life insurance policy: It is further clarified by the CBDT that the limit of ₹ 5,00,000 of amount of premium payable would not be applicable in case of a term life insurance policy i.e. where sum under a life insurance policy is only paid to the nominee in case of the death of the person insured during the term of the policy and no amount is paid to anyone if the insured person survives the policy tenure.

Hence, any sum received under a term insurance policy shall continue to be exempt under schedule II (Table: Sl. No. 2), irrespective of the amount of the premium payable in respect of such policy. Further the premium paid for such policies would not be counted for checking the limit of ₹ 5,00,000 of amount of premium payable.

Taxability of sum received under a LIP which is not exempt under schedule II (Table: Sl. No. 2)

Where any sum, including bonus allocated, is received, during a tax year, under a life insurance policy, other than

(i) the sum received under a ULIP

(ii) income received under a Keyman insurance policy

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which is not excluded from the total income of that tax year under schedule II (Table: Sl. No. 2), the sum so received exceeding the aggregate of the premium paid, during the term of such life insurance policy, and not claimed as deduction under the Act, computed in the prescribed manner, would be chargeable to tax under the head "Income from other sources".

Accordingly, Rule 59 prescribed that if any person receives any sum, including the amount allocated by way of bonus, during a tax year under a LIP, then, the income chargeable to tax under section 92(2)(l) has to be computed in the following manner –

	Situation	Income chargeable to tax in the tax year
(i)	where the sum is received for the first time under the LIP during the tax year (first tax year)	**A-B, where** A = the sum or aggregate of sum received under the LIP during the first tax year; and B = the aggregate of the premium paid during the term of the LIP till the date of receipt of the sum in the first tax year that has not been claimed as deduction under any other provision of the Act.
(ii)	where the sum is received under the LIP during the tax year subsequent to the first tax year (subsequent tax year	**C-D, where** C = the sum or aggregate of sum received under the LIP during the subsequent tax year; and D = the aggregate of the premium paid during the term of the LIP till the date of receipt of the sum in the subsequent tax year not being premium which – (a) has been claimed as deduction under any other provision of the Act; or (b) is included in "B" or "D" in any of the year(s) preceding the tax year.

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"Sum received under a LIP" means any amount, by whatever name called, received under such policy which is not excluded from the total income of the tax year in accordance with the provisions of Schedule II [Table: Sl.No.2], other than the sum –

(a) received under a ULIP; or

(b) received under a Keyman insurance policy

(7) Any sum of money or value of property received without consideration or for inadequate consideration to be subject to tax in the hands of the recipient [Section 92(2)(m)]

(i) In order to prevent the practice of receiving sum of money or the property without consideration or for inadequate consideration, section 92(2)(m) brings to tax any sum of money or the value of any property received by any person without consideration or the value of any property received for inadequate consideration.

(ii) **Sum of Money**: If any sum of money is received without consideration and the total of which exceeds ₹ 50,000, the whole of such sum is chargeable to tax.

(iii) **Immovable property [Land or building or both]:**

I. If an immovable property is received -

(a) **Without consideration:** The stamp duty value of such property would be taxed as the income of the recipient if it exceeds ₹ 50,000.

(b) **For Inadequate consideration**: If stamp duty value of the property exceeds consideration and the difference between the stamp duty value and consideration is more than the higher of –

(i) ₹ 50,000 or

(ii) 10% of consideration,

the difference between the stamp duty value and the consideration shall be chargeable to tax in the hands of the assessee as "Income from other sources".

It may be noted that the above limit shall be considered for **each property separately.**

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II. **Value to be considered where the date of agreement is different from date of registration:** If the date of agreement fixing the amount of consideration and the date of registration are not same, the stamp duty value on the date of agreement shall apply, if the consideration, in whole or in part, has been paid in specified banking or online mode on or before the date of agreement for transfer.

Meaning of "Specified Banking or Online Mode" [Section 66(32)] - Specified Banking or Online Mode mean transaction by

- an account payee cheque or
- an account payee bank draft or
- use of electronic clearing system through a bank account or
- through such other electronic mode, as may be prescribed.

As per Rule 48 of the Income-tax Rules, 2026, "other electronic modes of payment" are the following:

- Credit Card;
- Debit Card;
- Net Banking;
- IMPS (Immediate Payment Service);
- UPI (Unified Payment Interface);
- RTGS (Real Time Gross Settlement);
- NEFT (National Electronic Funds Transfer);
- BHIM (Bharat Interface for Money) Aadhaar Pay, and
- Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC.

III. **If the stamp duty value of immovable property is disputed by the assessee**, the Assessing Officer may refer the valuation of such property to a Valuation Officer. If such value is less than the stamp duty value, the same would be taken for determining the value of such property, for computation of income under this head in the hands of the buyer.

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(iv) Movable Property [Property, other than immovable property]:

If movable property is received -

(a) **Without consideration:** The whole of the aggregate fair market value of such property on the date of receipt would be taxed as the income of the recipient, if aggregate fair market of movable property exceeds ₹ 50,000.

(b) **For inadequate consideration:** If the difference between the aggregate fair market value and such consideration exceeds ₹ 50,000, such difference would be taxed as the income of the recipient.

(v) Applicability of section 92(2)(m):

The provisions of section 92(2)(m) would apply only to property which is the nature of a capital asset of the recipient and not stock-in-trade, raw material or consumable stores of any business of the recipient. Therefore, only transfer of a capital asset, without consideration or for inadequate consideration would attract the provisions of section 92(2)(m).



(vi) The table below summarizes the scheme of taxability of gifts –

	Nature of asset	Taxable value
1	**Money**	The whole amount, if the same exceeds ₹ 50,000.
2	**Movable property**	**(i) Without consideration:** The aggregate fair market value of the property, if it exceeds ₹ 50,000.
		(ii) Inadequate consideration: The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹ 50,000.

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3	**Immovable property**	**(i)**	**Without consideration:** The stamp value of the property, if it exceeds ₹ 50,000.
		(ii)	**Inadequate consideration:** The difference between the stamp duty value and the consideration, if such difference is more than the higher of ₹ 50,000 or 10% of consideration.

(vii) Non-applicability of section 92(2)(m): However, any sum of money or value of property received, in the following circumstances would be outside the ambit of section 92(2)(m) -

(a) from any relative; or

(b) on the occasion of the marriage of the individual; or

(c) under a will or by way of inheritance; or

(d) in contemplation of death of the payer or donor; or

(e) from any local authority[1]; or

(f) from or by any registered non-profit organization[2] except when received by any person[3]; or

(g) by way of transaction not regarded as transfer[4] under section 70(1)(a)/(c)/(d)/(e)/(f)/(j)/(k).

(h) from an individual by a trust created or established solely for the benefit of relative of the individual.

(i) from such class of persons and subject to such conditions, as may be prescribed.

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[1] *as defined in Schedule III (Note 6)*
[2] *as defined in section 355(g)*
[3] *referred to in section 355(h)*
[4] *under section 70(1)(g)/(i)/(l)/(n)/(o)/(t)/(u)/(v)/(w)*

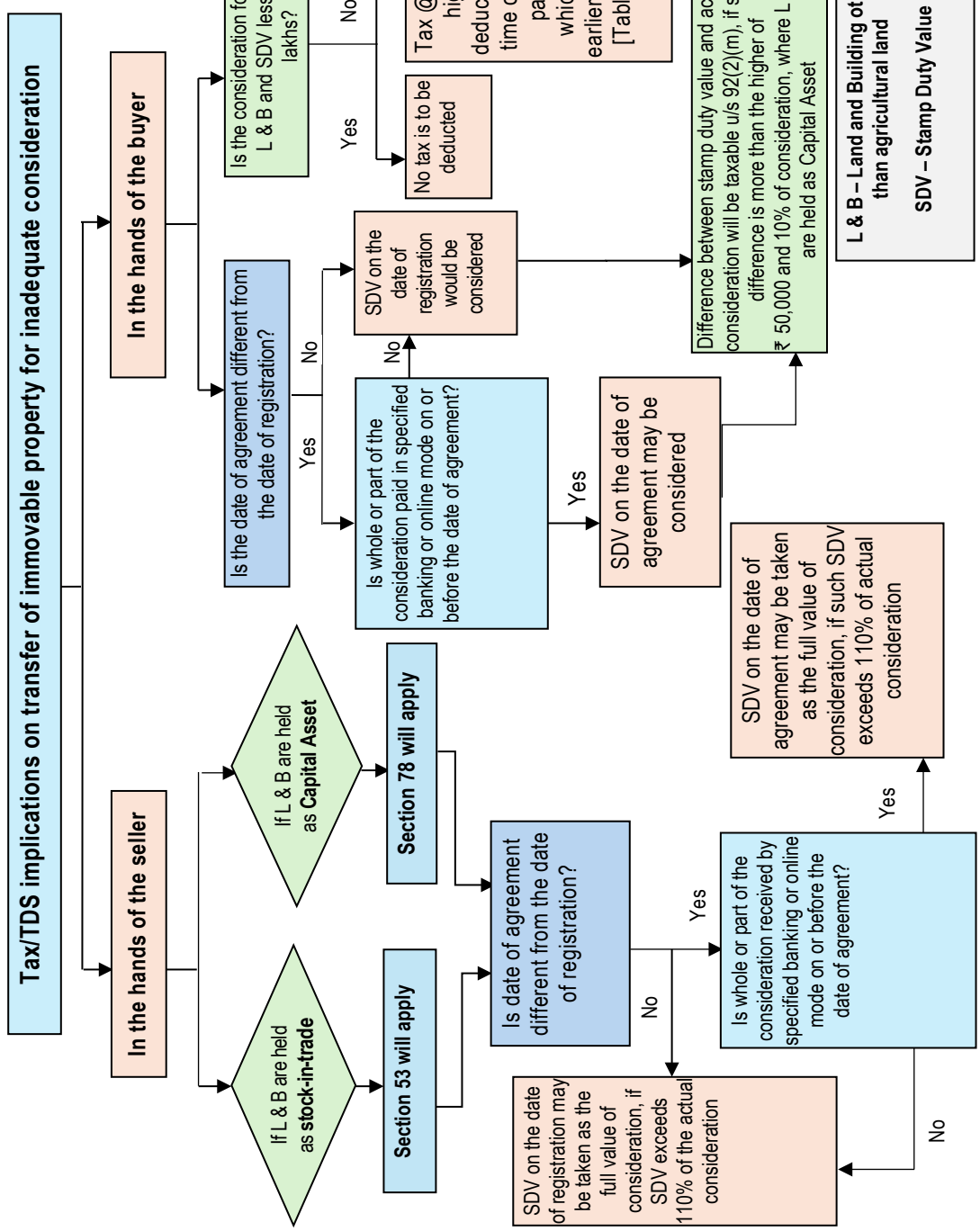
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(viii) Meaning of certain terms:

Term	Meaning
Property	A **capital asset** of the assessee, namely,- (a) immovable property being land or building or both, (b) shares and securities, (c) jewellery, (d) archaeological collections, (e) drawings, (f) paintings, (g) sculptures, (h) any work of art or (i) bullion (j) virtual digital asset[5].
Relative	**(a) In case of an individual –** (i) spouse; (ii) brother or sister; (iii) brother or sister of the spouse; (iv) brother or sister of either of the parents; (v) any lineal ascendant (maternal as well as paternal) or descendant; (vi) any lineal ascendant (maternal as well as paternal) or descendant of the spouse; (vii) spouse of the person referred in (i) to (vi) above. **(b) In case of Hindu Undivided Family**, any member thereof.

[5] The provisions relating to Virtual digital asset will be dealt with at Final level.

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6.	*Ms. Riya received ₹ 48,000 from one of her friends and ₹ 10,000 from another friend during the tax year 2026-27 without consideration. What amount shall be taxable under the head "Income from Other Sources"?*	
	(a)	*Nil*
	(b)	*₹ 8,000*
	(c)	*₹ 10,000*
	(d)	*₹ 58,000*
7.	*Mrs. X purchased a building for ₹ 30 lakhs on 12.6.2026. The stamp duty value of the building on that date was ₹ 32 lakhs. What amount shall be taxable under section 92(2)(m) in the hands of Mrs. X?*	
	(a)	*₹ 2 lakhs*
	(b)	*Nil*
	(c)	*₹ 50,000*
	(d)	*Entire stamp duty value of ₹ 32 lakhs*
8.	*Mr. K received a residential plot without consideration from his colleague in June 2026. The stamp duty value of the property on the date of transfer was ₹ 12 lakhs. He also purchased a land for ₹ 20 lakhs in November 2026. The stamp duty value of the land on that date was ₹ 21 lakhs. What amount shall be taxable under section 92(2)(m)?*	
	(a)	*₹ 13 lakhs*
	(b)	*Nil*
	(c)	*₹ 1 lakh*
	(d)	*₹ 12 lakhs*
9.	*Mrs. A received jewellery worth ₹ 35,000 on his birthday from her office colleague. He also received a painting worth ₹ 20,000 from his boss. What amount shall be taxable under section 92(2)(m) in her hands?*	
	(a)	*Nil*
	(b)	*₹ 35,000*
	(c)	*₹ 20,000*
	(d)	*₹ 55,000*

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ILLUSTRATION 2

Mr. A, a dealer in shares, received the following without consideration during the T.Y. 2026-27 from his friend Mr. B, -

(1) Cash gift of ₹ 75,000 on his anniversary, 15th April, 2026.

(2) Bullion, the fair market value of which was ₹ 60,000, on his birthday, 19th June, 2026.

(3) A plot of land at Faridabad on 1st July, 2026, the stamp value of which is ₹ 5 lakh on that date. Mr. B purchased the land in April, 2009.

Mr. A purchased from his friend Mr. C, who is also a dealer in shares, 1000 shares of X Ltd. @ ₹ 400 each on 19th June, 2026, the fair market value of which was ₹ 600 each on that date. Mr. A sold these shares in the course of his business on 23rd June, 2026.

Further, on 1st November, 2026, Mr. A took possession of property (office building) booked by him two years back at ₹ 20 lakh. The stamp duty value of the property as on 1st November, 2026 was ₹ 32 lakh and on the date of booking was ₹ 23 lakh. He had paid ₹ 1 lakh by account payee cheque as down payment on the date of booking.

On 1st March, 2027, he sold the plot of land at Faridabad for ₹ 7 lakh.

Compute the income of Mr. A chargeable under the head "Income from other sources" and "Capital Gains" for T.Y. 2026-27.

SOLUTION

Computation of "Income from other sources" of Mr. A for the T.Y. 2026-27

Particulars		₹
(1)	Cash gift is taxable under section 92(2)(m), since it exceeds ₹ 50,000	75,000
(2)	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds ₹ 50,000	60,000
(3)	Stamp value of plot of land at Faridabad, received without consideration, is taxable under section 92(2)(m)	5,00,000
(4)	Difference of ₹ 2 lakh in the value of shares of X Ltd. purchased from Mr. C, a dealer in shares, is not taxable as it represents the stock-in-trade of Mr. A. Since Mr. A is a dealer in shares	-

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	and it has been mentioned that the shares were subsequently sold in the course of his business, such shares represent the stock-in-trade of Mr. A and the profit on sale of such shares would be taxable under the head "Profits and gains of business or profession".	
(5)	Difference between the stamp duty value of ₹ 23 lakh on the date of booking and the actual consideration of ₹ 20 lakh paid is taxable under section 92(2)(m) since the difference exceeds ₹ 2,00,000, being the higher of ₹ 50,000 or 10% of consideration	3,00,000
Income from Other Sources		**9,35,000**

Computation of "Capital Gains" of Mr. A for the T.Y.2026-27

Particulars	₹
Sale Consideration	7,00,000
Less: Cost of acquisition [deemed to be the stamp value charged to tax under section 92(2)(m) as per section 73(1) (Table: Sl. No. 17)]	5,00,000
Short-term capital gains	**2,00,000**

Note – *The resultant capital gains will be short-term capital gains since for calculating the period of holding, the period of holding of previous owner is not to be considered.*

ILLUSTRATION 3

Discuss the taxability or otherwise of the following in the hands of the recipient under section 92(2)(m) of the Income-tax Act, 2025 -

(i) Akhil HUF received ₹ 75,000 in cash from niece of Akhil (i.e., daughter of Akhil's sister). Akhil is the Karta of the HUF.

(ii) Nitisha, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is ₹ 9,00,000.

(iii) Mr. Akshat received 100 shares of A Ltd. from his friend as a gift on occasion of his 25th marriage anniversary. The fair market value on that date was ₹ 100 per share. He also received jewellery worth ₹ 45,000 (FMV) from his nephew on the same day.

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(iv) Kishan HUF gifted a car to son of Karta for achieving good marks in XII board examination. The fair market value of the car is ₹ 5,25,000.

SOLUTION

	Taxable/ Non-taxable	Amount liable to tax (₹)	Reason
(i)	Taxable	75,000	Sum of money exceeding ₹ 50,000 received without consideration from a non-relative is taxable under section 92(2)(m). Daughter of Mr. Akhil's sister is not a relative of Akhil HUF, since she is not a member of Akhil HUF.
(ii)	Non-taxable	Nil	Immovable property received without consideration by a HUF from its relative is not taxable under section 92(2)(m). Since Nitisha is a member of the HUF, she is a relative of the HUF. However, income from such asset would be included in the hands of Nitisha under 99(3).
(iii)	Taxable	55,000	As per provisions of section 92(2)(m), in case the aggregate fair market value of property, other than immovable property, received without consideration exceeds ₹ 50,000, the whole of the aggregate value shall be taxable. In this case, the aggregate fair market value of shares (₹ 10,000) and jewellery (₹ 45,000) exceeds ₹ 50,000. Hence, the entire amount of ₹ 55,000 shall be taxable.
(iv)	Non-taxable	Nil	Car is not included in the definition of property for the purpose of section 92(2)(m), therefore, the same shall not be taxable.

ILLUSTRATION 4

Mr. Hari, a property dealer, sold a building in the course of his business to his friend Mr. Rajesh, who is a dealer in automobile spare parts, for ₹ 90 lakh on 1.1.2027 when the stamp duty value was ₹ 150 lakh. The agreement was, however, entered into on 1.9.2026 when the stamp duty value was ₹ 140 lakh. Mr. Hari had received a down payment of ₹ 15 lakh by a crossed cheque from Rajesh on the date of agreement.

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Discuss the tax implications in the hands of Hari and Rajesh, assuming that Mr. Hari has purchased the building for ₹ 75 lakh on 12th July, 2025.

Would your answer be different if Hari was a share broker instead of a property dealer?

SOLUTION

Case 1: Tax implications if Mr. Hari is a property dealer

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
In the hands of Hari, the provisions of section 53 would be attracted, since the building represents his stock-in-trade and he has transferred the same for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration. Under section 53, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received by specified banking or online mode on or before the date of agreement. In this case, since the down payment of ₹ 15 lakh is received by a crossed cheque on the date of agreement which is not a specified banking or online mode, the option cannot be exercised. Therefore, **₹ 75 lakh**, being the difference between the stamp duty value on the date of transfer i.e., ₹ 150 lakh, and the purchase price i.e., ₹ 75 lakh, would be chargeable as **business income** in the hands of Mr. Hari, since stamp duty value exceeds **110% of the consideration**	Since Mr. Rajesh is a dealer in automobile spare parts, the building purchased would be a capital asset in his hands. The provisions of section 92(2)(m) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds ₹ 9,00,000, being the higher of ₹ 50,000 or 10% of consideration. Therefore, **₹ 60 lakh,** being the difference between the stamp duty value of the property on the date of registration (i.e.,₹ 150 lakh) and the actual consideration (i.e., ₹ 90 lakh) would be taxable under section 92(2)(m) in the hands of **Mr. Rajesh**, since the payment on the date of agreement is made by crossed cheque which is not a specified banking or online mode.

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Case 2: Tax implications if Mr. Hari is a share broker

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
In case Mr. Hari is a share broker and not a property dealer, the building would represent his capital asset and not stock-in-trade. In such a case, the provisions of section 78 would be attracted in the hands of Mr. Hari, since building is transferred for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration. Thus, **₹ 75 lakh, being the difference between the stamp duty value on the date of registration (i.e., ₹ 150 lakh) and the purchase price (i.e., ₹ 75 lakh) would be chargeable as short-term capital gains.** It may be noted that under section 78, the option to adopt the stamp duty value on the date of agreement can be exercised only if part of full consideration has been received on or before the date of agreement in specified banking or online mode. In this case, since the down payment of ₹ 15 lakhs has been received by cross cheque which is not a specified banking or online mode, the option cannot be exercised.	There would be no difference in the taxability in the hands of Mr. Rajesh, whether Mr. Hari is a property dealer or a stock broker. Therefore, the provisions of section 92(2)(m) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds ₹ 9,00,000, being the higher of ₹ 50,000 or 10% of consideration. Therefore, **₹ 60 lakh,** being the difference between the stamp duty value of the property on the date of registration (i.e., ₹ 150 lakh) and the actual consideration (i.e., ₹ 90 lakh) would be taxable under section 92(2)(m) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed cheque which is not a specified banking or online mode.

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Income chargeable under the head "Income from other sources" only if not chargeable under the head "Profits and gains of business or profession"

(1) Any sum received by an employer-assessee from his employees as contributions to any provident fund, superannuation fund, any fund under the ESI Act, 1948 or any other fund for the welfare of the employees

(2) Income from letting out on hire machinery, plant or furniture.

(3) Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting.

(4) Interest on securities

However, certain interest income arising to certain persons would be exempt under schedule II:

Sl. No.	Income not to be included in total income	Conditions
11	Income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other savings certificates issued by the Central Government and deposits	Such certificates and deposits are notified by the Central Government, subject to such conditions and limits as specified in the notification.
	It may be noted that interest on Post Office Savings Bank Account which was so far fully exempt would henceforth be exempt from tax for any tax year only to the extent of: (1) ₹ 3,500 in case of an individual account. (2) ₹ 7,000 in case of a joint account.	
12	Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetization Scheme, 2015 notified by the Central Government	-

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13	Interest on bonds, issued by – (a) a local authority; or (b) a State Pooled Finance Entity. **"State Pooled Finance Entity"** means such entity which is set up as per the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Housing and Urban affairs.	As specified by the Central Government by notification

Keyman Insurance Policy

Any sum received under a Keyman insurance policy including the bonus allocated on such policy is chargeable under the head "Income from other sources" if such income is not chargeable under the head "Profits and gains if business or profession" or under the head "Salaries" i.e. if such sum is received by any person other than the employer who took the policy and the employee in whose name the policy was taken.

Residual Income

Any income chargeable to tax under the Act, but not falling under any other head of income shall be chargeable to tax under the head "Income from other sources".

Salary received by an MPs/MLAs will not be chargeable to income-tax under the head 'Salary' but will be chargeable as "Income from other sources" under section 92.

However, the following incomes of Members of Parliament or State Legislatures will be exempt under **schedule III** if they opt out of the default tax regime:

Sl. No.	Income not to be included in total income	Eligible persons
5	Daily Allowance received	Any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof

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6	Any allowance received	Any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986 made under the Salary, Allowances and Pension of Members of Parliament Act, 1954
7	Any constituency allowance received	Any person by reason of his membership of any State Legislature under any State Act or rules made thereunder

There are other exemptions also in respect of certain incomes which are as follows:

Schedule II

Sl. No.	Income not to be included in total income	Conditions
9	Scholarships	Such scholarship is granted to meet the cost of education.
10	Any payment made, whether in cash or in kind for any award or reward.	Such payment is made – (a) in pursuance of any award instituted in the public interest by the Central/State Government or instituted by any other body and approved by the Central Government (b) as a reward by the Central/State Government for such purposes as may be approved by the Central Government in public interest.

Schedule III

Sl. No.	Income not to be included in total income	Eligible persons	Conditions
3	Any amount received or receivable from the Central/ State Government or a local authority by way of compensation on account of any disaster	Any individual or his legal heir	No deduction of this amount was allowed earlier on account of any loss or damage caused by such disaster to such individual or his legal heir.

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15	Family pension received	Any member of the family of an individual who had been in the service of Central/ State Government and had been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or other notified gallantry awards	-
16	Family pension received	Widow or children or nominated heirs of a member of the armed forces (including para-military forces) of the Union	The death of such member has occurred in the course of operational duties, in specified circumstances and conditions.
38	Any gratuity commuted as per the provisions of section 19(1) (Table: Sl. No. 3C) to (Table: Sl. No. 6C)	Any window, children or dependents on death of an employee	-
38B	Any interest on compensation amount awarded by Motor Accident Claims Tribunal	An individual or his legal heir.	Such interest is received under the Motor Vehicles Act, 1988

Schedule IV

Sl. No.	Income not to be included in total income	Eligible persons	Conditions
1	Any income by way of interest	(a) An individual, who is a resident outside India, as defined in FEMA, 1999, or (b) an individual who has been permitted	Such interest is on moneys standing to the credit of such person in a Non-resident (External) Account (NRE A/c) in any bank in India as per the

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		by the RBI to maintain such account.	said Act and rules made thereunder.
It may be noted that the joint holders of the NRE Account do not constitute an AOP by merely having these accounts in joint names. The benefit of exemption under schedule IV will be available to such joint account holders, subject to fulfillment of other conditions contained in that section by each of the individual joint account holders.			

ILLUSTRATION 5

Compensation on account of disaster received from a local authority by an individual or his/her legal heir is taxable. Examine the correctness of the statement with reference to the provisions of the Income-tax Act, 2025.

SOLUTION

The statement is **not** correct. As per schedule III (Table: Sl. No. 3), any amount received or receivable by an individual or his/her legal heir from the Central Government, State Government or a local authority by way of compensation on account of any disaster is exempt from tax. However, the exemption is not available to the extent such individual or legal heirs have already been allowed a deduction under this Act on account of such loss or damage caused by such disaster.

Interest from non-SLR Securities of Banks: Whether chargeable under the head "Profits and gains of business or profession" or "Income from other sources"? [Circular No. 18, dated 2.11.2015]

The issue addressed by this circular is whether in the case of banks, expenses relatable to investment in non-SLR securities need to be disallowed under section 93(1)(a), by considering interest on non-SLR securities as "Income from other sources."

Section 92(2)(e) provides that income by way of interest on securities shall be chargeable to income-tax under the head "Income from Other Sources", if the income is not chargeable to income-tax under the head "Profits and Gains of Business and Profession".

The CBDT clarified that the investments made by a banking concern are part of the business of banking. Therefore, the income arising from such investments is attributable to the business of banking falling under the head "Profits and Gains of Business and Profession".

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5.5 APPLICABLE RATE OF TAX IN RESPECT OF CASUAL INCOME OTHER THAN WINNINGS FROM ANY ONLINE GAME [SECTION 194(1) (TABLE: SL. NO. 1)]

(i) This section provides that income by way of winnings from lotteries, crossword puzzles, races including horse races (not being income from the activity of owning and maintain race horses) or card games and other games of any sort or from gambling or betting of any form would be taxed at a flat rate of **30% *plus* surcharge, if applicable, *plus* health and education cess@4%**.



However, income by way of winnings from any online game would not be taxed under this section.

(ii) No expenditure or allowance can be allowed from such income.

(iii) Deduction under Chapter VIII is not allowable from such income.

(iv) Adjustment of unexhausted basic exemption limit is also not permitted against such income.

5.6 APPLICABLE RATE OF TAX IN RESPECT OF WINNINGS FROM ONLINE GAMES [SECTION 194(1) (TABLE: SL. NO. 5)]

(i) This section provides that net winnings from any online game would be taxed at a flat rate of **30% *plus* surcharge, if applicable, plus health and education cess@4%.**

(ii) **Meaning of online games:** A game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device.



(iii) No expenditure or allowance can be allowed from such income.

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(iv) Deduction under Chapter VIII is not allowable from such income.

(v) Adjustment of unexhausted basic exemption limit is also not permitted against such income.

5.7 DEDUCTIONS ALLOWABLE [SECTION 93]

The income chargeable under the head "Income from other sources" shall be computed after making the following deductions:

(i) **In the case of interest on securities:** Any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such interest on behalf of the assessee.

(ii) **Income consists of recovery from employees as contribution to any provident fund etc.:** A deduction will be allowed as per the provisions of section 29(1)(e) i.e., to the extent the contribution is remitted before the due date of filing of return of income u/s 263(1).

(iii) **Where the income to be charged under this head is from letting on hire of machinery, plant and furniture, with or without building:** The following items of deductions are allowable in the computation of such income:

(a) the amount paid on account of any current repairs to the machinery, plant, furniture or building.

(b) land revenue, local rates or municipal taxes paid

(c) the amount of any premium paid in respect of insurance against risk of damage or destruction of the machinery or plant, furniture or building.

(d) the normal depreciation allowance in respect of the machinery, plant, furniture or building, due thereon.

(iv) **In the case of income in the nature of family pension (a regular monthly amount payable by the employer to a family member of an employee upon the death of such employee):** A deduction of a amount equal to 1/3rd of such income or **₹ 15,000 (in case of option regime) or ₹ 25,000 (in case of default regime)**, whichever is less, is allowable.

(v) **Any other expenditure not being in the nature of capital expenditure** laid out or expended wholly and exclusively for making or earning such income.

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(vi) In case of income by way of interest on compensation/ enhanced compensation received chargeable to tax under section 92(2)(i): Deduction of 50% of such income. No deduction would be allowable under any other clause of section 93 in respect of such income.

(vii) In case of income in the nature of commutation of pension received from LIC – Deduction of the entire amount would be allowed.

(viii) In case of gratuity received under the Pension Code or Regulations applicable to members of the Defence service/ members of the All-India services/ members of civil services/ local authority employee on the death of the employee – the entire amount would be allowed as deduction.

However, in respect of any dividend income or income from units of a Mutual Fund or income from units of a specified company, no deduction shall be allowed.

ILLUSTRATION 6

Interest on enhanced compensation received by Mr. G during the tax year 2026-27 is ₹ 5,00,000. Out of this interest, ₹ 1,50,000 relates to the tax year 2020-21, ₹ 1,65,000 relates to tax year 2021-22 and ₹ 1,85,000 relates to tax year 2022-23. Discuss the tax implication, if any, of such interest income for T.Y.2026-27.

SOLUTION

The entire interest of ₹ 5,00,000 would be taxable in the year of receipt, namely, T.Y. 2026-27.

Particulars	₹
Interest on enhanced compensation taxable u/s 92(2)(i)	5,00,000
Less: Deduction under section 93(1)(f) @50%	2,50,000
Interest chargeable under the head "Income from other sources"	**2,50,000**

5.8 DEDUCTIONS NOT ALLOWABLE [SECTION 94]

No deduction shall be made in computing the "Income from other sources" of an assessee in respect of the following items of expenses:

(i) In the case of any assessee:

(1) any personal expense of the assessee;

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(2) any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.

(3) any payment chargeable to tax under the head "Salaries", if it is payable outside India unless tax has been paid or deducted at source.

(ii) Any expenditure in respect of which a payment is made to a related person or made exceeding ₹ 10,000/₹ 35,000 in a mode other than through specified banking or online mode: In addition to these disallowances, section 94(2) specifically provides that the disallowance of any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV and disallowance of payment or aggregate of payments in a day to a person exceeding ₹ 10,000/ ₹ 35,000 when such payment is not made through specified banking or online mode.

(iii) Disallowance of 30% of expenditure: 30% of expenditure shall not be allowed, in respect of a sum which is payable to a resident and on which tax is deductible at source, if

- such tax has not been deducted or;
- such tax after deduction has not been paid upto the due date of return specified in section 263(1).

In case, assessee fails to deduct the tax on any such sum but is not deemed as assessee in default under section 398(2) by reason that such payee –

(i) has furnished his return of income under section 263;

(ii) has taken into account such sum for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed,

it would be deemed that the assessee has deducted and paid the tax on such sum.

The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been filed by the payee.

(iv) No deduction in respect of any expenditure incurred in connection with casual income: No deduction in respect of any expenditure or allowance in

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related to such income by way of earnings from lotteries, cross word puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever shall be allowed in computing the said income.

The prohibition will not, however, apply in respect of the income of an assessee, being the owner of horses maintained for running in horse races, from the activity of owning and maintaining such horses. In respect of the activity of owning and maintaining race horses, expenses incurred shall be allowed even in the absence of any stake money earned. Such loss shall be allowed to be carried forward in accordance with the provisions of section 115.

5.9 DEEMED INCOME CHARGEABLE TO TAX [SECTION 95]

The provisions of section 38(1), (2), (3) and (4) are made applicable in computing the income under this head. Accordingly, where a deduction has been made in respect of a loss, expenditure or liability and subsequently any amount is received or benefit is derived in respect of such expenditure incurred or loss or liability allowed as deduction, then, it shall be deemed as income in the year in which the amount is received or the benefit is accrued.

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LET US RECAPITULATE

Where any income, profits or gains includible in the total income of an assessee, cannot be included under any of the other heads, it would be chargeable under the head 'Income from other sources'. Hence, this head is the residuary head of income [Section 92(1)]

Specific Incomes Chargeable under this head [Section 92(2)]

(1) Dividend Income

(2) Casual income (winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc.). Such winnings are chargeable to tax at a flat rate of 30% under section 194(1) (Table: Sl. No. 1) and in case of online games, net winnings therefrom is chargeable to tax @30% u/s 194(1) (Table: Sl. No. 5) and no expenditure or deduction under Chapter VIII can be allowed from such income. No loss can be set-off against such income and even the unexhausted basic exemption limit cannot be exhausted against such income.

(3) **Sum of money or property received by any person [Section 92(2)(m)]**

	Nature of asset	Particulars	Taxable value
1	Money	Without consideration	The whole amount, if the same exceeds ₹ 50,000.
2	Movable property	Without consideration	The aggregate fair market value of the property, if it exceeds ₹ 50,000.
3	Movable property	Inadequate consideration	The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹ 50,000.
4	Immovable property	Without consideration	The stamp value of the property, if it exceeds ₹ 50,000.
5	Immovable property	Inadequate consideration	The difference between the stamp duty value and the consideration, if such difference exceeds the higher of ₹ 50,000 or 10% of consideration.

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Receipts exempted from the applicability of section 92(2)(m)

Any sum of money or any property received -

(a) from any relative; or

(b) on the occasion of the marriage of the individual; or

(c) under a will or by way of inheritance; or

(d) in contemplation of death of the payer or donor; or

(e) from any local authority; or

(f) from or by any registered non-profit organization except when received by any person specified in section 355(h); or.

(g) by way of transaction not regarded as transfer under specified clauses of section 70(1)

(h) from an individual by a trust created or established solely for the benefit of relative of the individual.

(i) from such class of persons and subject to such conditions, as may be prescribed.

(4) Other receipts chargeable under this head

Section	Provision
92(2)(h)	Any sum of money received as an advance or otherwise during negotiations for transfer of a capital asset, if such sum is forfeited and the negotiations do not result in transfer of such asset.
92(2)(i)	Interest received on compensation/enhanced compensation deemed to be income in the year of receipt and taxable under the head "Income from Other Sources".
92(2)(j)	Compensation or other payment, due to or received by any person, by whatever name called, in connection with termination of his employment or the modification of the terms and conditions.
92(2)(l)	Sum, including bonus allocated, received, during a tax year, under a LIP other than under a ULIP and keyman insurance policy, which is not excluded from the total income of that tax year under schedule II (Table: Sl. No. 2).

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Exemptions [Schedule II]

Sl. No.	Income not to be included in total income	Conditions
9	Scholarships	Such scholarship is granted to meet the cost of education.
10	Any payment made, whether in cash or in kind for any award or reward.	Such payment is made – (a) in pursuance of any award instituted in the public interest by the Central/State Government or instituted by any other body and approved by the Central Government (b) as a reward by the Central/State Government for such purposes as may be approved by the Central Government in public interest.
11	Income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other savings certificates issued by the Central Government and deposits	Such certificates and deposits are notified by the Central Government, subject to such conditions and limits as specified in the notification.
It may be noted that interest on Post Office Savings Bank Account which was so far fully exempt would henceforth be exempt from tax for any tax year only to the extent of: (1) ₹ 3,500 in case of an individual account. (2) ₹ 7,000 in case of a joint account.		
12	Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetization	-

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	Scheme, 2015 notified by the Central Government	
13	Interest on bonds, issued by – (a) a local authority; or (b) a State Pooled Finance Entity. **"State Pooled Finance Entity"** means such entity which is set up as per the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Housing and Urban affairs.	As specified by the Central Government by notification

Schedule III

Sl. No.	Income not to be included in total income	Eligible persons	Conditions
3	Any amount received or receivable from the Central/ State Government or a local authority by way of compensation on account of any disaster	Any individual or his legal heir	No deduction of this amount was allowed earlier on account of any loss or damage caused by such disaster to such individual or his legal heir.
5	Daily Allowance received	Any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof	-
6	Any allowance received	Any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance)	-

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		Rules, 1986 made under the Salary, Allowances and Pension of Members of Parliament Act, 1954	
7	Any constituency allowance received	Any person by reason of his membership of any State Legislature under any State Act or rules made thereunder	-
15	Family pension received	Any member of the family of an individual who had been in the service of Central/ State Government and had been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or other notified gallantry awards	-
16	Family pension received	Widow or children or nominated heirs of a member of the armed forces (including para-military forces) of the Union	The death of such member has occurred in the course of operational duties, in specified circumstances and conditions.
38	Any gratuity commuted as per the provisions of section 19(1) (Table: Sl. No. 3C) to (Table: Sl. No. 6C)	Any window, children or dependents on death of an employee	-
38B	Any interest on compensation amount awarded by Motor Accident Claims Tribunal	An individual or his legal heir.	Such interest is received under the Motor Vehicles Act, 1988

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Schedule IV

Sl. No.	Income not to be included in total income	Eligible persons	Conditions
1	Any income by way of interest	(a) An individual, who is a resident outside India, as defined in FEMA, 1999, or (b) an individual who has been permitted by the RBI to maintain such account.	Such interest is on moneys standing to the credit of such person in a Non-resident (External) Account (NRE A/c) in any bank in India as per the said Act and rules made thereunder.

It may be noted that the joint holders of the NRE Account do not constitute an AOP by merely having these accounts in joint names. The benefit of exemption under schedule IV will be available to such joint account holders, subject to fulfillment of other conditions contained in that section by each of the individual joint account holders.

Deductions allowable [Section 93]

S. No.	Particulars	Deduction
1.	In case of interest on securities	Any reasonable sum paid by way of commission or remuneration to a banker or any other person.
2.	Income consists of recovery from employees as contribution to any PF, superannuation fund etc.	Amount of contribution remitted before the due date of filing of return of income u/s 263(1), as per the provisions of section 29(1)(e)
3.	Income from letting on hire of machinery, plant and furniture, with or without building	Current repairs to the machinery, plant, furniture or building, insurance premium, depreciation/ unabsorbed depreciation
4.	Family Pension	Sum equal to - 1/3rd of such income or

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		- ₹ 15,000 (in case optional regime) or - ₹ 25,000 (in case of default regime), whichever is less
5.	Commutation of pension received from LIC	The entire amount
6.	Interest on compensation/ enhanced compensation received	50% of such interest income

Deductions not allowable [Section 94]

S. No.	Deductions not allowable
1.	Any personal expense of the assessee
2.	Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
3.	Any payment chargeable to tax under the head "Salaries", if it is payable outside India unless tax has been paid or deducted at source.
4.	Any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV.
5.	Any expenditure in respect of which a payment or aggregate payments in a day to a person exceeding ₹ 10,000/ ₹ 35,000 when such payment is not made through specified banking or online mode.
6.	30% of expenditure in respect of sum which is payable to a resident on which tax is deductible at source, if such tax has not been deducted or after deduction has not been paid upto the due date of return specified in section 263(1).
7.	Any expenditure or allowance in connection with income by way of earnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature.

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TEST YOUR KNOWLEDGE

1. *Examine under which heads the following incomes are taxable:*

   (i) Rental income in case property held as stock-in-trade for 3 years

   (ii) Salary received by a partner from his partnership firm

   (iii) Rental income of machinery

   (iv) Winnings from lotteries by a person having the same as business activity

   (v) Salaries received by a Member of Parliament

   (vi) Receipts without consideration

   (vii) In case of retirement, interest on employee's contribution if provident fund is unrecognized.

   (viii) Rental income in case of a person engaged in the business of letting out of commercial properties.

2. *Examine whether the following are chargeable to tax and the amount liable to tax:*

   (i) A sum of ₹ 1,20,000 was received as gift from non-relatives by Raj on the occasion of the marriage of his son Pravin.

   (ii) Interest on enhanced compensation of ₹ 96,000 received on 12.3.2027 for acquisition of urban land, of which 40% relates to T.Y.2025-26.

3. *On 10.10.2026, Mr. Govind (a bank employee) received ₹ 5,00,000 towards interest on enhanced compensation from State Government in respect of compulsory acquisition of his land effected during the financial year 2017-18.*

   Out of this interest, ₹ 1,50,000 relates to the financial year 2018-19; ₹ 1,65,000 to the financial year 2019-20; and ₹ 1,85,000 to the financial year 2020-21. He incurred ₹ 50,000 by way of legal expenses to receive the interest on such enhanced compensation.

   How much of interest on enhanced compensation would be chargeable to tax in the T.Y.2026-27?

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4. *The following details have been furnished by Mrs. Hemali pertaining to the year ended 31.3.2027:*

   (i) *Cash gift of ₹ 51,000 received from her friend on the occasion of her "Shastiaptha Poorthi", a wedding function celebrated on her husband completing 60 years of age. This was also her 25th wedding anniversary.*

   (ii) *On the above occasion, a diamond necklace worth ₹ 2 lakhs was presented by her sister living in Dubai.*

   (iii) *When she celebrated her daughter's wedding on 21.2.2027, her friend assigned in Mrs. Hemali's favour, a fixed deposit held by the said friend in a scheduled bank; the value of the fixed deposit and the accrued interest on the said date was ₹ 52,000.*

   Compute the income, if any, assessable as "Income from other sources" for T.Y.2026-27.

5. *Examine the following transactions in the context of Income-tax Act, 2025:*

   (i) *Mr. B transferred 500 shares of R(P) Ltd. to M/s. B Co. (P) Ltd. on 10.10.2026 for ₹ 3,00,000 when the fair market value was ₹ 5,00,000. The cost of acquisition of shares for Mr. B was ₹ 4,45,000 and he acquired these shares in 2023. The transfer was not subjected to securities transaction tax.*

   Determine the income chargeable to tax in the hands of Mr. B and M/s. B Co. (P) Ltd. because of the above said transaction.

   (ii) *Mr. Chezian is employed in a company with taxable salary income of ₹ 5,00,000. He received a sum of ₹ 1,00,000 from Atma Charitable Trust (a registered NPO) by account payee cheque in December 2026 for meeting his medical expenses.*

   Is the sum of money so received from the trust chargeable to tax in the hands of Mr. Chezian?

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ANSWERS

1. Head under which following incomes are taxable:

	Particulars	Head of Income
(i)	Rental income in case property held as stock-in trade for 3 years	Income from house property
(ii)	Salary by partner from his partnership firm	Profits and gains of business or profession
(iii)	Rental income of machinery **(See Note below)**	Profits and gains of business or profession/Income from other sources
(iv)	Winnings from lotteries by a person having the same as business activity	Income from other sources
(v)	Salaries payable to a Member of Parliament	Income from other sources
(vi)	Receipts without consideration	Income from other sources
(vii)	In case of retirement, interest on employee's contribution if provident fund is unrecognized	Income from other sources
(viii)	Rental income in case of a person engaged in the business of letting out of commercial properties	Profits and gains from business or profession

Note - *As per section 92(2)(f), rental income of machinery would be chargeable to tax under the head "Income from Other Sources", if the same is not chargeable to income-tax under the head "Profits and gains of business or profession".*

2. Taxability of Receipts

S. No.	Taxable/ Not Taxable	Answer Amount liable to tax (₹)	Reason
(i)	Taxable	1,20,000	The exemption from applicability of section 92(2)(m) would be available if, *inter alia,* gift is received from a relative

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			or gift is received on the occasion of marriage of the individual himself. In this case, since gift is received by Mr. Raj from a non-relative on the occasion of marriage of his son, it would be taxable in his hands under section 92(2)(m).
(ii)	Taxable	48,000	As per section 278(1), interest received by the assessee on enhanced compensation shall be deemed to be the income of the year in which it is received, irrespective of the method of accounting followed by the assessee. Interest of ₹ 96,000 on enhanced compensation is chargeable to tax in the year of receipt i.e., T.Y. 2026-27 under section 92(2)(ii) after providing deduction of 50% under section 93(1)(f). Therefore, ₹ 48,000 is chargeable to tax under the head "Income from other sources".

3. Section 278(1) provides that interest received by the assessee on enhanced compensation shall be deemed to be the income of the assessee of the year in which it is received, irrespective of the method of accounting followed by the assessee and irrespective of the financial year to which it relates.

Section 92(2)(i) states that such income shall be taxable as 'Income from other sources'.

50% of such income shall be allowed as deduction by virtue of section 93(1)(f) and no other deduction shall be permissible from such Income.

Therefore, legal expenses incurred to receive the interest on enhanced compensation would not be allowed as deduction from such income.

Computation of interest on enhanced compensation taxable as "Income from other sources" for the T.Y 2026-27

Particulars	₹
Interest on enhanced compensation taxable u/s 92(2)(i)	5,00,000
Less: Deduction under section 93(1)(f) (50% x ₹ 5,00,000)	2,50,000
Taxable interest on enhanced compensation	**2,50,000**

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4. **(i)** Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received during a wedding function celebrated on completion of 60 years of age.

The gift of ₹ 51,000 received from a non-relative is, therefore, chargeable to tax under section 92(2)(m) in the hands of Mrs. Hemali, since the same exceeds ₹ 50,000.

(ii) The provisions of section 92(2)(m) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of diamond necklace received from her sister, being a relative, is not taxable under section 92(2)(m), even though jewellery falls within the definition of "property".

(iii) To be exempt from applicability of section 92(2)(m), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case.

Any sum of money received without consideration by an individual is chargeable to tax under section 92(2)(m), if the aggregate value exceeds ₹ 50,000 in a year. "Sum of money" has, however, not been defined under section 92(2)(m).

Therefore, there are two possible views in respect of the value of fixed deposit assigned in favour of Mrs. Hemali –

(1) The first view is that fixed deposit does not fall within the meaning of "sum of money" and therefore, the provisions of section 92(2)(m) are not attracted. It may be noted that fixed deposit is also not included in the definition of "property".

(2) However, another possible view is that fixed deposit assigned in favour of Mrs. Hemali falls within the meaning of "sum of money" received.

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Income assessable as "Income from other sources"

If the first view is taken, the total amount chargeable to tax as "Income from other sources" would be ₹ 51,000, being cash gift received from a friend on her Shastiaptha Poorthi.

As per the second view, the provisions of section 92(2)(m) would also be attracted in respect of the fixed deposit assigned and the "Income from other sources" of Mrs. Hemali would be ₹ 1,03,000 (₹ 51,000 + ₹ 52,000).

5. (i) Any movable property received for inadequate consideration by any person is chargeable to tax under section 92(2)(m), if the difference between aggregate Fair Market Value of the property and consideration exceeds ₹ 50,000.

Thus, share received by M/s B. Co. (P) Ltd. from Mr. B for inadequate consideration is chargeable to tax under section 92(2)(m) to the extent of ₹ 2,00,000.

As per section 79, since the consideration is less than the fair market value of unquoted shares of R(P) Ltd., fair market value of shares of the company would be deemed to be the full value of consideration. It is presumed that the shares of R(P) Ltd are unquoted shares.

The full value of consideration (₹ 5,00,000) less the cost of acquisition (₹ 4,45,000) would result in a long term capital gains of ₹ 55,000 in the hands of Mr. B.

(ii) The provisions of section 92(2)(m) would not apply to any sum of money or any property received from any registered NPO. Therefore, the sum of ₹ 1 lakh received from Atma Charitable Trust, being a registered NPO, for meeting medical expenses would not be chargeable to tax under section 92(2)(m) in the hands of Mr. Chezian.

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Q.NO.	ANSWERS	
1.	(c)	₹ 10 lakhs
2.	(c)	Not treated as dividend
3.	(c)	Market value of assets on date of distribution
4.	(c)	Taxable under the head "Income from Other Sources"
5.	(b)	Entire interest shall be taxable in T.Y. 2026-27 under the head "Income from Other Sources" after providing 50% deduction
6.	(d)	₹ 58,000
7.	(b)	Nil
8.	(d)	₹ 12 lakhs
9.	(d)	₹ 55,000

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CHAPTER 4

INCOME OF OTHER PERSONS INCLUDED IN TOTAL INCOME OF ASSESSEE



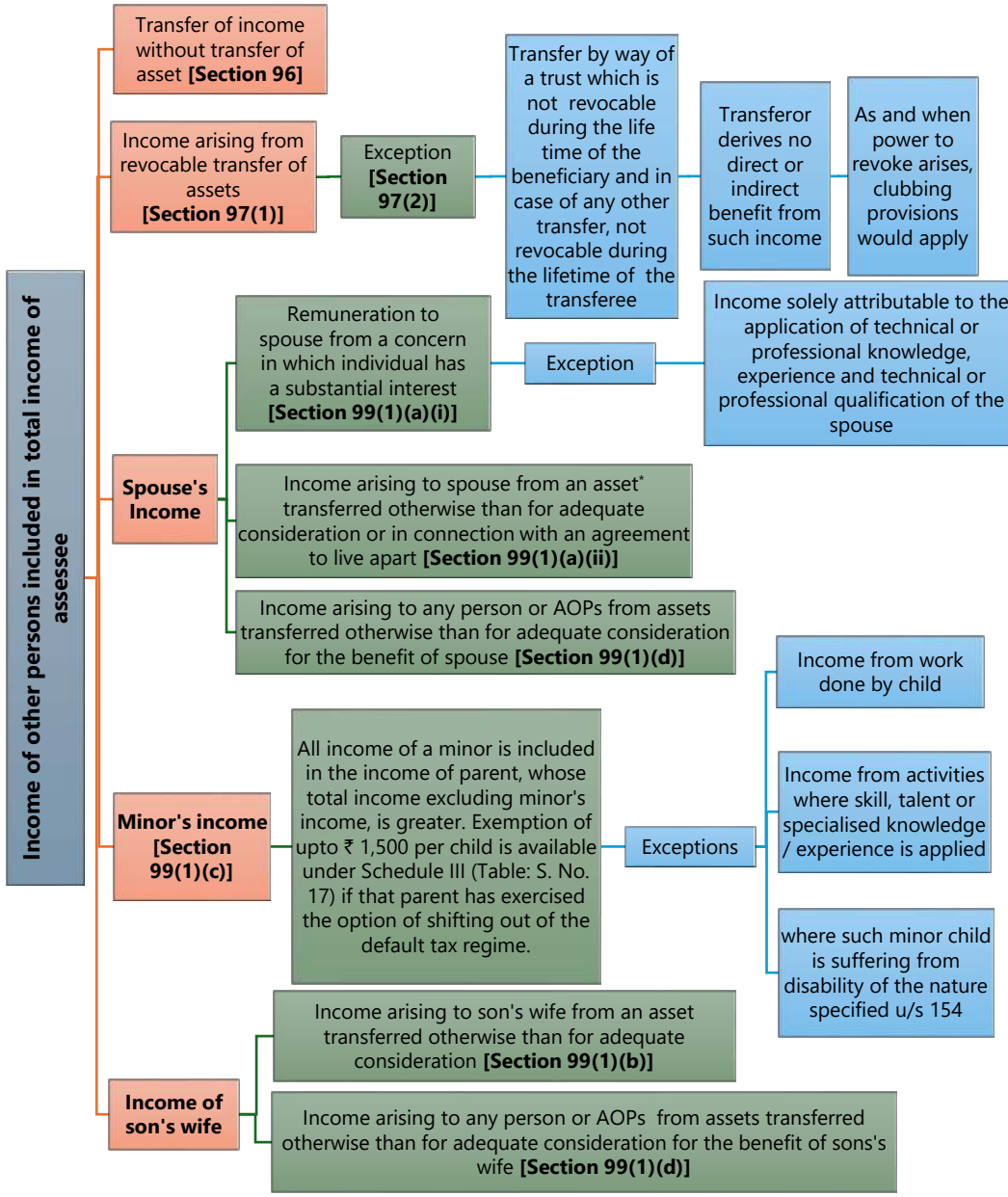
LEARNING OUTCOMES

After studying this chapter, you would be able to -

- **identify** when clubbing provisions are attracted and apply the same in computing total income of the assessee;
- **examine** the circumstances when income of the spouse is included in the income of the individual and apply the same in computing total income of the individual;
- **examine** the circumstances when income of son's wife is included in the hands of the individual and apply the same in computing total income of the individual;
- **identify** the nature of income of minor in respect of which clubbing provisions are not attracted;
- **examine** how minor's income is included in the hands of the parent and compute the amount to be included in the hands of the parent;
- **examine** the circumstances when income of HUF is included in the hands of a member of the HUF.

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CHAPTER OVERVIEW



* In case of transfer of house property to spouse without adequate consideration, transferor will be deemed as owner of such property as per section 25(a). In such a case, section 99(1)(a)(ii) will not apply.

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1. STRUCTURED SECTIONAL LEARNING

Section	Particulars
2(25)	Meaning of child
2(94)	Meaning of relative
96	Transfer of income without transfer of assets
97	Chargeability of income in transfer of assets
98	"Transfer" and "revocable transfer" defined
99	Income of individual to include income of spouse, minor child, etc.
100	Liability of person in respect of income included in income of another person

2. INTRODUCTION

Under Income-tax, an assessee is generally taxed in respect of his own income. However, there are certain cases where an assessee has to pay tax in respect of income of another person. The provisions for the same are contained in Chapter V of Income-tax Act, 2025, in sections 96 to 100 of the Act. These provisions, also known as clubbing provisions, were introduced with the purpose of discouraging transfer of assets with an intention to escape taxation by the assessees.



Why have clubbing provisions been introduced?

In the case of individuals, income-tax is levied on a slab system on the total income. The tax system is progressive i.e., as the income increases, the applicable rate of tax increases. Some taxpayers in the higher income bracket tend to divert some portion of their income to their spouse, minor child etc. to minimize their tax burden. To prevent such tax avoidance, clubbing provisions have been incorporated in the Act, under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability.

These provisions provide that if a person transfers an asset or income with the intention of avoiding or reducing tax liability, the income arising from such asset

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shall be taxed in the hands of the transferor, provided the conditions specified in the relevant sections are fulfilled. In other words, the income earned by the transferee will be clubbed with the income of the transferor.

These provisions can be categorized as follows:

- Income of other persons included in total income of assessee [Sections 96-98]
- Income of other persons included in total income of individual [Section 99]

3. INCOME OF OTHER PERSONS INCLUDIBLE IN TOTAL INCOME OF ASSESSEE

3.1 Transfer of income without transfer of asset [Section 96]

(i) If any person transfers the income from any asset without transferring the asset itself, such income is to be included in the total income of the transferor.

(ii) It is immaterial whether the transfer is revocable or irrevocable and whether it was made before the commencement of this Act or after its commencement.



Mr. A confers the right to receive rent in respect of his house property on his wife, Mrs. A, without transferring the house itself to her. In this case, the rent received by Mrs. A will be clubbed with the income of Mr. A.

ILLUSTRATION 1

Mr. Vatsan has transferred, through a duly registered document, the income arising from a godown to his son, without transferring the godown. In whose hands will the rental income from godown be charged?

SOLUTION

Section 96 expressly states that where there is transfer of income from an asset without transfer of the asset itself, such income shall be included in the total income of the transferor. Hence, the rental income derived from the godown shall be clubbed in the hands of Mr. Vatsan.

3.2 Chargeability of income in transfer of assets [Section 97]

All income arising to any person by virtue of a **revocable transfer of assets** is to be included in the total income of the transferor [Section 97(1)].

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Meaning of certain terms [Section 98]

Term	Meaning
Transfer	Transfer includes any settlement, trust, covenant, agreement or arrangement
Revocable transfer	Transfer is deemed to be revocable if - (i) it contains any provision for the direct or indirect re-transfer of the whole or any part of the income or assets to the transferor, or (ii) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or the assets.

This clubbing provision will operate even if only part of income of the transferred asset had been applied for the benefit of the transferor. Once the transfer is revocable, the entire income from the transferred asset is includible in the total income of the transferor.

Exception where clubbing provisions are not attracted even in case of revocable transfer [Section 97(2)]

Section 97(1) will not apply -

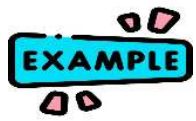
(i) where a transfer is by way of trust which is not revocable during the life time of the beneficiary; and in case of any other transfer, which is not revocable during the life time of the transferee and

(ii) the transferor does not derive any direct or indirect benefit from such income.

If the transferor receives direct or indirect benefit from such income, such income is to be included in his total income even though the transfer may not be revocable during the life time of the beneficiary or transferee, as the case may be.

As and when the power to revoke the transfer arises, the income arising by virtue of such transfer will be included in the total income of the transferor.

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Mr. Rajesh transfers his house property to a trust for the benefit of Mr. Ramesh till his death. This is a situation of irrevocable transfer till the death of Mr. Ramesh. Hence, till then, the income from house property would be taxable in the hands of the transferee i.e., trust. However, after the death of Mr. Ramesh, the income from house property would be included in the total income of Mr. Rajesh as on that date, the transfer has become revocable.

Income of other persons includible in total income of assessee

Section 96 - Transfer of income without transfer of assets

Income shall be clubbed in the hands of the transferor

Section 97 - Revocable transfer of assets to any person

Income shall be clubbed in the hands of the transferor

Exceptions

Transfer by way of trust which is **not revocable during lifetime of the beneficiary** and transferor does not derive any direct/ indirect benefit from such income

In any other case, transfer is not revocable during the lifetime of transferee and transferor does not derive any direct/indirect benefit from such income

In above two situations, income shall be clubbed in the hands of the transferor if

a. transferor derive any direct/indirect benefit from such income or

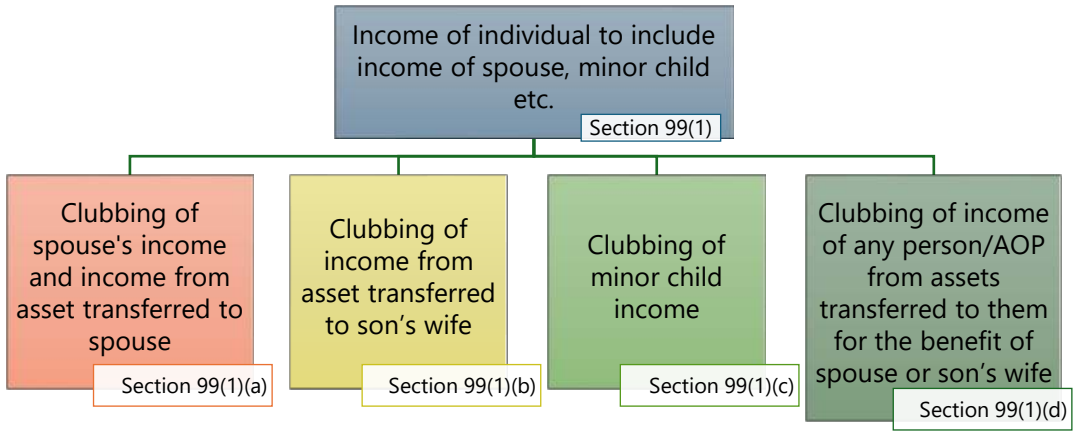
b. as and when the power to revoke the transfer arises

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1.	*Mr. A transfers rental income from his house property to his wife without transferring the ownership of the house property. In such a case, the rental income will be taxable in the hands of:*	
	(a)	*Mrs. A*
	(b)	*Mr. A*
	(c)	*Both Mr. A and Mrs. A equally*
	(d)	*Neither Mr. A nor Mrs. A*
2.	*Mr. X transfers an asset under a revocable arrangement to Mr. Y. The income arising from such asset shall be taxable in the hands of:*	
	(a)	*Mr. Y*
	(b)	*Mr. X*
	(c)	*Both Mr. X and Mr. Y*
	(d)	*The trustee, if any*

4. INCOME OF OTHER PERSONS INCLUDIBLE IN TOTAL INCOME OF INDIVIDUAL

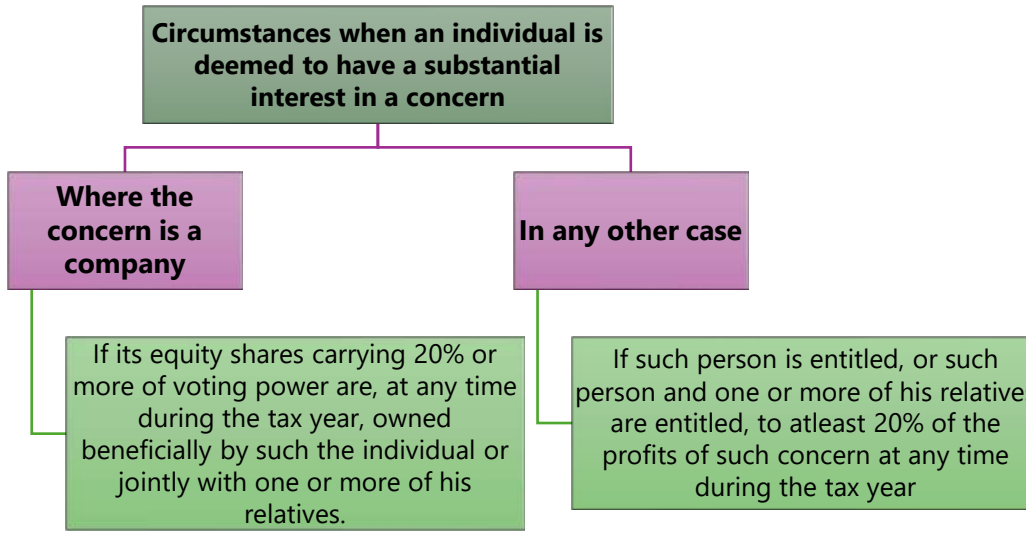


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4.1 Clubbing of spouse's income and income from asset transferred to spouse [Section 99(1)(a)]

Income by way of remuneration from a concern in which individual has a substantial interest [Section 99(1)(a)(i)]

(i) **Remuneration in cash or kind to spouse from a concern in which the individual has a substantial interest is to be clubbed:** The total income of any individual, for a tax year, shall include all such income which arises, directly or indirectly, to the spouse of such individual by way of salary, commission, fees or any other form of remuneration, whether in cash or in kind, from a concern in which such individual has a substantial interest.



The term **'relative'** in relation to an individual means the husband, wife, brother or sister or any lineal ascendant (maternal as well as paternal) or descendant of that individual [Section 2(94)].

(ii) **Clubbing provisions will not apply where the remuneration is solely attributable to the application of technical or professional knowledge, experience and technical or professional qualification of the spouse:** Clubbing provisions, however, do not apply where the income is solely attributable to the application of technical or professional knowledge, experience and technical or professional qualification of the spouse. In such an event, the income arising to such spouse is to be assessed in his/her hands.

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(iii) Both husband and wife have substantial interest in a concern: Where both husband and wife have substantial interest in a concern and both are in receipt of income by way of salary etc. from the said concern, such income will be includible in the hands of either of the spouse whose total income before such inclusion is higher.

Where such income, once included in the total income of either spouse, for a tax year, shall not be included in the income of the other spouse for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other spouse an opportunity of being heard.

ILLUSTRATION 2

Mr. X and Mrs. X hold 13% and 8% equity shares in XY (P) Ltd. respectively. They are employed by XY (P) Ltd., without any technical or professional qualification, at a monthly salary of Mr. X: ₹90,000 and Mrs. X: ₹45,000.

Other income of Mr. X: ₹2,00,000 and Mrs. X: ₹2,20,000. Compute the total income of Mr. X and Mrs. X for the tax year 2026-27, assuming they pay tax under the default regime under section 202(1).

SOLUTION

Mr. X and Mrs. X, together, hold 21% of the equity shares in XY (P) Ltd., i.e., the employer company. Therefore, both Mr. X and Mrs. X have substantial interest in the company. Since Mr. X and Mrs. X are employed in XY (P) Ltd. without possessing any technical or professional qualification, clubbing provisions will be attracted. Accordingly, salary income of Mr. X from XY (P) Ltd. shall be clubbed with the income of Mrs. X, as her income before such inclusion is higher.

Computation of total income of M. X and Mrs. X for the tax year 2026-27

Particulars	Mr. X (₹)	Mrs. X (₹)
Salary Income of Mrs. X [₹ 45,000 x 12] less standard deduction		4,65,000
Salary Income of Mr. X [₹ 90,000 x 12] less standard deduction		10,05,000
Other Income	2,00,000	2,20,000
Gross total income	**2,00,000**	**16,90,000**

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ILLUSTRATION 3

Mr. A holds shares carrying 25% voting power in X (P) Ltd. Mrs. A is working as a computer software programmer in X (P) Ltd. at an annual salary of ₹ 2,85,000 (computed). She is, however, not qualified for the job. The other income of Mr. A & Mrs. A are ₹ 7,00,000 & ₹ 4,00,000, respectively. Compute the gross total income of Mr. A and Mrs. A for the tax year 2026-27.

SOLUTION

Mr. A holds shares carrying 25% voting power in X (P) Ltd i.e., a substantial interest in the company. His wife is working in the same company without any professional qualifications for the same. Thus, by virtue of the clubbing provisions of the Act, the salary received by Mrs. A from X (P) Ltd. will be clubbed in the hands of Mr. A.

Computation of Gross total income of Mr. A

Particulars	₹
Salary received by Mrs. A (computed)	2,85,000
Other Income	7,00,000
Gross total income	**9,85,000**

The gross total income of Mrs. A is ₹ 4,00,000.

ILLUSTRATION 4

Will your answer be different if Mrs. A was qualified for the job?

SOLUTION

If Mrs. A possesses professional qualifications for the job, then the clubbing provisions shall not be applicable.

Gross total income of Mr. A = ₹ 7,00,000 [Other income].

Gross total income of Mrs. A = Salary received by Mrs. A i.e., ₹ 2,85,000 (computed) *plus* other income of ₹ 4,00,000 = ₹ 6,85,000

ILLUSTRATION 5

Mr. B holds shares carrying 30% voting power in Y (P) Ltd. Mrs. B is working as accountant in Y (P) Ltd. getting income under the head salary (computed) of ₹ 3,44,000 without any qualification in accountancy. Mr. B also receives ₹ 30,000 as interest on securities. Mrs. B owns a house property which she has let out. Rent

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received from tenants is ₹ 6,000 p.m. Compute the gross total income of Mr. B and Mrs. B for the tax year 2026-27.

SOLUTION

Since Mrs. B is not professionally qualified for the job, the clubbing provisions shall be applicable.

Computation of Gross total income of Mr. B

Particulars	₹
Income under the head "Salary" of Mrs. B (Computed)	3,44,000
Income from other sources	
- Interest on securities	30,000
Gross total income	3,74,000

Computation of Gross total income of Mrs. B

Particulars	₹	₹
Income from Salary		Nil
[Clubbed in the hands of Mr. B]		
Income from house property		
Gross Annual Value [₹ 6,000 × 12]	72,000	
Less: Municipal taxes paid	-	
Net Annual Value (NAV)	**72,000**	
***Less:* Deductions under section 22**		
- 30% of NAV i.e., 30% of ₹ 72,000	21,600	
- Interest on loan	-	50,400
Gross total income		**50,400**

Income arising to the spouse from an asset transferred otherwise than for adequate consideration [Section 99(1)(a)(ii)]

(i) Transfer of asset (other than house property): Where there is a transfer of an asset (other than house property), directly or indirectly, from one spouse to the other, otherwise than for adequate consideration or in connection with an agreement to live apart, any income arising to the transferee-spouse from the transferred asset, either directly or indirectly, shall be included in the total income of the transferor-spouse.

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(ii) **Transfer of house property:** In the case of transfer of house property, the provisions are contained in section 25. If an individual transfers house property (except under an agreement to live apart) to his spouse, without adequate consideration, the person who transfers the property is considered as the owner of the transferred property and its annual value will be taxed in his hands.

(iii) **Income from accretion of the transferred asset:** It may be noted that any income from the accretion of the transferred asset is not to be clubbed with the income of the transferor i.e., the income arising on transferred assets alone has to be clubbed. However, income earned by investing such income (arising from transferred asset) cannot be clubbed.

(iv) **Meaning of adequate consideration:** It is also to be noted that natural love and affection do not constitute adequate consideration. Therefore, where an asset is transferred without adequate consideration, the income from such asset will be clubbed in the hands of the transferor.

(v) **Transferred asset invested in business or firm [Section 99(2)]:** If the asset transferred, directly or indirectly, by an individual to his spouse is invested by the spouse in any business or in the nature of capital contributed as a partner in a firm or for being admitted to the benefits of partnership in a firm, then proportionate income is to be included in the hands of the individual for the tax year.

The income to be included in the hands of individual, i.e., the transferor for the tax year shall be as follows:

$$A = B \times \frac{C}{D}$$

Where-

A = Income to be included in the hands of individual i.e., the transferor for the tax year;

B = Income (such as business profits) and interest (interest on capital contribution by partner) or both arising to the spouse i.e., the transferee from the business or firm during the tax year.

C= Value of such assets invested or contributed as capital by the spouse i.e., the transferee (i.e. transferred assets which were invested in business/firm) as on first day of tax year

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D = Total investment or total capital contribution by the transferee spouse as on first day of tax year.

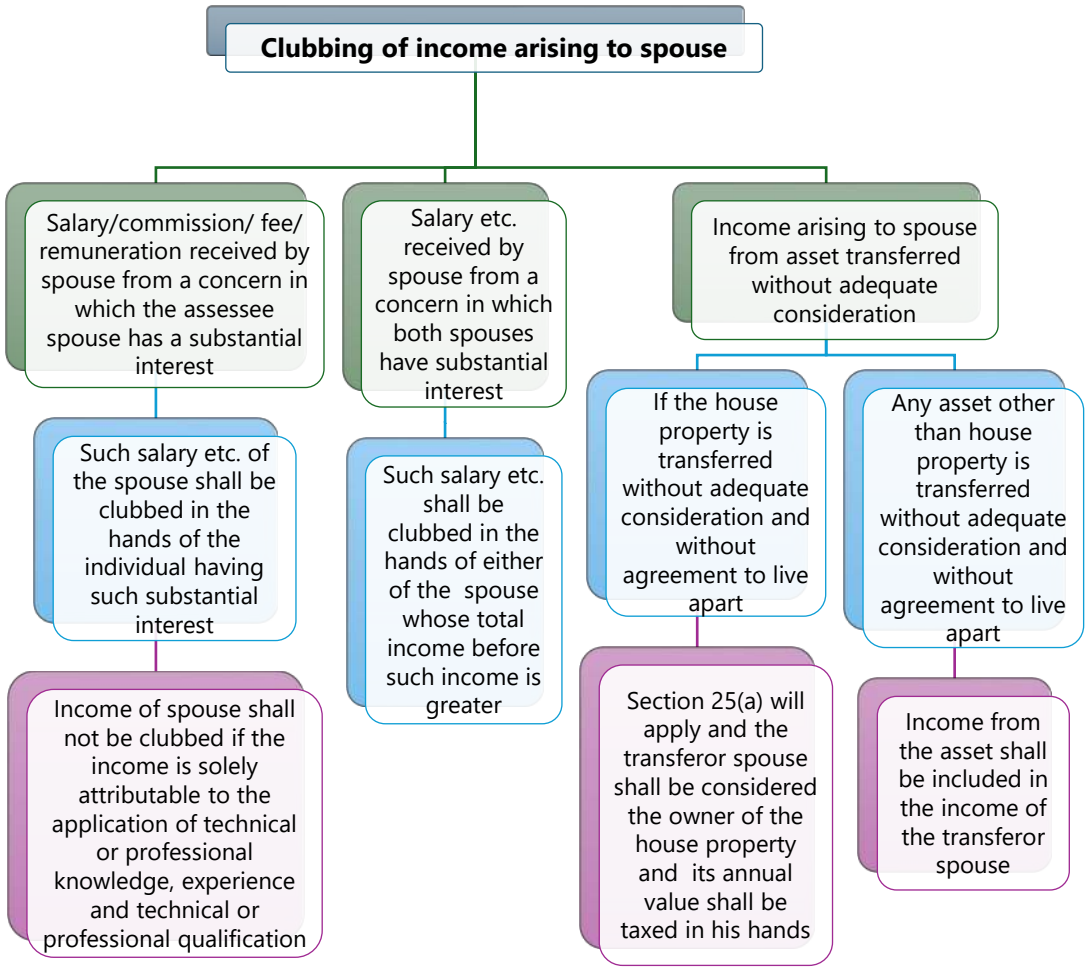


ILLUSTRATION 6

Mr. Vaibhav started a proprietary business on 01.04.2025 with a capital of ₹ 5,00,000. He incurred a loss of ₹ 2,00,000 during the year 2025-26. To overcome the financial position, his wife Mrs. Vaishaly, a software Engineer, gave a gift of ₹ 5,00,000 on 01.04.2026, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of ₹ 4,00,000 during the year 2026-27. Compute the amount to be clubbed in the hands of Mrs. Vaishaly for the tax year 2026-27. If Mrs. Vaishaly gave the said amount as loan, what would be the amount to be clubbed?

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SOLUTION

Section 99(1)(ii) provides for the clubbing of income in the hands of the individual, if the income earned is from the assets (other than house property) transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart.

Section 99(2) provides the manner of computation of income to be included in the hands of transferor spouse if the asset transferred by the individual is invested by the spouse in any business or in the nature of capital contributed as a partner in a firm or for being admitted to the benefits of partnership in a firm.

In this case, Mr. Vaibhav received a gift of ₹ 5,00,000 on 1.4.2026 from his wife Mrs. Vaishaly, which he invested in his business immediately. The income to be clubbed in the hands of Mrs. Vaishaly for the tax year 2026-27 is computed as under:

$A = B \times \frac{C}{D}$

A = Income to be included in the hands of Mrs. Vaishaly for the tax year 2026-27;

B = Profits from business arising to Mr. Vaibhav from the business for the tax year 2026-27 i.e., ₹ 4 lakhs

C= Value of such asset invested by Mr. Vaibhav as on first day of tax year i.e., on 1.4.2026 i.e., ₹ 5 lakhs

D = Total investment by Mr. Vaibhav as on first day of tax year i.e., on 1.4.2026 i.e., ₹ 10 lakhs (₹ 5 lakhs - ₹ 2 lakhs + ₹ 5 lakhs)

Income to be clubbed in the hands of Mrs. Vaishaly would be as follows:

$4,00,000 \times \frac{5,00,000}{8,00,000} = ₹\ 2,50,000$

In case, Mrs. Vaishaly gave the said amount of ₹ 4,00,000 as a *bona fide* loan, then, clubbing provisions would not be attracted.

Note: The provisions of section 92(2)(m) would **not** be attracted in the hands of Mr. Vaibhav, since he has received a sum of money exceeding ₹ 50,000 without consideration from a relative i.e., his wife.

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3.	*Rohan transferred 2,000 shares of XYZ Ltd. to Ms. Neha without any consideration. Subsequently, Rohan and Ms. Neha got married to each other. The dividend income from the shares transferred would be:*	
	(a)	*Taxable in the hands of Rohan both before and after marriage*
	(b)	*Taxable in the hands of Rohan before marriage but not after marriage*
	(c)	*Taxable in the hands of Rohan after marriage but not before marriage*
	(d)	*Not taxable in the hands of Rohan either before or after marriage*
4.	*Mr. Raj transferred shares of ABC Pvt. Ltd. to Mrs. Raj without consideration out of natural love and affection. Mrs. Raj subsequently transferred the shares to her friend and earned short term capital gain of ₹ 3,75,000. The capital gain so arise shall be taxable in the hands of:*	
	(a)	*Mrs. Raj*
	(b)	*Mr. Raj*
	(c)	*Mr. Raj or Mrs. Raj, whosoever has the higher total income before clubbing*
	(d)	*Mr. Raj and Mrs. Raj proportionately*

4.2 Clubbing of income from asset transferred to son's wife [Section 99(1)(b)]

Income arising to son's wife from the assets transferred otherwise than for adequate consideration by the father-in-law or mother-in-law

(i) Asset transferred otherwise than for adequate consideration: Where an asset is transferred, directly or indirectly, by an individual to his or her son's wife otherwise than for adequate consideration, the income from such asset is to be included in the total income of the transferor.

Natural love and affection do not constitute adequate consideration.

(ii) Transferred asset invested in business or firm [Section 99(2)]: If the asset transferred, directly or indirectly, by an individual to his or her son's wife is

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invested by the son's wife in any business or in the nature of capital contributed as a partner in a firm or for being admitted to the benefits of partnership in a firm, then proportionate income is to be included in the hands of the individual for the tax year.

The income to be included in the hands of individual, i.e., the transferor for the tax year shall be as follows:

$$A = B \times \frac{C}{D}$$

Where-

A = Income to be included in the hands of individual i.e., the transferor for the tax year;

B = Income (such as business profits) and interest (interest on capital contribution by partner) or both arising to the son's wife from the business or firm during the tax year.

C= Value of such assets invested or contributed as capital by the son's wife i.e., the transferee (i.e. transferred assets which were invested in business/firm) as on first day of tax year

D = Total investment or total capital contribution by the transferee son's wife as on first day of tax year.

ILLUSTRATION 7

On 25th December, 2026, Mr. A gifts ₹ 25,00,000 to his daughter in law, Megha. Megha started a business on 1st January, 2027. She invested the amount received from her father-in-law, Mr. A and ₹ 5,00,000 of her own funds in the business. The business earned a profit of ₹ 6,00,000 during the year ended 31.03.2027.

Find the amount taxable in the hands of Mr. A for the tax year 2026-27.

SOLUTION

Section 99(1)(b) provides for the clubbing of income in the hands of the individual, if the income earned is from the assets transferred directly or indirectly to the son's wife, otherwise than for adequate consideration.

Section 99(2) provides the manner of computation of income to be included in the hands of transferor if the asset transferred by the individual is invested by the son's wife in any business or in the nature of capital contributed as a partner in a firm or for being admitted to the benefits of partnership in a firm.

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In this case, Megha received a gift of ₹ 25,00,000 on 25.12.2026 from her father-in-law, Mr. A, with which she started a business on 1.1.2027. The income to be clubbed in the hands of Mr. A for the tax year 2026-27 is computed as under:

$A = B \times \frac{C}{D}$

A = Income to be included in the hands of Mr. A for the tax year 2026-27;

B = Profits from business arising to Megha from the business for the tax year 2026-27 i.e., ₹ 6 lakhs

C= Value of such asset invested by Megha as on first day of tax year i.e., on 1.1.2027 i.e., ₹ 25 lakhs

D = Total investment by Megha as on first day of tax year i.e., on 1.1.2027 i.e., ₹ 30 lakhs

Income to be clubbed in the hands of Mr. A would be as follows:

$6,00,000 \times \frac{25,00,000}{30,00,000} = ₹ 5,00,000$

Note: The provisions of section 92(2)(m) would **not** be attracted in the hands of Megha, since she has received a sum of money exceeding ₹ 50,000 without consideration from a relative i.e., her father in law.

4.3 Clubbing of minor's child income [Section 99(1)(c)]

(i) All income of a minor child is to be included in the income of his parent.

(ii) However, the following income will not be included in the income of his parent:

- income accruing or arising on account of work done by such minor child or
- income accruing or arising from activities where his skill, talent or specialized knowledge or experience is applied or
- where such minor child is suffering from disability of the nature specified in section 154.

(iii) Where the marriage of his parents subsists, the income of the minor child will be included in the income of that parent whose total income before such inclusion is greater.

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(iv) Where the marriage of his parents does not subsist, the income of the minor will be included in the income of the parent who maintains such minor child during the tax year.

(v) Such income, once included in the total income of either of the parent, for a tax year, shall not be included in the income of the other parent for any succeeding tax year, unless the Assessing Officer is so satisfied, after giving the other parent an opportunity of being heard.

(vi) It may be noted that the clubbing provisions are attracted even in respect of income of minor married daughter.

Exemption in respect of clubbed income of minor child [Schedule III (Table: S. No. 17)]

In case the income of an individual (i.e., the parent) includes the income of his/her minor child in terms of section 99(1)(c), exclusion of such income from the total income to the extent such income does not exceed ₹ 1,500 in respect of each minor child whose income is so includible. However, if income of any minor so includible is less than ₹ 1,500, then the entire income shall be exempt.

Exemption under Schedule III (Table: S. No. 17) would be available to the parent only if he/she exercises the option of shifting out of the default tax regime. The same would not be available to him/her under the default tax regime where he/she computes his/her total income as per section 202(1) and pays tax at the concessional rates provided thereunder.

(vii) In case the asset transferred to a minor child (not being a minor married daughter) otherwise than for consideration or for inadequate consideration is a house property, then, by virtue of section 25(a), the transferor-parent will be considered as the owner of the house property. Therefore, the income from house property will be taxable in the hands of the transferor-parent, being the owner and not in the hands of the minor child. Consequently, clubbing provisions under section 99(1)(c) would not be attracted in respect of such income, due to which the benefit of exemption under Schedule III (Table: S. No. 17) cannot be availed against such income.

However, if the house property is transferred by a parent to his or her minor married daughter, otherwise than for consideration or for inadequate consideration, then, section 25(a) is **not** attracted. In such a case, the income from house property will be included u/s 99(1)(c) in the hands of the parent whose total income before including minor child's income is greater; and

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benefit of exemption under Schedule III (Table: S. No. 17) can be availed by that parent in respect of the income so included if he/she exercises the option of shifting out of the default tax regime.

Child in relation to an individual includes a step-child and an adopted child of that individual [Section 2(25)].

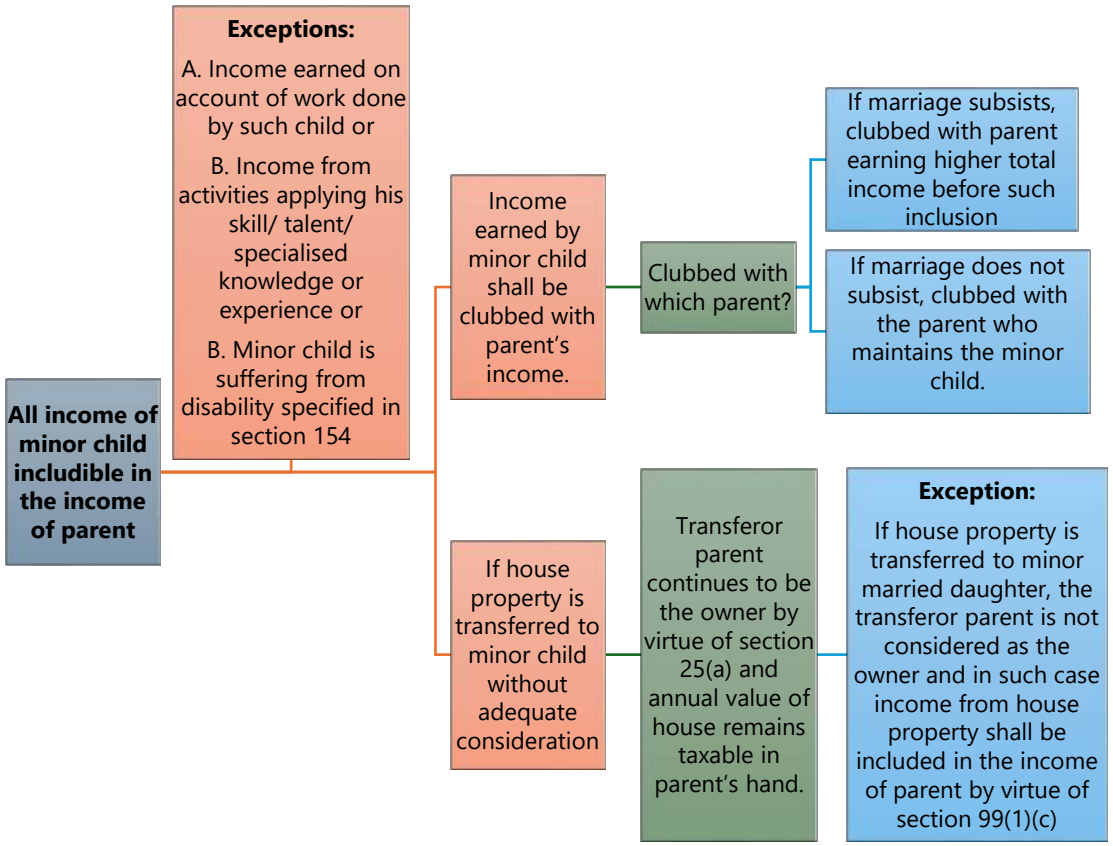


ILLUSTRATION 8

Mr. A has three minor children – two twin daughters, aged 12 years, and one son, aged 16 years. Income of the twin daughters is ₹2,000 p.a. each and that of the son is ₹1,200 p.a. Mrs. A has transferred her flat to her minor son on 1.4.2026 out of natural love and affection. The flat was let out on the same date and the rental income from the flat is ₹10,000 p.m. Compute the income, in respect of minor children, to be included in the hands of Mr. A and Mrs. A u/s 99(1)(c) (assuming that Mr. A's total income is higher than Mrs. A's total income, before including the income of minor children and both Mr. A and Mrs. A exercise the option of shifting out of the default tax regime.

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SOLUTION

Taxable income, in respect of minor children, in the hands of Mr. A is:

Particulars	₹	₹
Twin minor daughters [₹ 2,000 × 2]	4,000	
Less: Exempt under Schedule III (Table: S. No. 17) [₹ 1,500 × 2]	3,000	1,000
Minor son	1,200	
Less: Exempt under Schedule III (Table: S. No. 17) would be lower of ₹ 1200, being the income of minor son or ceiling limit of ₹ 1500	1,200	Nil
Income to be clubbed in the hands of Mr. A		**1,000**

Note *– As per section 25(a), Mrs. A is considered as the owner of house property transferred to her minor son. Natural love and affection do not constitute adequate consideration for this purpose. Accordingly, the income from house property of ₹ 84,000 [i.e., ₹ 1,20,000 (-) ₹ 36,000, being 30% of ₹ 1,20,000) would be taxable directly in her hands as the owner of the said property. Consequently, clubbing provisions under section 99(1)(c) would not be attracted in respect of income from house property, owing to which exemption under Schedule III (Table: S. No. 17) cannot be availed by her.*

ILLUSTRATION 9

Compute the gross total income of Mr. A & Mrs. A from the following information assuming both exercise the option of shifting out of the default tax regime:

	Particulars	***₹***
(a)	*Salary income (computed) of Mrs. A*	*2,30,000*
(b)	*Income from profession of Mr. A*	*3,90,000*
(c)	*Income of minor son B from company deposit*	*15,000*
(d)	*Income of minor daughter C from special talent*	*32,000*
(e)	*Interest from bank received by C on deposit made out of her special talent*	*3,000*
(f)	*Gift received by C on 30.09.2026 from friend of Mrs. A*	*2,500*

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Brief working is sufficient. Detailed computation under various heads of income is not required.

SOLUTION

As per the provisions of section 99(1)(c), all the income of a minor child has to be clubbed in the hands of that parent whose total income before including the income of the minor is greater. The income of Mr. A is ₹ 3,90,000 and income of Mrs. A is ₹ 2,30,000. Since the income of Mr. A is greater than that of Mrs. A, the income of the minor children have to be clubbed in the hands of Mr. A. It is assumed that this is the first year when clubbing provisions are attracted.

Income derived by a minor child from any activity involving application of his/her skill, talent, specialised knowledge and experience is not to be clubbed. Hence, the income of minor child C from exercise of special talent will not be clubbed.

However, interest from bank deposit has to be clubbed even when deposit is made out of income arising from application of special talent.

The Gross Total Income of Mrs. A is ₹ 2,30,000. The total income of Mr. A is as follows:

Computation of gross total income of Mr. A for the tax year 2026-27

Particulars	₹	₹
Income from profession		3,90,000
Income of minor son B from company deposit	15,000	
Less: Exempt under Schedule III (Table: S. No. 17)	1,500	13,500
Income of minor daughter C		
From special talent – not to be clubbed	-	
Interest from bank	3,000	
Gift of ₹ 2,500 received from a non-relative is not taxable under section 92(2)(m) being less than the aggregate limit of ₹ 50,000	Nil	
	3,000	
Less: Exempt under Schedule III (Table: S. No. 17)	1,500	1,500
Gross Total Income		**4,05,000**

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5.	*Mr. A gifted ₹ 18,00,000 to his daughter-in-law, Riya on 1.7.2026. Riya started a new business and invested ₹ 18,00,000 received from Mr. A and ₹ 6,00,000 of her own funds. The business profit for the tax year 2026-27 was ₹ 4,80,000. The amount taxable in the hands of Mr. A shall be:*	
	(a)	*₹ 4,80,000*
	(b)	*₹ 3,60,000*
	(c)	*₹ 1,20,000*
	(d)	*Nil*
6.	*Ms. Priya, minor daughter earned ₹ 40,000 from classical dance performances and ₹ 5,000 as bank interest on deposits made out of such income during the T.Y. 2026-27. Which of the following is correct?*	
	(a)	*Entire ₹ 45,000 is taxable in Priya's hands*
	(b)	*Entire ₹ 45,000 is clubbed in the hands of parent*
	(c)	*₹ 40,000 is taxable in Priya's hands and ₹ 5,000 is clubbed in the hands of parent*
	(d)	*Entire income is exempt*
7.	*Mrs. A transferred a house property to her minor son without adequate consideration. Rental income from such property shall be taxable in the hands of:*	
	(a)	*Minor son*
	(b)	*Mrs. A*
	(c)	*Mr. A*
	(d)	*Mr. A or Mrs. A whose income is higher*

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4.4 Clubbing of income of any person/AOP from assets transferred to them for the benefit of spouse or son's wife [Section 99(1)(d)]

All income arising directly or indirectly to any person or association of persons, from the assets transferred, directly or indirectly, otherwise than for adequate consideration to such person or association of persons by the individual is includible in the total income of the individual to the extent to which the income from such assets is for the immediate or deferred benefit of

- the transferor's spouse or
- the transferor's son's wife

Note: *Where any asset is transferred by a person to any other person without consideration or for inadequate consideration, the provisions of 92(2)(m) would get attracted in the hands of transferee, if conditions specified thereunder are satisfied.*

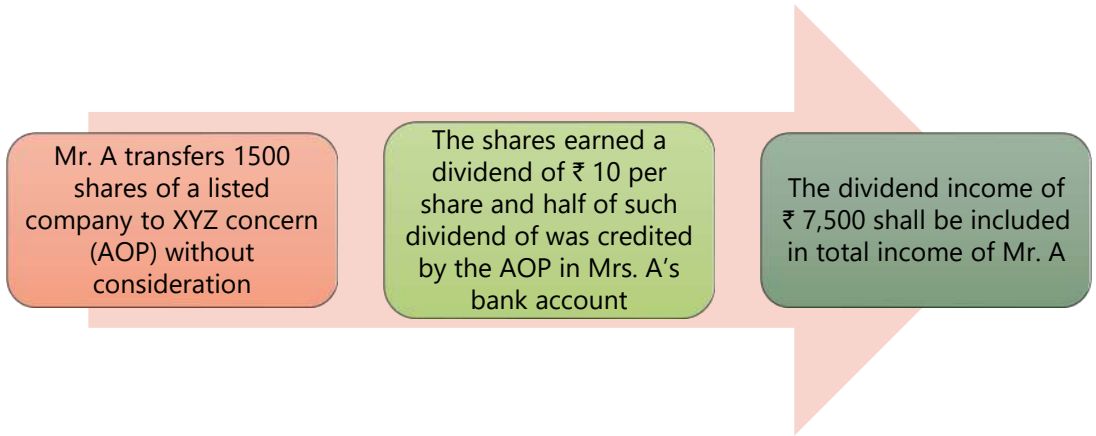


ILLUSTRATION 10

Mrs. Kasturi transferred her immovable property to ABC Co. Ltd. subject to the condition that out of the rental income, a sum of ₹ 36,000 per annum shall be utilized for the benefit of her son's wife.

Mrs. Kasturi claims that the amount of ₹ 36,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property.

Examine with reasons whether the contention of Mrs. Kasturi is valid in law.

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SOLUTION

The clubbing provisions under section 99(1)(d) are attracted in case of transfer of any asset, directly or indirectly, otherwise than for adequate consideration, to any person to the extent to which the income from such asset is for the immediate or deferred benefit of son's wife. Such income shall be included in computing the total income of the transferor individual.

Therefore, income of ₹ 36,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Kasturi in this case.

The contention of Mrs. Kasturi is, hence, not valid in law.

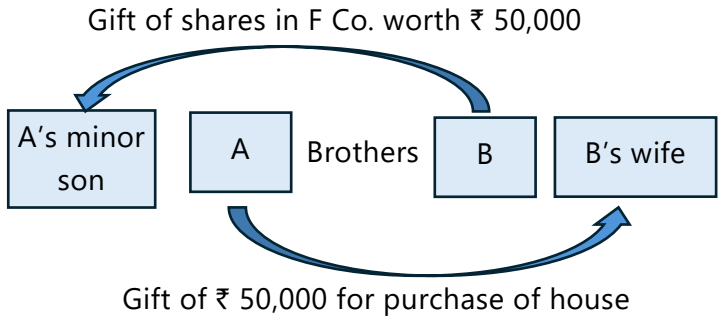
In order to attract the clubbing provisions under section 99(1)(d), the transfer should be otherwise than for adequate consideration. In this case, it is presumed that the transfer is otherwise than for adequate consideration and therefore, the clubbing provisions are attracted. Moreover, the provisions of section 92(2)(m) would also get attracted in the hands of ABC Co Ltd., if the conditions specified thereunder are satisfied.

Note – *If the transfer was for adequate consideration, the provisions of section 99(1)(d) would not be attracted.*

5. CROSS TRANSFERS

In the case of cross transfers also (e.g., A making gift of ₹ 50,000 to the wife of his brother B for the purchase of a house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth ₹ 50,000 owned by him), the income from the assets transferred would be assessed in the hands of the deemed transferor if the transfers are so intimately connected that they form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise. Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to circumvent the provisions of this section, showing that such transfers constituted consideration for each other.

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The Supreme Court, in case of *CIT* v. *Keshavji Morarji [1967] 66 ITR 142,* observed that if two transactions are inter-connected and are parts of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. Accordingly, the income arising to Mrs. B from the house property should be included in the total income of B and the dividend from shares transferred to A's minor son would be taxable in the hands of A, assuming that Mr. A's income is greater than that of Mrs. A income. This is because A and B are the indirect transferors to their minor child and spouse, respectively, of income-yielding assets, so as to reduce their burden of taxation.

ILLUSTRATION 11

Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14-06-2026. On 12-07-2026, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mr. Vasudevan's brother on 01-08-2026 at 9% interest. Examine the consequences of the above under the provisions of the Income-tax Act, 2025 in the hands of Mr. Vasudevan and his brother.

SOLUTION

In the given case, Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14.06.2026 and simultaneously, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife on 12.07.2026. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and his brother's wife. These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

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If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. It was so held by the Apex Court in *CIT vs. Keshavji Morarji (1967) 66 ITR 142*.

Accordingly, the interest income arising to Mrs. Vasudevan in the form of interest on fixed deposits would be included in the total income of Mr. Vasudevan and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Vasudevan's brother as per section 99(1), to the extent of amount of cross transfers i.e., ₹ 5 lakhs.

This is because both Mr. Vasudevan and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation.

However, the interest income earned by his spouse on fixed deposit of ₹ 5 lakhs alone would be included in the hands of Mr. Vasudevan's brother and not the interest income on the entire fixed deposit of ₹ 6 lakhs, since the cross transfer is only to the extent of ₹ 5 lakhs.

6. CONVERSION OF SELF-ACQUIRED PROPERTY INTO THE PROPERTY OF A HINDU UNDIVIDED FAMILY [SECTION 99(3)]

Section 99(3) deals with the case of conversion of self-acquired property into property of a Hindu undivided family.

(1) Where a property owned by an individual is converted into property of the HUF of which he is a member, through

- the act of impressing such individual property with the character of property belonging to the family or
- throwing such property into the common stock of the family or
- transfers such individual property, directly or indirectly, to the family

without adequate consideration, then the income from such property shall continue to be included in the total income of the individual.

(2) Where the converted property has been the subject-matter of partition (whether partial or total) amongst the member of the HUF, the income

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derived from such converted property as is received by the spouse of the individual on partition will be deemed to arise to the spouse from assets transferred indirectly by the individual to the spouse and provisions of section 99(1)(a) shall apply.

(3) Where income from the converted property is included in the total income of an individual under section 99(3), it will be excluded from the total income of the family or the spouse of the individual.

ILLUSTRATION 12

Mr. Amit transferred his self-acquired property to his HUF consisting of himself, his wife, Mrs. A, minor son X and major son Y. Annual income from the property is ₹ 1,00,000. Discuss the tax implications for the tax year 2026-27 assuming he shifts out of the default regime.

Also examine the tax implication on members of HUF on partition of the transferred property. Assume Mrs. A is a house wife.

SOLUTION

Under section 99(3), the conversion of self-acquired property into HUF property attracts clubbing provisions, hence the annual income of ₹ 1,00,000 from the transferred property shall be assessable in the hands of Mr. A.

If the HUF partitions the said property, the income from the partitioned property shall be taxable as follows:

Particulars	A (₹)	Mrs. A (₹)	Minor Son X (₹)	Major Son Y (₹)
Share in income of converted property (1/4)	25,000	25,000	25,000	25,000
Share of Mrs. A clubbed with Mr. A	25,000	(25,000)		
Share of minor son [Clubbed in the hands of Mr. A since his income is greater than Mrs. A]	25,000		(25,000)	
Less: Exempt under Schedule III (Table: S. No. 17)	(1,500)			
Taxable Income	**73,500**	**Nil**	**Nil**	**25,000**

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7. INCOME INCLUDES LOSS

As per Section 99(5)(d), 'income' would include 'loss'. Accordingly, where the specified income to be included in the total income of the individual is a loss, such loss will be taken into account while computing the total income of the individual.

8. DISTINCTION BETWEEN SECTION 96, 97 AND SECTION 99

It may be noted that the main distinction between the two sections is that section 97 applies only to a revocable transfer made by any person while section 99 applies to revocable as well as irrevocable transfers made only by individuals.

Clubbing provisions are attracted in respect of income arising from the assets transferred, however, income arising on accretion of income arising from transferred asset, would not be clubbed except in case of minor child.



Mr. X transferred debentures of ₹ 50,000 carrying 10% p.a. interest to his wife. The interest income of ₹ 5,000 would be clubbed in the hands of Mr. X. However, in case his wife deposited ₹ 5,000 in fixed deposits @8% p.a., the interest income of ₹ 400 arising on FDR would not be clubbed in the hands of Mr. X.



8.	*Mr. A gifted ₹ 5 lakhs to the wife of his brother, while his brother simultaneously gifted ₹ 5 lakhs to Mr. A's wife. Both amounts were invested in bank deposits. Such arrangement is known as:*	
	(a)	*Revocable transfer*
	(b)	*Deemed partition*
	(c)	*Cross transfer*
	(d)	*Indirect transfer through trust*

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9.	*Mr. R converted his self-acquired property into HUF property. On partition, his minor daughter received a share producing income of ₹ 20,000. Mr. R's income is higher than Mrs. R's income. Such income of minor daughter shall be:*	
	(a)	*Taxable in daughter's hands only*
	(b)	*includible in the income of Mr. R*
	(c)	*includible in the income of Mrs. R*
	(d)	*Exempt from tax*
10.	*Mr. A transferred debentures worth ₹ 1,00,000 carrying 12% interest to his wife. The wife earned interest of ₹ 12,000 and reinvested the same in fixed deposits earning ₹ 960 interest. Which of the following is correct?*	
	(a)	*Both ₹ 12,000 and ₹ 960 are includible in the income of Mr. A*
	(b)	*Only ₹ 12,000 is includible in the income of Mr. A*
	(c)	*Only ₹ 960 is includible in the income of Mr. A*
	(d)	*Nothing is includible in the income of Mr. A*

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LET US RECAPITULATE

Section	Transferor	Transferee	Subject matter of transfer	Taxability	Conditions for clubbing
96	Any assessee	Any person	Income from an asset	Income from the asset shall be taxable in the hands of the transferor.	Income transferred without transferring the asset.
97(1)	Any assessee	Any person	Any asset	Income from the asset shall be taxable in the hands of the transferor.	The transfer should be a revocable transfer, i.e., the transferor has the right to resume power over the income or the asset or the transfer provides for retransfer of the income or the asset back to the transferor.
99(1)(a)(i)	-	-	-	Income arising to spouse by way of remuneration from a concern in which the individual has a substantial interest shall be taxable in	Remuneration received should not be attributable to the application of technical or professional knowledge, experience and technical or professional

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				the hands of the individual.	qualification of the spouse.
99(1)(a)(ii)	Individual	Spouse	Any asset other than house property, transferred directly or indirectly	Income from the asset shall be taxable in the hands of the transferor.	Transfer shall be without adequate consideration and without an agreement to live apart
99(1)(b)	Individual	Daughter in law	Any asset transferred directly or indirectly	Income from the asset shall be taxable in the hands of the transferor.	Transfer shall be without adequate consideration
99(1)(c)	Individual	Minor child	-	All income of minor child, except the minor child who is suffering from disability of the nature specified in section 154, shall be taxable in the hands of such parent whose total income before such inclusion is greater.	Income of minor child should not be derived ♦ on account of work done by such minor child or ♦ from activities where his skill, talent or specialized knowledge or experience is applied
99(1)(d)	Individual	Any person/ AOP	Any asset transferred directly or indirectly	Income from such asset shall be taxable in the hands of the	Transfer shall be without adequate consideration and for

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				transferor to the extent it is for the benefit of spouse or daughter in law.	immediate or deferred benefit of the spouse or daughter-in-law of the individual.
99(2)	Individual	Spouse or daughter in law	Any asset transferred directly or indirectly	*Proportionate business profit or interest on capital shall be included in the income of the transferor.	Transfer shall be without adequate consideration. Transferred asset shall be invested in a business or as capital contribution as a partner in a firm for being admitted to benefits of partnership in a firm.
99(3)	Individual	His HUF	Any self-acquired property transferred directly or indirectly	Income from the property shall be taxable in the hands of the transferor.	#Transfer or conversion of self-acquired property into HUF property shall be without adequate consideration.
25	Individual	Spouse/ minor child (except minor married daughter)	House property	The transferor shall be considered to be the owner of the house property under section	Transfer shall be without adequate consideration to spouse and minor child and without an

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				25(a) and income from such house property shall be assessable in his hands.	agreement to live apart to spouse.

*Proportionate business profit or interest on capital = Business profit or interest on capital arising to transferee for the tax year x $\frac{\text{Value of asset invested or capital contributed by transferee on first day of tax year out of transferred assets}}{\text{Total investment or capital contribution by transferee on first day of tax year}}$

Where the converted property is transferred to the members of the HUF on total or partial partition of the family, the income from the converted property received by the spouse of the transferor shall be clubbed with the income of the transferor.

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TEST YOUR KNOWLEDGE

1. *Mr. Sharma has four minor children - 2 daughters and 2 sons. The annual income of 2 daughters was ₹9,000 and ₹4,500 and of sons were ₹6,200 and ₹4,300, respectively. The daughter who has income of ₹4,500 was suffering from a disability specified under section 154.*

   Compute the amount of income earned by minor children to be clubbed in hands of Mr. Sharma assuming he has exercised the option of shifting out of the default tax regime.

2. *During the tax year 2026-27, the following transactions occurred in respect of Mr. A.*

   (a) Mr. A had a fixed deposit of ₹5,00,000 in Bank of India. He instructed the bank to credit the interest on the deposit @ 9% p.a. from 1-4-2026 to 31-3-2027 to the savings bank account of Mr. B, son of his brother, to help him in his education.

   (b) Mr. A holds 75% profit share in a partnership firm. Mrs. A received a commission of ₹25,000 from the firm for promoting the sales of the firm. Mrs. A possesses no technical or professional qualification.

   (c) Mr. A gifted a flat to Mrs. A on April 1, 2026. During the tax year 2026-27, Mrs. A's "Income from house property" (computed) was ₹52,000 from such flat.

   (d) Mr. A gifted ₹2,00,000 to his minor son who invested the same in a business and he derived income of ₹20,000 from the investment.

   (e) Mr. A's minor son derived an income of ₹20,000 through a business activity involving application of his skill and talent.

   During the year, Mr. A got a monthly pension of ₹10,000. He had no other income. Mrs. A received salary of ₹20,000 per month from a part time job.

   Examine the tax implications of each transaction and compute the total income of Mr. A, Mrs. A and their minor child assuming that they exercise the option of shifting out of the default tax regime.

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3. *Mr. A has gifted a house property valued at ₹ 50 lakhs to his wife, Mrs. B, who in turn has gifted the same to Mrs. C, their daughter-in-law. The house was let out at ₹ 25,000 per month throughout the year. Compute the total income of Mr. A and Mrs. C.*

   Will your answer be different if the said property was gifted to his son, husband of Mrs. C?

4. *A proprietary business was started by Smt. Rani in the year 2024. As on 1.4.2025 her capital in business was ₹ 3,00,000.*

   Her husband gifted ₹ 2,00,000 on 10.4.2025 to her and such sum is invested by Smt. Rani in her business on the same date. Smt. Rani earned profits from her proprietary business for the Financial Year 2025-26 ₹ 1,50,000 and Financial Year 2026-27, ₹ 3,90,000. Compute the income, to be clubbed in the hands of Rani's husband for the tax year 2026-27 with reasons.

5. *Mr. B is the Karta of HUF, whose members derive income as given below:*

	Particulars	**₹**
(i)	Income from B' s profession	45,000
(ii)	Mrs. B' s salary as fashion designer	76,000
(iii)	Minor son D (interest on fixed deposits with a bank which were gifted to him by his uncle)	10,000
(iv)	Minor daughter P's earnings from sports	95,000
(v)	D's winnings from lottery (gross)	1,95,000

   Examine the tax implications in the hands of Mr. and Mrs. B.

6. *Nishant gifted ₹ 10 lakhs to his wife, Nisha on her birthday on 1st January, 2026. Nisha lent ₹ 5,00,000 out of the gifted amount to Krish on 1st April, 2026 for six months on which she received interest of ₹ 50,000. The said sum of ₹ 50,000 was invested in shares of a listed company on 15th October, 2026, which were sold for ₹ 75,000 on 30th December, 2026. Securities transaction tax was paid on such sale. The balance amount of gift was invested as capital by Nisha in a newly business started on 1.4.2026. She suffered loss of ₹ 15,000 in the business in tax year 2026-27.*

   In whose hands the above income and loss shall be included in Tax Year 2026-27. Support your answer with brief reasons.

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7. *Mrs. and Mr. Naresh Yadav have two minor children, Mahi and Nonu. The following are the receipts in the hands of Mahi and Nonu during the year ended 31-3-2027:*

   (i) Mahi received a gift of ₹ 85,000 from her friend's father on the occasion of her birthday.

   (ii) Nonu won a prize money of ₹ 3,00,000 in National Sports competition.

   This was invested in debentures of a company, from which interest of ₹ 25,000 (gross) accrued during the year.

   Mr. Naresh's income before considering clubbing provisions is higher than that of his wife and he has opted out of the default tax regime.

   Explain how these items will be considered for taxation under the provisions of the Income-tax Act, 2025. Detailed computation of income is not required.

8. *Mr. Mahadev, a noted bhajan singer of Rajasthan and his wife Mrs. Dariya furnish the following information relating to the Tax Year 2026-27.*

		₹
1	*Income of Mr. Mahadev-professional bhajan singer (computed)*	*5,65,000*
2	*Salary income of Mrs. Dariya (computed)*	*3,80,000*
3	*Loan received by Mrs. Dariya from Ramu & Jay (Pvt) Ltd. (Mrs. Dariya holds 35% shares of the Co. The Co. has incurred losses since its inception 2 years back)*	*2,50,000*
4	*Income of their minor son Golu from winning singing reality show on T.V.*	*2,50,000*
5	*Cash gift received by Golu from friend of Mr. Mahadev on winning the show*	*21,000*
6	*Interest income received by minor married daughter Gudia from deposit with Ramu & Jay Pvt Ltd.*	*40,000*

Compute total taxable income of Mr. Mahadev & Mrs. Dariya for the Tax Year 2026-27 if both of them are paying tax under default tax regime under section 202(1).

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ANSWERS

1. As per section 99(1)(c), the income accruing or arising to a minor child shall be included in the total income of the parent. However, income of a minor child suffering from disability specified under section 154 would not be included in the income of the parent but would be taxable in the hands of the minor child. Therefore, in this case, the income of daughter suffering from disability specified under section 154 should not be clubbed with the income of Mr. Sharma.

Under Schedule III (Table: S. No. 17), income of each minor child includible in the hands of the parent under section 99(1)(c) would be exempt to the extent of the actual income or ₹ 1,500, whichever is lower. Mr. Sharma would be eligible for exemption under Schedule III (Table: S. No. 17) since he has exercised the option of shifting out of the default tax regime. The remaining income would be included in the hands of the parent.

Computation of income earned by minor children to be clubbed with the income of Mr. Sharma

	Particulars	₹
(i)	Income of one daughter	9,000
	Less: Income exempt under Schedule III (Table: S. No. 17)	1,500
	Total (A)	7,500
(ii)	Income of two sons (₹ 6,200 + ₹ 4,300)	10,500
	Less: Income exempt under Schedule III (Table: S. No. 17) (₹ 1,500 + ₹ 1,500)	3,000
	Total (B)	7,500
	Total Income to be clubbed as per section 99(1)(c) (A+B)	**15,000**

Note: It has been assumed that:

(1) The income does not accrue or arise to the minor children from activities where his or her skill, talent, specialized knowledge or experience is applied;

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(2) The income of Mr. Sharma, before including the minor children's income, is greater than the income of Mrs. Sharma, due to which the income of the minor children would be included in his hands; and

(3) This is the first year in which clubbing provisions are attracted.

2. Computation of total income of Mr. A, Mrs. A and their minor son for the tax year 2026-27

Particulars	Mr. A (₹)		Mrs. A (₹)	Minor Son (₹)
Income under the head "Salaries"				
Salary income (of Mrs. A)		-	2,40,000	-
Pension income (of Mr. A) (₹ 10,000×12)		1,20,000	-	
Less: Standard deduction under section 19(1) (Table: S. No. 2)		50,000	50,000	
		70,000	1,90,000	
Income from House Property *[See Note (3) below]*		52,000	-	-
Income from other sources				
Interest on Mr. A's fixed deposit with Bank of India (₹ 5,00,000×9%) ***[See Note (1) below]***	45,000		-	-
Commission received by Mrs. A from a partnership firm, in which Mr. A has substantial interest ***[See Note (2) below]***	25,000	70,000	-	-
Income before including income of minor son under section 99(1)(c)		**1,92,000**	**1,90,000**	-

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Income of the minor son from the investment made in the business out of the amount gifted by Mr. A ***[See Note (4) below]***		18,500	-	-
Income of the minor son through a business activity involving application of his skill and talent ***[See Note (5) below]***		-	-	20,000
Total Income		**2,10,500**	**1,90,000**	**20,000**

Notes:

(1) As per section 96, in case there is a transfer of income without transfer of asset from which such income is derived, such income shall be treated as income of the transferor. Therefore, the fixed deposit interest of ₹ 45,000 transferred by Mr. A to Mr. B shall be included in the total income of Mr. A.

(2) As per section 99(1)(a)(i), in case the spouse of the individual receives any amount by way of income from any concern in which the individual has substantial interest (i.e. holding shares carrying at least 20% voting power or entitled to at least 20% of the profits of the concern), then, such income shall be included in the total income of the individual. The only exception is in a case where the spouse possesses any technical or professional qualifications and the income earned is solely attributable to the application of her technical or professional knowledge and experience, in which case, the clubbing provisions would not apply.

In this case, the commission income of ₹ 25,000 received by Mrs. A from the partnership firm has to be included in the total income of Mr. A, as Mrs. A does not possess any technical or professional qualification for earning such commission and Mr. A has substantial interest in the partnership firm as he holds 75% profit share in the firm.

(3) According to section 25(a), an individual who transfers any house property to his or her spouse otherwise than for adequate consideration or in connection with an agreement to live apart, shall be considered as the owner of the house property so transferred. Hence, Mr. A shall be

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the owner of the flat gifted to Mrs. A and hence, the income arising from the same shall be computed in the hands of Mr. A.

Note: The provisions of section 92(2)(m) would not be attracted in the hands of Mrs. A, since she has received immovable property without consideration from a relative i.e., her husband.

(4) As per section 99(1)(c), the income of the minor child is to be included in the total income of the parent whose total income before including the income of minor child is greater. Further, as per Schedule III (Table: S. No. 17), income of a minor child which is includible in the income of the parent shall be exempt to the extent of ₹ 1,500 per child.

Therefore, the income of ₹ 20,000 received by minor son from the investment made out of the sum gifted by Mr. A shall, after providing for exemption of ₹ 1,500 under Schedule III (Table: S. No. 17), be included in the income of Mr. A, since Mr. A's income of ₹ 1,92,000 (before including the income of the minor child) is greater than Mrs. A's income of ₹ 1,90,000. Therefore, ₹ 18,500 (i.e., ₹ 20,000 – ₹ 1,500) shall be included in Mr. A's income. It is assumed that this is the first year in which clubbing provisions are attracted.

Note: The provisions of section 92(2)(m) would not be attracted in the hands of the minor son, since he has received a sum of money exceeding ₹ 50,000 without consideration from a relative i.e., his father.

(5) In case the income earned by the minor child is on account of any activity involving application of any skill or talent, then, such income of the minor child shall not be included in the income of the parent but shall be taxable in the hands of the minor child.

Therefore, the income of ₹ 20,000 derived by Mr. A's minor son through a business activity involving application of his skill and talent shall not be clubbed in the hands of the parent. Such income shall be taxable in the hands of the minor son.

3. As per section 25(a), an individual who transfers without adequate consideration any house property to his spouse (except under an agreement to live apart), shall be considered to be the owner of the house property so transferred.

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Therefore, in this case, Mr. A would be the owner of the house property transferred to his wife Mrs. B without consideration.

As per section 99(1)(b), income arising to the son's wife from assets transferred, directly or indirectly, to her by an individual otherwise than for adequate consideration would be included in the total income of such individual.

Income from let-out property is ₹ 2,10,000 [i.e., ₹ 3,00,000, being the actual rent calculated at ₹ 25,000 per month *less* ₹ 90,000, being deduction under section 22(1)(a) @30% of ₹ 3,00,000]

In this case, income of ₹ 2,10,000 from let-out property arising to Mrs. C, being Mr. A's son's wife, would be included in the income of Mr. A, applying the provisions of section 25(a) and section 99(1)(b). Such income would, therefore, not be taxable in the hands of Mrs. C.

In case the property was gifted to Mr. A's son, the clubbing provisions under section 99 would not apply, since the son is not a minor child. Therefore, the income of ₹ 2,10,000 from letting out of property gifted to the son would be taxable in the hands of the son.

It may be noted that the provisions of section 92(2)(m) would not be attracted in the hands of the recipient of house property, since the receipt of property in each case was from a "relative" of such individual. Therefore, the stamp duty value of house property would not be chargeable to tax in the hands of the recipient of immovable property, even though the house property was received by her or him without consideration.

Note - *The first part of the question can also be answered by applying the provisions of section 99(1)(b) directly to include the income of ₹2,10,000 arising to Mrs. C in the hands of Mr. A. [without first applying the provisions of section 25(a) to consider Mr. A as the owner of the house property transferred to his wife Mrs. B without consideration], since section 99(1)(b) speaks of clubbing of income arising to son's wife from indirect transfer of assets to her by her husband's parent, without consideration. Gift of house property by Mr. A to Mrs. C, via Mrs. B, can be viewed as an indirect transfer by Mr. A to Mrs. C.*

4. Section 99(1)(ii) provides for the clubbing of income in the hands of the individual, if the income earned is from the assets (other than house property) transferred directly or indirectly to the spouse of the individual, otherwise

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than for adequate consideration or in connection with an agreement to live apart.

Section 99(2) provides the manner of computation of income to be included in the hands of transferor spouse if the asset transferred by the individual is invested by the spouse in any business or in the nature of capital contributed as a partner in a firm or for being admitted to the benefits of partnership in a firm.

In this case, Smt. Rani received a gift of ₹ 2,00,000 on 10.4.2025 from her husband, which she invested in her business immediately. The income to be clubbed in the hands of her husband for the tax year 2026-27 is computed as under:

$$A = B \times \frac{C}{D}$$

A = Income to be included in the hands of her husband for the tax year 2026-27;

B = Profits from business arising to Smt. Rani from the business for the tax year 2026-27 i.e., ₹ 3,90,000

C= Value of such asset invested by Smt. Rani as on first day of tax year i.e., on 1.4.2026 i.e., ₹ 2 lakhs

D = Total investment by Smt. Rani as on first day of tax year i.e., on 1.4.2026 i.e., ₹ 6.50 lakhs (₹ 3 lakhs + ₹ 2 lakhs + ₹ 1.50 lakhs)

Income to be clubbed in the hands of her husband would be as follows:

$$3,90,000 \times \frac{2,00,000}{6,50,000} = ₹\ 1,20,000$$

5. Clubbing of income and other tax implications

As per the provisions of section 99(1)(c), in case the marriage of the parents subsists, the income of a minor child shall be clubbed in the hands of the parent whose total income before including the income of the minor child, is greater. In this problem, it has been assumed that the marriage of Mr. B and Mrs. B subsists.

Further, in case the income arises to the minor child from activities involving skill, talent, specialized knowledge or experience of the child, then, the same shall not be clubbed in the hands of the parent.

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Tax implications

(i) Income of ₹ 45,000 from Mr. B's profession shall be taxable in the hands of Mr. B under the head "Profits and gains of business or profession".

(ii) Salary of ₹ 1,000 (₹ 76,000 *less* standard deduction under section 19(1) (Table: S. No. 2) of ₹ 75,000) shall be taxable as "Salaries" in the hands of Mrs. B.

However, if Mrs. B exercises the option of shifting out of default tax regime, salary of ₹ 26,000 (₹ 76,000 *less* standard deduction under section 19(1) (Table: S. No. 2) of ₹ 50,000) shall be taxable as "Salaries".

(iii) Income from fixed deposit of ₹ 10,000 arising to the minor son D, shall be clubbed in the hands of the father, Mr. B as "Income from other sources", since Mr. B's income is greater than income of Mrs. B before including the income of the minor child.

As per Schedule III (Table: S. No. 17), income of a minor child which is includible in the income of the parent shall be exempt to the extent of ₹ 1,500 per child if such parent exercises the option of shifting out of the default tax regime. The balance income would be clubbed in the hands of the parent as "Income from other sources".

(iv) Income of ₹ 95,000 arising to the minor daughter P from sports shall not be included in the hands of the parent, since such income has arisen to the minor daughter on account of an activity involving application of her skill.

(v) Income of ₹ 1,95,000 arising to minor son D from lottery shall be included in the hands of Mr. B as "Income from other sources", since Mr. B's income is greater than the income of Mrs. B before including the income of minor child.

Note – Mr. B can reduce the tax deducted at source from such lottery income while computing his net tax liability.

6. As per section 99(1)(a)(ii), the income arises directly or indirectly to the spouse of individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart to be included in the total income of such individual.

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Accordingly, ₹ 50,000, being the amount of interest on loan received by Ms. Nisha, wife of Mr. Nishant, would be includible in the total income of Mr. Nishant, since such loan was given by her out of the sum of money received by her as gift from her husband.

Since the capital was invested in business by Ms. Nisha on 1st April, 2026, and capital invested was entirely out of the funds gifted by her husband, the entire loss of ₹ 15,000 from the business carried on by Ms. Nisha would also be includible in the total income of Mr. Nishant.

Since income includes loss as per 99(5)(d), clubbing provisions would be attracted even if there is loss and not income.

The short-term capital gain of ₹ 25,000 (₹ 75,000, being the sale consideration *less* ₹ 50,000, being the cost of acquisition) arising in the hands of Ms. Nisha from sale of shares acquired by investing the interest income of ₹ 50,000 earned by her (from the loan given out of the sum gifted to her by her husband), would not be included in the hands of Mr. Nishant.

Income from the accretion of the transferred asset is not liable to be included in the hands of the transferor and therefore such income is taxable in the hands of Ms. Nisha. Since securities transaction tax has been paid, such short-term capital gain on sale of listed shares is taxable@20% in the hands of Ms. Nisha under section 196.

7. (i) Gift received from non-relative by minor daughter Mahi

Gift of ₹ 85,000 received by minor daughter Mahi, from non-relative would be taxable, since the amount of gift exceeds ₹ 50,000. It would be included in the hands of her father, Mr. Naresh Yadav, since his income before considering clubbing provisions is higher than that of his wife.

Exemption of ₹ 1,500 would be allowed in respect of the aggregate income of minor daughter Mahi so included in the hands of Mr. Naresh Yadav under Schedule III (Table: S. No. 17).

(ii) Prize money of ₹ 3,00,000 in National Sports Competition/Interest on debentures received by minor son Nonu

Income derived by a minor child from any activity involving application of his/her skill, talent, specialised knowledge and experience is not to be included in the hands of parent. Hence, the prize money of ₹ 3,00,000

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won in National Sports Competition by minor son Nonu from exercise of special talent would not be included in the income of either parent.

However, interest of ₹ 25,000 on debentures has to be included in the hands of her father, Mr. Naresh Yadav, even if the investment is made out of income arising from application of special talent.

Exemption of ₹ 1,500 would be allowed in respect of the aggregate income of minor son Nonu so included in the hands of Mr. Naresh Yadav under Schedule III (Table: S. No. 17).

8. Computation of Taxable income of Mr. Mahadev for tax year 2026-27

Particulars		₹
Professional income (bhajan singer)		5,65,000
Income of minor son – Golu		
♦ Income from winning singing reality show on T.V. Income derived by a minor child from any activity involving application of his/her skill, talent, specialized knowledge and experience is not to be included in the hands of parent. Hence, ₹ 2,50,000 earned by minor son Golu from reality show on TV would not be included in the income of either parent.		Nil
♦ Cash gift received by Golu from friend of Mr. Mahadev on winning the show The cash gift received by his minor son Golu (not on account of his skill) from his friends would not be taxable, since its value does not exceed ₹ 50,000.		Nil
Income of minor married daughter – Gudia		
Interest income on deposit with Ramu & Jay Pvt Ltd.	40,000	
Less: Exemption under Schedule III (Table: S. No. 17) [Not allowable]	Nil	40,000
[Income of minor daughter would be included in the hands of Mr. Mahadev, since his income, before including minor daughter's income, is higher than his wife's income.]		
Taxable Income		**6,05,000**

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Computation of Taxable income of Mrs. Dariya for tax year 2026-27

Particulars	₹
Salary income (computed)	3,80,000
Loan received from Ramu & Jay (Pvt) Ltd. [Such loan amount would not be considered as deemed dividend under section 2(40)(e), even though Mrs. Dariya has substantial interest (holding 20% shares or more) in the Ramu & Jay (Pvt) Ltd., a closely held company, since the company does not have any accumulated profits on account of losses incurred in last 2 years from inception]	Nil
Taxable Income	**3,80,000**



Q. No.	ANSWERS	
1.	(b)	Mr. A
2.	(b)	Mr. X
3.	(d)	Not taxable in the hands of Rohan either before or after marriage
4.	(b)	Mr. Raj
5.	(b)	₹ 3,60,000
6.	(c)	₹ 40,000 is taxable in Priya's hands and ₹ 5,000 is clubbed in the hands of parent
7.	(b)	Mrs. A
8.	(c)	Cross transfer
9.	(b)	includible in the income of Mr. R
10.	(b)	Only ₹ 12,000 is includible in the income of Mr. A

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CHAPTER 5

SET OFF OR CARRY FORWARD AND SET OFF OF LOSSES



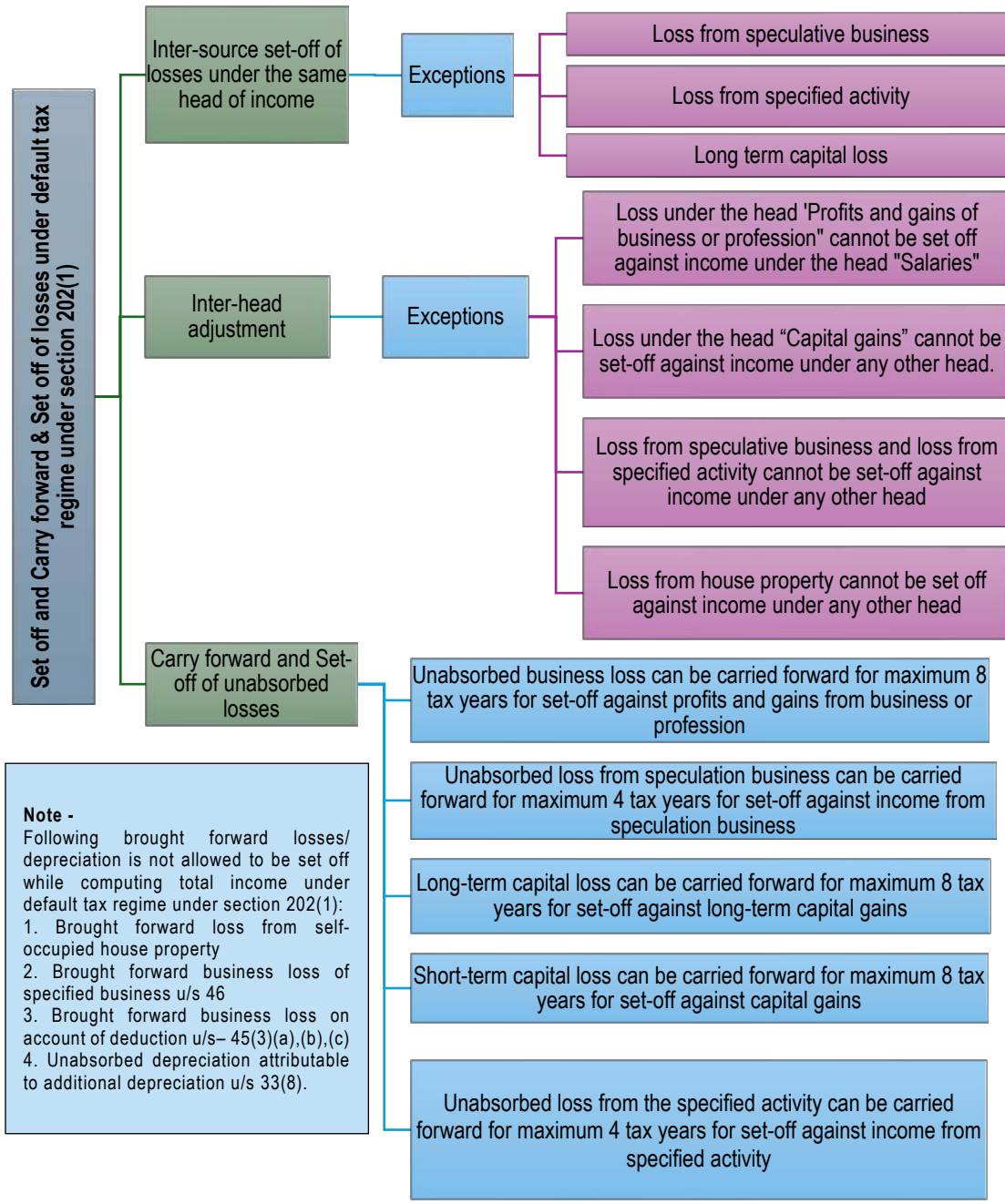
LEARNING OUTCOMES

After studying this chapter, you would be able to –

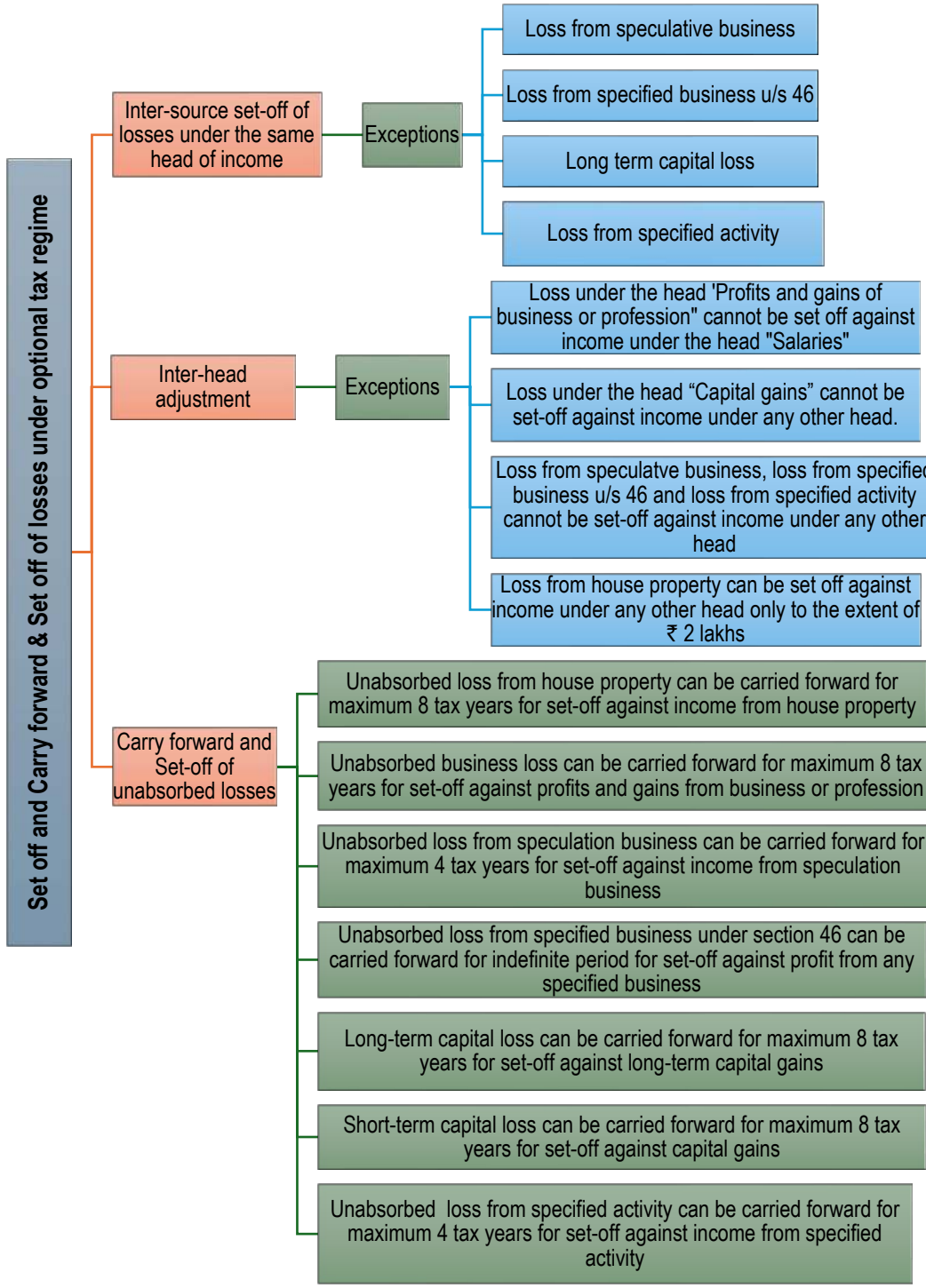
- **identify** the permissible inter-source and inter-head adjustments;
- **identify** the restrictions to inter-source and inter-head set-off of losses;
- **comprehend** the conditions to be satisfied for carry forward and set-off of losses under different heads;
- **state** the maximum period for which different losses can be carried forward;
- **comprehend** and arrange the order of set-off of losses;
- **apply** the above provisions to arrive at the total income of an assessee.

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CHAPTER OVERVIEW



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1. STRUCTURED SECTIONAL LEARNING

Section	Particulars
108	Set off of losses under same head of income
109	Set off of losses under any other head of income
110	Carry forward and set off of loss from house property
111	Carry forward and set off of loss from Capital gains
112	Carry forward and set off of business loss
113	Set off and carry forward of losses computed in respect of speculation business
114	Set off and carry forward of losses computed in respect of specified business
115	Set off and carry forward of losses from specified activity
121	Submission of return for losses

2. CONCEPT OF SET-OFF AND CARRY FORWARD OF LOSSES

Concept of Set off or carry forward and set off of losses has been dealt with in Chapter VII of Income-tax Act, 2025.

- "Set off" means adjustment of losses against the eligible income from another source/head of income in the same tax year.
- If losses cannot be set off in the same tax year due to inadequacy of eligible income, then such losses are carried forward to the next tax year for adjustment against the eligible income of that year.
- The maximum period for which different losses can be carried forward for set-off has been provided in the Act.

3. INTER SOURCE ADJUSTMENT [SECTION 108]

(i) **Inter-source set-off of losses:** Under this section, the losses incurred by the assessee in respect of any source under any head of income (other than Capital gains) shall be set-off against income from any other source under the same head of income, since the income under each head is to be

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computed by grouping together the net result of the activities of all the sources covered by that head.

In simpler terms, loss from one source of income can be adjusted against income from another source, both the sources being under the same head.



Loss from one house property can be set off against the income from another house property.



Loss from one business, say textiles, can be set off against income from any other business, say printing, in the same year as both these sources of income fall under one head of income. Therefore, the loss in one business may be set-off against the profits from another business in the same tax year.

(ii) Impermissible inter-source set-off: Inter-source set-off, however, is not permissible in the following cases –



(a) Long-term capital loss [Section 108(2)]

- Short-term capital loss is allowed to be set off against both short-term capital gain and long-term capital gain.
- However, long-term capital loss can be set-off only against long-term capital gain and not against short-term capital gain.



(b) Loss from speculation business [Section 113(1)]

- A loss in speculation business can be set-off only against the profits and gains of another speculation business and not against any other business or professional income.
- However, losses from other business or profession can be adjusted against profits from speculation business.



(c) Loss from specified activity (Activity of owning and maintaining race horses) [Section 115(1)]

- Loss from specified activity can be set-off only against income from specified activity (Activity of owning and maintaining race horses)



(d) Losses from Specified business [Section 114(1)]

- In case an assessee opts out of the default tax regime, loss in any specified business u/s 46 can be set-off only against profits and gains of another specified business.
- However, losses from other business can be set-off against profits and gains from specified business.

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No loss can be set off against casual income i.e., income from winnings from lotteries, crossword puzzles, race including horse race, card game, and any other game of any sort or from gambling or bettin of any form or nature [Section 94].

4. INTER HEAD ADJUSTMENT [SECTION 109]

Loss under one head of income can be adjusted or set off against income under another head. However, the following points should be considered:

Loss under any head other than "Capital gains"	Loss under any head other than capital gains can be set-off against income of the assessee under any other head, including "Capital Gains".
Loss under the head "Profits and gains of business or profession"	Loss under the head "Profits and gains of business or profession" cannot be set off against income under the head "Salaries". It shall be allowed to set off from income under any other head except "Salaries".
Loss under the head "Capital Gains"	Loss under the head 'Capital Gains', whether short term or long term, cannot be set off against income under any other head.
Loss under the head "Income from house property"	• **If assessee opts out of the default tax regime** - Loss under the head "Income from house property" can be set off against income under any other head to the extent of ₹ 2,00,000. The rest shall be carried forward to next year for set off. • **If assessee pays tax under concessional rates u/s 202(1)** – Loss under the head "Income from House Property" is not allowed to be set off against income under any other head.
Loss from speculation business and loss from specified activity	Loss from speculation business and loss from specified activity cannot be set off against income under any other head.
Losses from specified business u/s 46	In case the assessee opts out of the default tax regime, loss from specified business under section 46 can be set off only against income from any other specified business. Such loss cannot be set off against income under any other head.

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If the income from a source is exempt from tax, loss from that exempt source cannot be set off against taxable income from a different source or taxable income under a different head.



1.	*Choose the correct answer from the following:*	
	(a)	*Loss from specified activity can be set off against any income.*
	(b)	*Speculation business loss can be set off only against speculation business profits.*
	(c)	*Loss from lotteries, card games, etc., can be set off against any income.*
	(d)	*Long-term capital loss can be set off against long-term or short-term capital gains.*
2.	*Loss under the head "Profits and Gains of Business or Profession" cannot be set off against:*	
	(a)	*Income chargeable under the head "Salaries"*
	(b)	*Income chargeable under the head "Capital Gains"*
	(c)	*Income chargeable under the head "House Property"*
	(d)	*All of the above*
3.	*The correct sequence for set-off of losses is:*	
	(a)	*(i) Inter-source set-off; (ii) Inter-head set-off; and (iii) Set-off of brought forward losses.*
	(b)	*(i) Inter-head set-off; (ii) Inter-source set-off; and (iii) Set-off of brought forward losses.*
	(c)	*(i) Set-off of brought forward losses; (ii) Inter-source set-off; and (iii) Inter-head set-off.*
	(d)	*(i) Set-off of brought forward losses; (ii) Inter-head set-off; and (iii) Inter-source set-off.*

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5. CARRY FORWARD & SET OFF OF LOSS FROM HOUSE PROPERTY [SECTION 110]

(i) Set-off and Carry Forward & Set-off of losses

If the assessee exercises the option of shifting out of the default tax regime	In any tax year, if there is a loss under the head "Income from house property", such loss will first be set-off against income from any other head to the extent of ₹ 2,00,000 during the same tax year. The unabsorbed loss will be carried forward to the following tax year to be set-off against income under the head "Income from house property".
If the assessee pays tax at concessional rates u/s 202(1)	In any tax year, if there is a loss under the head "Income from house property", such loss is not allowed to be set-off against income under any other head. The unabsorbed loss cannot be carried forward to the following tax year.

(ii) Maximum period for carry forward & set-off of losses: Any unabsorbed loss under the head "Income from house property" is allowed to be carried forward to the following tax year up to **8 tax years** immediately succeeding the tax year for which the loss was first computed.



Once a loss is carried forward, it can be set off only against the income from the same head in the succeeding tax years.

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ILLUSTRATION 1

Mr. A, aged 35 years, submits the following particulars pertaining to the tax year 2026-27:

Particulars	***₹***
Income from salary (computed)	*4,00,000*
Loss from let-out property	*(-) 2,20,000*
Business loss	*(-)1,00,000*
Bank interest (FD) received	*80,000*

Compute the total income of Mr. A for the tax year 2026-27, assuming that

(i) He has exercised the option of shifting out of the default tax regime.

(ii) He pays tax under the default tax regime.

SOLUTION

(i) Computation of total income of Mr. A for the tax year 2026-27 under normal provisions of the Act

Particulars	**Amount (₹)**	**Amount (₹)**
Income from salary	4,00,000	
Less: Loss from house property of ₹ 2,20,000 to be restricted to ₹ 2 lakhs by virtue of section 109(1)	(-) 2,00,000	2,00,000
Balance loss of ₹ 20,000 from house property to be carried forward to following tax year		
Income from other sources (interest on fixed deposit with bank)	80,000	
Less: Business loss of ₹ 1,00,000 set-off to the extent of ₹ 80,000	(-) 80,000	-
Business loss of ₹ 20,000 to be carried forward for set-off against business income of the following tax year		
Gross total income/ Total Income [See Note below]		**2,00,000**

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Notes:

(i) Gross Total Income includes salary income of ₹ 2,00,000 after adjusting loss of ₹ 2,00,000 from house property. The balance loss of ₹ 20,000 from house property to be carried forward to the following tax year for set-off against income from house property of that year.

(ii) Business loss of ₹ 1,00,000 is set off against bank interest of ₹ 80,000 and remaining business loss of ₹ 20,000 will be carried forward as it cannot be set off against salary income.

(ii) Computation of total income of Mr. A for the tax year 2026-27 under default tax regime

Particulars	Amount (₹)	Amount (₹)
Income from salary		4,00,000
Income from other sources (interest on fixed deposit with bank)	80,000	
Less: Business loss of ₹ 1,00,000 set-off to the extent of ₹ 80,000	(-) 80,000	-
Business loss of ₹ 20,000 to be carried forward for set-off against business income of the following tax year		
Gross total income/ Total Income		**4,00,000**

Notes:

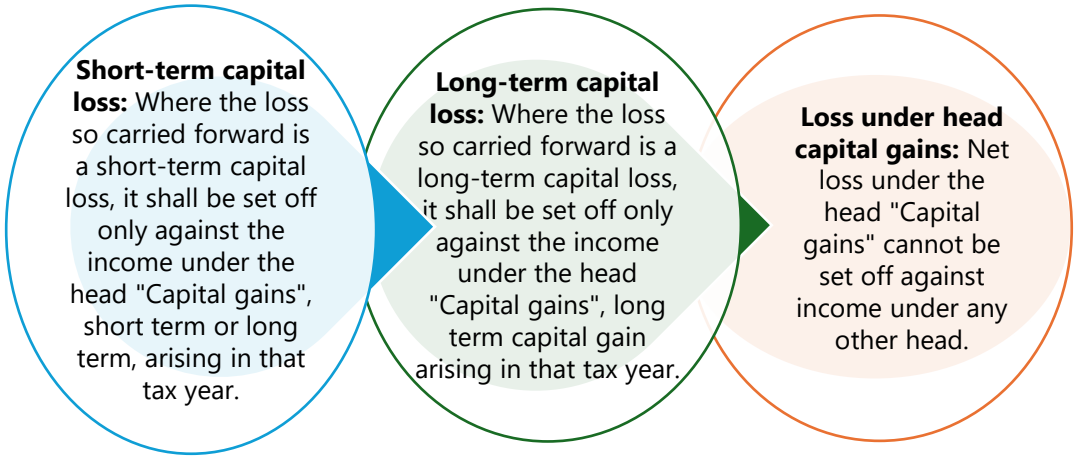
(i) Under the default tax regime, loss from house property of ₹ 2,20,000 cannot be set off against income under any other head and cannot be carried forward to the following tax year.

(ii) Business loss of ₹ 1,00,000 is set off against bank interest of ₹ 80,000 and remaining business loss of ₹ 20,000 will be carried forward as it cannot be set off against salary income.

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6. CARRY FORWARD & SET OFF OF LOSSES FROM CAPITAL GAINS [SECTION 111]

(i) **Carry forward & set-off of losses:** Section 111 provides that where for any tax year, unabsorbed loss under the head 'Capital gains' is short term capital loss or long-term capital loss, the loss shall be carried forward to the following tax year to be set off in the following manner:



(ii) **Maximum period for carry forward & set-off of loss:** Any unabsorbed loss shall be carried forward to the following tax year up to a maximum of **8 tax years** immediately succeeding the tax year for which the loss was first computed.

Long-term capital gain exceeding ₹ 1,25,000 arising on sale of equity shares or units of equity-oriented fund or unit of business trust on which STT is paid

- *in respect of equity shares, both at the time of acquisition and sale and*
- *in respect of units of equity-oriented fund or unit of business trust, at the time of sale*

is taxable under section 198 @12.5%. Long-term capital loss on sale of such shares/units can, therefore, be set off and carried forward for set-off against long-term capital gains by virtue of section 108(2) and section 111.

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ILLUSTRATION 2

During the tax year 2026-27, Mr. C has the following income and the brought forward losses:

Particulars	***₹***
Short term capital gains on sale of shares	*1,50,000*
Long term capital loss of tax year 2024-25	*(96,000)*
Short term capital loss of tax year 2025-26	*(37,000)*
Long term capital gain u/s 197	*75,000*

What is the capital gain taxable in the hands of Mr. C for the tax year 2026-27?

SOLUTION

Taxable capital gains of Mr. C for the tax year 2026-27

Particulars	**₹**	**₹**
Short term capital gains on sale of shares	1,50,000	
Less: Brought forward short-term capital loss of the tax year 2025-26	(37,000)	1,13,000
Long term capital gain	75,000	
Less: Brought forward long-term capital loss of tax year 2024-25 ₹ 96,000 set off to the extent of ₹ 75,000 **[See Note below]**	(75,000)	Nil
Taxable short-term capital gains		**1,13,000**

Note: Long-term capital loss cannot be set off against short-term capital gain. Hence, the unadjusted long-term capital loss of tax year 2024-25 of ₹ 21,000 (i.e. ₹ 96,000 – ₹ 75,000) can be carried forward to the next tax year to be set-off against long-term capital gains of that tax year.

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4.	*Short-term capital loss can be set off against:*	
	(a)	*Short-term capital gains*
	(b)	*Long-term capital gains*
	(c)	*Income under any other head*
	(d)	*Either (a) or (b)*
5.	*What is the maximum amount of loss from a self-occupied house property that can be claimed under the head "Income from House Property" under default tax regime?*	
	(a)	*Nil*
	(b)	*₹ 30,000*
	(c)	*₹ 1,50,000*
	(d)	*₹ 2,00,000*
6.	*Under default tax regime, loss under the head "Income from House Property"*	
	(a)	*can be set off against income chargeable under the head "Salaries"*
	(b)	*can be set off against income chargeable under the head "Capital Gains"*
	(c)	*can be set off against income chargeable under the head "Profits and gains of business or profession"*
	(d)	*cannot be set off against income under any other head*

7. CARRY FORWARD AND SET-OFF OF BUSINESS LOSSES [SECTIONS 112]

Under the Act, the assessee has the right to carry forward the loss from business and profession in cases where such loss cannot be fully set-off in the same year against income from any head (*other than salary)* as per section 109. The loss so carried forward can be set-off only against the business or professional income of subsequent years.

Section 112 covers the carry forward and set-off of losses arising from a business or profession.

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Conditions

The assessee's right to carry forward business losses under this section is, however, subject to the following conditions:

(i) The loss should be a loss under the head "Profits and gains of business or profession".

(ii) The loss should not be a loss from speculation business.

(iii) Loss from one business can be carried forward & set-off against the income from any other business: The loss may be carried forward and set-off against the income from business or profession though not necessarily against the profits and gains of the same business or profession in which the loss was incurred.

However, a loss carried forward cannot, under any circumstances, be set-off against the income from any head other than "Profits and gains of business or profession".

(iv) Person who incurred the loss alone is entitled to carry forward & set-off the loss: The loss can be carried forward and set off only against the profits of the assessee who incurred the loss. That is, only the person who has incurred the loss is entitled to carry forward & set off the same. Consequently, the successor of a business cannot carry forward & set off the losses of his predecessor except in the case of succession by inheritance.

(v) Maximum period for carry forward & set-off of losses: Any unabsorbed business loss can be carried forward to the following tax year for a maximum period of **8 tax years** immediately succeeding the tax year for which the loss was first computed.

ILLUSTRATION 3

Mr. B, a resident individual, furnishes the following particulars for the tax year 2026-27:

Particulars	***₹***
Income from salaries (computed)	*45,000*
Income from house property	*(24,000)*
Income from non-speculative business	*(22,000)*
Income from speculative business	*(4,000)*

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Short-term capital losses	*(25,000)*
Long-term capital gains taxable u/s 197	*19,000*

What is the total income chargeable to tax for the tax year 2026-27, assuming that he pays tax under section 202(1)?

SOLUTION

Total income of Mr. B for the tax year 2026-27

Particulars	Amount (₹)	Amount (₹)
Income from salaries		45,000
Income from house property		
Loss from house property can neither be set-off nor can be carried forward, since Mr. B is paying tax under the default tax regime u/s 202(1)	Nil	
Profits and gains of business and profession		
Business loss to be carried forward **[Note (i)]**	(22,000)	
Speculative loss to be carried forward **[Note (ii)]**	(4,000)	
Capital Gains		
Long term capital gain taxable u/s 197	19,000	
Short term capital loss of ₹ 25,000 set off against long-term capital gains to the extent of ₹ 19,000	(19,000)	
	Nil	
Balance short term capital loss of ₹ 6,000 to be carried forward **[Note (iii)]**		
Taxable income		**45,000**

Notes:

(i) Business loss cannot be set-off against salary income. Therefore, loss of ₹ 22,000 from the non-speculative business cannot be set off against the income from salaries. Hence, such loss must be carried forward to the next tax year for set-off against business profits, if any.

(ii) Loss of ₹ 4,000 from the speculative business can be set off only against the income from the speculative business. Hence, such loss must be carried forward.

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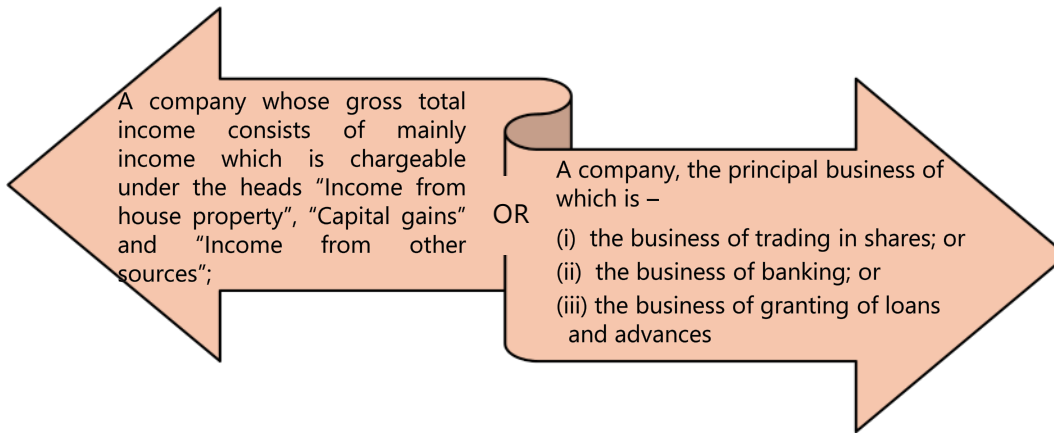
(iii) Short term capital loss can be set off against both short term capital gain and long-term capital gain. Therefore, short-term capital loss of ₹ 25,000 can be set-off against long-term capital gains to the extent of ₹ 19,000. The balance short term capital loss of ₹ 6,000 cannot be set-off against any other income and has to be carried forward to the next tax year for set-off against capital gains, if any.

8. LOSSES IN SPECULATION BUSINESS [SECTION 113]

(i) Meaning of Speculation business - The meaning of the expression 'speculative transaction' as defined in section 66(31) and 'speculation business' as defined in section 26(3) has already been discussed under the head "Profits and gains of business or profession".

(ii) When a business of a company deemed to be carrying on a speculation business: Where any part of the business of a company consists of purchase and sale of shares of other companies, then such company shall be deemed to be carrying on speculation business, to the extent to which its business consists of purchase and sale of such shares.

However, this deeming provision does **not** apply to the following companies –



(iii) Set-off and carry forward & set-off of loss from speculation business: Since speculation is deemed to be a business distinct and separate from any other business carried on by the assessee, the losses incurred in speculation business can neither be set off in the same year against any other non-

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speculation income nor be carried forward and set off against other income in the subsequent years.

Therefore, if the losses sustained by an assessee in a speculation business cannot be set-off in the same year against any other speculation profit, they can be carried forward to subsequent tax years and set-off only against income from any speculation business carried on by the assessee. Loss from the activity of trading in derivatives, however, is not to be treated as speculative loss.

(iv) **Maximum period for carry forward & set-off of losses:** Any unabsorbed loss in speculation business can be carried forward to the following tax year for a **maximum period of 4 tax years** immediately succeeding the tax year for which the loss was first computed.



7.	*A company engaged in the business of purchase and sale of shares of other companies shall not be deemed to be carrying on a speculation business if:*	
	(a)	*The principal business of the company is trading in shares, banking, or granting of loans and advances.*
	(b)	*The gross total income of the company mainly consists of income chargeable under the heads "Income from House Property", "Capital Gains", and "Income from Other Sources".*
	(c)	*Both (a) and (b)*
	(d)	*Either (a) or (b)*
8.	*Mr. Amit has earned salary income of ₹ 6,00,000 during T.Y. 2026-27. He has incurred a loss from house property of ₹ 2,00,000 and a business loss of ₹ 3,00,000. Compute his Gross Total Income if he shifts out of the default tax regime for T.Y. 2026-27.*	
	(a)	*₹ 6,00,000*
	(b)	*₹ 4,00,000*
	(c)	*₹ 1,00,000*
	(d)	*₹ 3,00,000*

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9. CARRY FORWARD & SET OFF OF LOSSES OF SPECIFIED BUSINESSES [SECTION 114]

(i) Set-off and Carry forward & set-off of losses of specified business:

If the assessee exercises the option of shifting out of the default tax regime and carrying on specified business	Any loss computed from specified business referred to in section 46 can be set off only against profits and gains, of any other specified business. The unabsorbed loss, if any, will be carried forward for set off against profits and gains of any specified business in the following tax year and so on.
If the assessee pays tax at concessional rate u/s 202(1)	The deductions under section 46 would not be available; therefore, no PGBP loss can be generated from this specific provision. In such case, the loss, if any, from this business will be normal business loss and such losses can be set off and carry forward as per section 112.

(ii) Loss can be set-off indefinitely: There is no time limit specified for carry forward and set-off and therefore, such loss can be carried forward indefinitely for set-off against income from specified business.

Under the optional tax regime, the loss of an assessee claiming deduction under section 46 in respect of a specified business can be set-off against the profit of another specified business under section 114, irrespective of whether the latter is currently eligible for deduction under section 46. An assessee can, therefore, set-off the losses of a hospital or hotel which begins to operate after 1st April, 2010 and which is eligible for deduction under section 46, against the profits of the existing business of operating a hospital (with atleast 100 beds for patients) or a hotel (of two-star or above category), even if the latter is currently not eligible for deduction under section 46.

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10. LOSSES FROM THE SPECIFIED ACTIVITY [SECTION 115]

(i) **Set-off and Carry forward & set-off of loss:** According to the provisions of section 115, the losses incurred by an assessee from the specified activity shall be set-off only against income from specified activity.

(ii) **Meaning of specified activity:** Activity of owning and maintaining race horses.



Loss from owning and maintaining race horses should **not be confused** with casual winnings from horse races (i.e. betting). No loss shall be allowed to be set off against income from such casual income such as winnings from lotteries, crossword puzzles, race including horse race, card game, and any other game of any sort or from gambling or betting of any form or nature.

(iii) **Maximum period for carry forward & set-off of losses:** If loss from the specified activity cannot be fully set off in the same tax year, the amount of loss not so set off shall be carried forward to the next tax year and set off only against income from that same activity.

Such loss can be carried forward to the following tax year for a **maximum of 4 tax years** immediately succeeding the year for which the loss was first computed.

(iv) **Meaning of certain terms:**

Term	Meaning
Horse race	A horse race upon which wagering or betting maybe lawfully made.
Income by way of stake money	The gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or anyone or more of the horses winning winning a particular position in horse race.
Loss incurred by the assessee in specified activity	The amount by which the income by way of stake money, if any, falls short of the expenditure, not being capital expenditure, incurred wholly and exclusively for maintaining race horses i.e., Loss = Stake money – revenue expenditure for the purpose of owning and maintaining race horses.

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ILLUSTRATION 4

Mr. D has the following income for the tax year 2026-27:

Particulars	***₹***
Income from the activity of owning and maintaining the race horses	*75,000*
Income from textile business	*85,000*
Brought forward textile business loss (relating to tax year 2025-26)	*50,000*
Brought forward loss from the activity of owning and maintaining the race horses (relating to tax year 2023-24)	*96,000*

What is the total income in the hands of Mr. D for the tax year 2026-27?

SOLUTION

Total income of Mr. D for the tax year 2026-27

Particulars	**₹**	**₹**
Income from the activity of owning and maintaining race horses	75,000	
Less: Brought forward loss of ₹ 96,000 from the activity of owning and maintaining race horses set-off to the extent of ₹ 75,000	(75,000)	
	Nil	
Balance loss of ₹ 21,000 (₹ 96,000 – ₹ 75,000) from the activity of owning and maintaining race horses to be carried forward to tax year 2027-28		
Income from textile business	85,000	
Less: Brought forward business loss from textile business	(50,000)	35,000
Total income		**35,000**

Note: Loss from the activity of owning and maintaining race horses cannot be set-off against any other source/head of income.

11. ORDER OF SET-OFF OF LOSSES

As per the provisions of section 112, brought forward business loss is to be set-off before setting off unabsorbed depreciation. Therefore, the order in which set-off will be effected is as follows –

(a) Current year depreciation [Section 33(1)];

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(b) Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.

(c) Brought forward loss from business/profession [Section 112];

(d) Unabsorbed depreciation [Section 33(11)];

(e) Unabsorbed capital expenditure on scientific research [Section 45(7)];

(f) Unabsorbed expenditure on family planning [Section 32(i)].



Is brought forward unabsorbed depreciation treated as brought forward business loss as per section 112?

No, as per section 33(11)(b), the unabsorbed depreciation brought forward from the previous tax year is added to the current year's depreciation and is deemed to form part of the depreciation allowance of the current year. Consequently, the entire depreciation (current year's depreciation plus the brought-forward unabsorbed depreciation) is allowable as deduction in the computation of income for the year. In accordance with section 109, such depreciation being treated as current year's depreciation may be set off against income assessable under any head of income, except income under the head "Salaries".

Since brought-forward unabsorbed depreciation is not treated as a business loss as per section 112, the provisions governing the carry forward and set-off of business losses do not apply to it.

ILLUSTRATION 5

Mr. E has furnished his details for the tax year 2026-27 as under:

Particulars	***₹***
Income from salaries (computed)	*1,50,000*
Income from speculation business	*60,000*
Loss from non-speculation business	*(40,000)*
Short term capital gain	*80,000*
Long term capital loss of tax year 2024-25	*(30,000)*
Winning from lotteries (Gross)	*20,000*

Compute the total income of Mr. E for the tax year 2026-27.

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SOLUTION

Computation of total income of Mr. E for the tax year 2026-27

Particulars	₹	₹
Income from salaries		1,50,000
Income from speculation business	60,000	
Less: Loss from non-speculation business	(40,000)	20,000
Short-term capital gain		80,000
Winnings from lotteries		20,000
Taxable income		**2,70,000**

Note: Long term capital loss can be set off only against long term capital gain. Therefore, long term capital loss of ₹ 30,000 has to be carried forward to the next tax year.

12. SUBMISSION OF RETURN OF LOSSES [SECTION 121]

As per section 121,

- loss under the head "Capital Gains" under section 111(1)
- business loss under section 112(1),
- speculation business loss under section 113(2),
- loss from specified business under section 114(2), in case the assessee exercises the option of shifting out of the default tax regime and
- loss from specified activity i.e., activity of owning and maintaining race horses under section 115(2),

which has not been determined in pursuance of a return filed under section 263(1) cannot be carried forward and set-off. Thus, the assessee must have filed a return of loss under section 263(1) in order to carry forward and set off of such losses. Such a return of loss should be filed within the time allowed under section 263(1).

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This condition does not apply to a loss from house property carried forward under section 110 and unabsorbed depreciation carried forward under section 33(11).



9.	*A person is eligible to claim the following deductions/losses:* *(1) Unabsorbed depreciation* *(2) Current scientific research expenditure* *(3) Current year depreciation* *(4) Brought forward business loss* *The correct order of priority for set-off is:*	
	(a)	*(4), (3), (2) and (1)*
	(b)	*(2), (3), (4) and (1)*
	(c)	*(3), (2), (4) and (1)*
	(d)	*(1), (2), (3) and (4)*
10.	*Mr. Naveen having a sales turnover of ₹ 60 lakhs filed his return of income for the Tax Year 2026-27 after the due date. He has a business loss of ₹ 55,000 and unabsorbed depreciation of ₹ 1,00,000. Which of the following amounts can be carried forward to subsequent tax years for set off?*	
	(a)	*Both unabsorbed business loss of ₹ 55,000 and unabsorbed depreciation of ₹ 1,00,000*
	(b)	*Only unabsorbed business loss of ₹ 55,000*
	(c)	*Neither unabsorbed business loss of ₹ 55,000 nor unabsorbed depreciation of ₹ 1,00,000*
	(d)	*Only unabsorbed depreciation of ₹ 1,00,000*

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LET US RECAPITULATE

Inter-source and Inter-head set-off of losses [Sections 108 & 109]

Section	Provision	Exceptions	
108	**Inter-source set-off of losses under the same head of income** Any loss in respect of one source shall be set-off against income from any other source under the same head of income. For example, - loss from textile business can be set-off against profit from printing business. - loss from one house property can be set-off against income from another house property. - short-term capital loss (STCL) can be set-off against both STCG and LTCG.	(i)	Loss from speculation business can be set-off only against profits and gains from another speculation business.
		(ii)	Long term capital loss (LTCL) can be set-off only against Long term capital gains (LTCG).
		(iii)	Loss from specified activity can be set-off only against income from specified activity (Activity of owning and maintaining race horses).
		(iv)	An assessee carrying on specified business u/s 46 and exercising the option of shifting out of the default tax regime would be eligible for deduction u/s 46. In such a case, loss from specified business under section 46 can be set-off only against profits from any other specified business.
109	**Inter head adjustment** Loss under one head of income can be set-off against income under another head. For example, business loss can be set-off against income from house property.	(i)	Loss under the head "Profits and gains of business or profession" cannot be set off against income under the head "Salaries"
		(ii)	Loss under the head "Capital gains" cannot be set-off against income under any other head.
		(iii)	Loss from speculation business and loss from specified activity cannot be set-off against income under any other head.

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		(iv)	In case of an assessee exercising the option of shifting out of the default tax regime and claiming deduction u/s 46, loss from specified business u/s 46 cannot be set off against income under any other head.
		(v)	The loss under the head "Income from house property" would not be allowable to be set-off against income under the other head and cannot be carried forward if the assessee pays tax at concessional rate u/s 202(1). However, if the assessee exercises the option of shifting out of the default tax regime, loss from house property can be set-off against income under any other head only to the extent of ₹ 2 lakhs. The remaining loss can be carried forward for set-off against income from house property of the succeeding tax year(s).

Losses which cannot be set-off or carried forward

Loss from gambling, betting, card games etc.

Loss from an exempt source [for example, share of loss of partnership firm cannot be set-off against any other business income]

Maximum period of carry forward of losses & Manner of set-off of brought forward losses

Section	Nature of loss to be carried forward	Income against which brought forward loss can be set-off	Maximum period [from the end of the tax year] for carry forward of losses
33(11)	Unabsorbed depreciation	Income under any head other than salaries	Indefinite period

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110	Unabsorbed loss from house property	Income from house property	8 tax years
111	Long-term capital loss	Long-term capital gains	8 tax years
	Short-term capital loss	Short-term/Long-term capital gains	8 tax years
112	Unabsorbed business loss	Profits and gains from business or profession	8 tax years
113	Loss from speculation business	Income from any speculation business	4 tax years
114	Loss from specified business u/s 46, in case of an assessee exercising the option of shifting out of the default tax regime	Profit from any specified business, irrespective of whether such business is eligible for deduction u/s 46.	Indefinite period
115	Loss from specified activity i.e., the activity of owning and maintaining race horses	Income from specified activity.	4 tax years

Order of set-off of losses	
1.	Current year depreciation / Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.
2.	Brought forward loss from business/profession [Section 112(1)]
3.	Unabsorbed depreciation [Section 33(11)]
4.	Unabsorbed capital expenditure on scientific research [Section 45(7)].
5.	Unabsorbed expenditure on family planning [Section 32(i)]

Note - *As per section 121, filing of loss return under section 263(1) within the due date specified under section 263(1) is mandatory for carry forward of the above losses except loss from house property and unabsorbed depreciation.*

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TEST YOUR KNOWLEDGE

1. *Compute the gross total income of Mr. F for the tax year 2026-27 from the information given below –*

Particulars	***₹***
Income from house property (Computed)	*1,25,000*
Income from business (before providing for depreciation)	*1,35,000*
Short term capital gains on sale of unlisted shares	*56,000*
Long term capital loss from sale of property (brought forward from tax year 2025-26)	*(90,000)*
Income from tea business	*1,20,000*
Dividends from Indian companies carrying on agricultural operations (Gross)	*80,000*
Current year depreciation	*26,000*
Brought forward business loss (loss incurred six years ago)	*(45,000)*

2. *Mr. Soohan submits the following details of his income for the tax year 2026-27:*

Particulars	***₹***
Income from salary (computed)	*3,00,000*
Loss from let out house property	*(-) 40,000*
Income from sugar business	*50,000*
Loss from iron ore business for tax year 2021-22 (discontinued in tax year 2022-23)	*(-) 1,20,000*
Short term capital loss	*(-) 60,000*
Long term capital gain	*40,000*
Dividend	*5,000*
Income received from lottery winning (Gross)	*50,000*
Winnings from card games (Gross)	*6,000*
Agricultural income	*20,000*
Short-term capital loss under section 196	*(-) 10,000*
Bank interest on Fixed deposit	*5,000*

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Calculate gross total income and losses to be carried forward, assuming that he has exercised the option of shifting out of the default tax regime.

3. *Mr. Batra furnishes the following details for tax year year ending 31.03.2027:*

Particulars	**₹**
Short term capital gain	*1,40,000*
Loss from speculative business	*60,000*
Long term capital gain on sale of land	*30,000*
Long term capital loss on sale of unlisted shares	*1,00,000*
Income from business of textile (after allowing current year depreciation)	*50,000*
Income from activity of owning and maintaining race horses	*15,000*
Income from salary (computed)	*1,00,000*
Loss from house property	*40,000*

Following are the brought forward losses:

(i) Losses from activity of owning and maintaining race horses-pertaining to tax year 2023-24 - ₹25,000.

(ii) Brought forward loss from business of textile ₹60,000 - Loss pertains to tax year 2018-19.

Compute gross total income of Mr. Batra for the tax year 2026-27, assuming that he has exercised the option of shifting out of the default tax regime. Also determine the losses eligible for carry forward to the tax year 2027-28.

4. *Mr. A furnishes you the following information for the tax year ended 31.03.2027:*

		(₹)
(i)	*Income from plying of vehicles (Computed as per books) (He owned 5 light goods vehicle throughout the year)*	*3,20,000*
(ii)	*Income from retail trade of garments (Computed as per books)* *(Sales turnover ₹1,35,70,000)* *Mr. A had declared income on presumptive basis for the first time in tax year 2025-26. Assume 10% of the turnover during the tax year 2026-27 was received in cash and*	*7,50,000*

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	balance through A/c payee cheque and all the payments in respect of expenditure were also made through A/c payee cheque or debit card.	
(iii)	*He has brought forward depreciation relating to tax year 2024-25*	*1,00,000*

Compute taxable income of Mr. A and his tax liability for the tax year 2026-27 with reasons for your computation, assuming that he exercises the option of shifting out of the default tax regime.

5. *Mr. Aditya furnishes the following details for the tax year ended 31-03-2027:*

Particulars	***Amount (₹)***
Loss from speculative business A	*25,000*
Income from speculative business B	*5,000*
Loss from specified business covered under section 46	*20,000*
Income from salary (computed)	*3,00,000*
Loss from let out house property	*2,50,000*
Income from trading business	*45,000*
Long-term capital gain from sale of urban land	*2,00,000*
Long-term capital loss on sale of shares (STT not paid)	*75,000*
Long-term capital loss on sale of listed shares in recognized stock exchange (STT paid at the time of acquisition and sale of shares)	*1,02,000*

Following are the brought forward losses:

(1) Losses from owning and maintaining of race horses pertaining to tax year 2024-25 ₹2,000.

(2) Brought forward loss from trading business ₹ 5,000 relating to tax year 2021-22.

Compute the total income of Mr. Aditya and show the items eligible for carry forward, assuming that he exercises the option of shifting out of the default tax regime.

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6. *Mr. Garg, a resident individual, furnishes the following particulars of his income and other details for the tax year 2026-27:*

	Particulars	₹
(1)	Income from Salary (computed)	15,000
(2)	Income from business	66,000
(3)	Long term capital gain on sale of land	10,800
(4)	Loss on maintenance of race horses	15,000
(5)	Loss from gambling	9,100

The other details of unabsorbed depreciation and brought forward losses pertaining to tax year 2025-26 are as follows:

	Particulars	₹
(1)	Unabsorbed depreciation	11,000
(2)	Loss from Speculative business	22,000
(3)	Short term capital loss	9,800

Compute the Gross total income of Mr. Garg for the tax year 2026-27 and the amount of loss, if any that can be carried forward or not.

7. *The following are the details relating to Mr. Srivatsan, a resident Indian, aged 57, relating to the tax year ended 31.3.2027:*

Particulars	₹
Income from salaries (computed)	2,20,000
Loss from house property	1,90,000
Loss from cloth business	2,40,000
Income from speculation business	30,000
Loss from specified business covered by section 46	20,000
Long-term capital gains from sale of urban land	2,50,000
Loss from card games	32,000
Income from betting (Gross)	45,000

Compute the gross total income and show the items eligible for carry forward, assuming that he has exercised the option of shifting out of the default tax regime.

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8. *Mr. Rajat submits the following information for the tax year ending 31st March, 2027. He decides to pay tax under the default tax regime u/s 202(1). He desires that you should:*

(a) Compute the total income; and

(b) Ascertain the amount of losses that can be carried forward.

Particulars				₹
(i)	He has two let out house property:			
	(a)	House No. I – Income after all statutory deductions		72,000
	(b)	House No. II – Current year loss		(30,000)
(ii)	He has three proprietary businesses:			
	(a)	Textile Business:		
		(i)	Discontinued from 31st October, 2025 – Current year loss	40,000
		(ii)	Brought forward business loss of tax year 2021-22	95,000
	(b)	Chemical Business:		
		(i)	Discontinued from 1st March, 2023 – hence no profit/loss	Nil
		(ii)	Bad debts allowed in earlier years recovered during this year	35,000
		(iii)	Brought forward business loss of tax year 2022-23	50,000
	(c)	Leather Business: Profit for the current year		1,00,000
	(d)	Share of profit in a firm in which he is partner since 2009		16,550
(iii)	(a)	Short-term capital gain		60,000
	(b)	Long-term capital loss		35,000
(iv)	Contribution to LIC towards premium			10,000

9. *Ms. Geeta, a resident individual, provides the following details of her income/ losses for the year ended 31.3.2027:*

(i) Salary received as a partner from a partnership firm ₹7,50,000. The same was allowed to the firm.

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(ii) *Loss on sale of shares listed in BSE ₹ 3,00,000. Shares were held for 15 months and STT paid on sale and acquisition.*

(iii) *Long-term capital gain on sale of land ₹ 5,00,000.*

(iv) *₹ 51,000 received in cash from friends in party.*

(v) *₹ 55,000, being dividend income on listed equity shares of domestic companies.*

(vi) *Brought forward business loss of tax year 2025-26 ₹ 12,50,000.*

Compute gross total income of Ms. Geeta for the tax year 2026-27 and ascertain the amount of loss that can be carried forward.

10. *Mr. P, a resident individual, furnishes the following particulars of his income and other details for the tax year 2026-27:*

Sl. No.	Particulars	₹
(i)	Income from salary (computed)	18,000
(ii)	Net annual value of house property	70,000
(iii)	Income from business	80,000
(iv)	Income from speculative business	12,000
(v)	Long term capital gain on sale of land	15,800
(vi)	Loss on maintenance of race horse	9,000
(vii)	Loss on gambling	8,000

Depreciation allowable under the Income-tax Act, 2025, comes to ₹ 8,000, for which no treatment is given above.

The other details of unabsorbed depreciation and brought forward losses (pertaining to tax year 2025-26) are:

Sl. No.	Particulars	₹
(i)	Unabsorbed depreciation	9,000
(ii)	Loss from speculative business	16,000
(iii)	Short term capital loss	7,800

Compute the gross total income of Mr. P for the tax year 2026-27, and the amount of loss that can or cannot be carried forward.

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11. *Mr. Prakash furnishes the following information for the tax year 2026-27:*

Particulars	₹
Loss from speculation business-X	*85,000*
Profit from speculation business-Y	*45,000*
Interest on borrowings in respect of self-occupied house property	*3,18,000*
Income from let out house property	*1,20,000*
Presumptive Income from trading and manufacturing business under section 58	*1,00,000*
Salary from XYZ (P) Ltd.	*5,25,000*
Interest on PPF deposit	*75,000*
Long term capital gain on sale of Vacant site	*1,25,000*
Short term capital loss on sale of Jewellery	*65,000*
Investment in tax saver deposit on 31-03-27	*60,000*

Compute the total income of Mr. Prakash for the tax year 2026-27 also show the loss eligible to be carried forward. Assume that he has opted out of the default tax regime.

12. *Mr. Jaji is a chartered accountant and his income from profession for the year 2026-27 is ₹ 10,00,000. He provides you with the following information for the year 2026-27.*

Particulars	₹
Income of minor son Biju from company deposit	*1,50,000*
Income of minor daughter Chitra (professional dancer)	*20,00,000*
Interest from SBI received by Chitra on deposit made in 2026 out of her special talent	*20,000*
Gift received by Chitra on 30-09-2026 from friends of Mr. Jaji on winning National award	*45,000*
Short term capital loss of Mr. Jaji	*6,00,000*
Long term capital gain of Mr. Jaji	*4,00,000*
Long term capital gains from shares (STT paid) of Mr. Jaji	*10,00,000*
Short term capital loss under section 196 of Mr. Jaji	*10,00,000*

Compute the total income of Mr. Jaji for tax year 2026-27 and the losses to be carried forward. Mr. Jaji has opted out of the default tax regime.

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ANSWERS

1. Gross Total Income of Mr. F for the tax year 2026-27

Particulars	₹	₹
Income from house property (Computed)		1,25,000
Income from business		
Profits before depreciation	1,35,000	
Less: Current year depreciation	(26,000)	
Less: Brought forward business loss	(45,000)	
	64,000	
Income from tea business (40% is business income)	48,000	1,12,000
Capital gains		
Short-term capital gains		56,000
Income from Other Sources		
Dividend income		80,000
Gross Total Income		**3,73,000**

Notes:

(1) 60% of the income from tea business is treated as agricultural income and therefore, exempt from tax;

(2) Long-term capital loss can be set-off only against long-term capital gains. Therefore, long-term capital loss of ₹ 90,000 brought forward from tax year 2025-26 cannot be set-off in the tax year 2026-27, since there is no long-term capital gains in that year. It has to be carried forward for set-off against long-term capital gains, if any, during tax year 2027-28.

2. Computation of Gross Total Income of Mr. Soohan for the tax year 2026-27

Particulars	₹	₹
Salaries		
Income from salary	3,00,000	
Less: Loss from house property set-off against salary income as per section 109	(40,000)	2,60,000

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Profits and gains of business or profession		
Income from sugar business	50,000	
Less: Brought forward loss of ₹ 1,20,000 from iron-ore business set-off as per section 112(1) to the extent of ₹ 50,000	(50,000)	Nil
Balance business loss of ₹ 70,000 of tax year 2021-22 to be carried forward to tax year 2027-28		
Capital gains		
Long term capital gain	40,000	
Less: Short term capital loss of ₹ 60,000 set-off to the extent of ₹ 40,000	(40,000)	Nil
Balance short-term capital loss of ₹ 20,000 to be carried forward to tax year 2027-28		
Short-term capital loss of ₹ 10,000 u/s 196 also to be carried forward		
Income from other sources		
Dividend	5,000	
Winnings from lottery	50,000	
Winnings from card games	6,000	
Bank FD interest	5,000	66,000
Gross Total Income		**3,26,000**
Losses to be carried forward to tax year 2027-28		
Loss of iron-ore business (₹ 1,20,000 – ₹ 50,000)	70,000	
Short term capital loss (₹ 20,000 + ₹ 10,000)	30,000	

Note: Agricultural income is exempt under Schedule II (Table: S. No. 1).

3. Computation of Gross Total Income of Mr. Batra for the tax year 2026-27

Particulars	₹	₹
Salaries	1,00,000	
Less: Current year loss from house property	(40,000)	60,000

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Profit and gains of business or profession		
Income from textile business	50,000	
Less: Loss of ₹ 60,000 from textile business b/f from tax year 2018-19 set-off to the extent of ₹ 50,000 **[See Note 1]**	(50,000)	NIL
Income from specified activity i.e., the activity of owning and maintaining race horses	15,000	
Less: Loss of ₹ 25,000 from specified activity i.e., activity of owning and maintaining race horses b/f from tax year 2023-24 set-off to the extent of ₹ 15,000	(15,000)	NIL
Balance loss of ₹ 10,000 to be carried forward to tax year 2027-28 **[See Note 2]**		
Capital Gain		
Short term capital gain		1,40,000
Long term capital gain on sale of land	30,000	
Less: Long term capital loss of ₹ 1,00,000 on sale of unlisted shares set-off to the extent of ₹ 30,000	(30,000)	NIL
Balance loss of ₹ 70,000 to be carried forward to tax year 2027-28 **[See Note 3]**		
Gross Total Income		**2,00,000**

Losses to be carried forward to tax year 2027-28

Particulars	₹
Current year loss from speculative business **[See Note-4]**	60,000
Current year long term capital loss on sale of unlisted shares	70,000
Loss from specified activity i.e., activity of owning and maintaining of race horse pertaining to tax year 2023-24	10,000

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Notes: -

(1) As per section 112, business loss can be carried forward for a maximum of eight tax years immediately succeeding the tax year for which the loss was first computed. Since the eight year period for carry forward of business loss of tax year 2018-19 expired in the tax year 2026-27, the balance unabsorbed business loss of ₹ 10,000 cannot be carried forward to tax year 2027-28.

(2) As per section 115, the loss from specified activity cannot be set-off against income from any source other than specified activity i.e., the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 tax years.

(3) Long-term capital loss on sale of unlisted shares can be set-off against long-term capital gain on sale of land. The balance loss of ₹ 70,000 cannot be set-off against short term capital gain or against any other head of income. The same has to be carried forward for set-off against long-term capital gain of the subsequent tax year. Such long-term capital loss can be carried forward for a maximum of eight tax years.

(4) Loss from speculation business cannot be set-off against any income other than profit and gains of another speculation business. Such loss can, however, be carried forward for a maximum of four years as per section 113 to be set-off against income from speculation business.

4. Computation of total income and tax liability of Mr. A for the tax year 2026-27

Particulars	₹
Income from retail trade – as per books **(See Note 1 below)**	7,50,000
Income from plying of vehicles – as per books **(See Note 2 below)**	3,20,000
	10,70,000
Less : Set off of b/f depreciation relating to tax year 2024-25	(1,00,000)
Total income	**9,70,000**
Tax liability	1,06,500
Add: Health and Education cess@4%	4,260
Total tax liability	**1,10,760**

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Note:

1. **Income from retail trade:** Presumptive business income under section 58(2) (Table: S. No. 1) is ₹ 8,41,340 i.e., 8% of ₹ 13,57,000, being 10% of the turnover received in cash and 6% of ₹ 1,22,13,000, being the amount of sales turnover received through specified banking or online mode. However, the income computed as per books is ₹ 7,50,000 which is to be further reduced by the amount of unabsorbed depreciation of ₹ 1,00,000. Since the income computed as per books is lower than the income deemed under section 58, the assessee can adopt the income as per books.

   However, if he does not declare profits as per presumptive taxation under section 58, he has to get his books of accounts audited under section 63, since his turnover exceeds ₹ 1 crore (the enhanced limit of ₹ 10 crore would not be available, since more than 5% of the turnover is received in cash). Also, his case would be falling under section 58(3) and hence, tax audit is mandatory. It may further be noted that he cannot declare income under presumptive provisions under section 58 for next five tax years, if he does not declared profits as per presumptive provisions under section 58 this year.

2. **Income from plying of light goods vehicles:** Income calculated under section 58(2) (Table: S. No. 2) would be ₹ 7,500 x 12 x 5 which is equal to ₹ 4,50,000. However, the income from plying of vehicles as per books is ₹ 3,20,000, which is lower than the presumptive income of ₹ 4,50,000 calculated as per section 58(2) (Table S. No. 2). Hence, the assessee can adopt the income as per books i.e. ₹ 3,20,000, provided he maintains books of account as per section 62 and gets his accounts audited and furnishes an audit report as required under section 63.

   It is to be further noted that in both the above cases, if income is declared under presumptive provisions, no loss, allowance or deduction shall be allowable against income computed as per section 58(2).

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If income is declared as per presumptive provisions, his total income would be as under:

Particulars	₹
Income from retail trade under section 58 [₹ 13,57,000@ 8% plus ₹ 1,22,13,000 @6%]	8,41,340
Income from plying of light goods vehicles under section 58 [₹ 7,500 x 12 x 5]	4,50,000
	12,91,340
Less: Set off of brought forward depreciation – not possible as it is deemed that it has been allowed and set off	Nil
Total income	**12,91,340**
Tax thereon	1,99,902
Add : Health and Education cess @4%	7,996
Total tax liability	**2,07,898**
Total tax liability (rounded off)	**2,07,900**

5. Computation of total income of Mr. Aditya for the tax year 2026-27

Particulars	₹	₹
Salaries		
Income from Salary	3,00,000	
Less: Loss from house property set-off against salary income as per section 109 [Loss from house property to the extent of ₹ 23,000 can be set off first against remaining capital gain and then balance ₹ 1,77,000 against Salaries]	(1,77,000)	1,23,000
Loss from house property to the extent not set off i.e. ₹ 50,000 (₹ 2,50,000 – ₹ 2,00,000) to be carried forward to tax year 2027-28		
Profits and gains of business or profession		
Income from trading business	45,000	
Less: Brought forward loss from trading business of tax year 2021-22 can be set off against current year income from trading business as per section		

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112, since the eight year time limit as specified under section 112, within which set-off is permitted, has not expired.	(5,000)	40,000
Income from speculative business B	5,000	
Less: Loss of ₹ 25,000 from speculative business A set-off as per section 113 to the extent of ₹ 5,000	(5,000)	Nil
Balance loss of ₹ 20,000 from speculative business A to be carried forward to tax year 2027-28 as per section 113		
Loss of ₹ 20,000 from specified business covered under section 46 to be carried forward for set-off against income from specified business as per section 114.		
Capital Gains		
Long term capital gain on sale of urban land	2,00,000	
Less: Long term capital loss on sale of shares (STT not paid) set-off as per section 111]	(75,000)	
Less: Long-term capital loss on sale of listed shares on which STT is paid can also be set-off as per section 111, since long-term capital arising on sale of such shares is taxable under section 198	(1,02,000)	
Less: Set-off of loss from house property to the extent of	(23,000)	Nil
Total Income		**1,63,000**

Items eligible for carried forward to tax year 2027-28

Particulars	₹
Loss from House property	50,000
As per section 109, loss from house property can be set-off against any other head of income to the extent of ₹ 2,00,000 since Mr. Aditya is exercising the option of shifting out of the default tax regime.	
As per section 110, balance loss not set-off can be carried forward to the next year for set-off against income from house property of that year. It can be carried forward for a maximum of eight tax years i.e., upto Tax Year 2034-35, in this case.	

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Loss from speculative business A Loss from speculative business can be set-off only against profits and gains from any other speculation business. As per section 113, balance loss not set-off can be carried forward to the next year for set-off against speculative business income of that year. Such loss can be carried forward for a maximum of four tax years i.e., upto Tax Year 2030-31, in this case, as specified under section 113.	20,000
Loss from specified business Loss from specified business under section 46 can be set-off only against profits and gains of any other specified business. If loss cannot be so set-off, the same has to be carried forward to the subsequent year for set off against income from specified business, if any, in that year. As per section 114, such loss can be carried forward indefinitely for set-off against profits of any specified business. Mr. Aditya is entitled to deduction u/s 46, since he has exercised the option of shifting out of the default tax regime. He can, accordingly, carry forward loss from such business indefinitely for set off against profits of any other specified business.	20,000
Loss from specified activity i.e., the activity of owning and maintaining race horses Losses from the activity of owning and maintaining race horses (current year or brought forward) can be set-off only against income from specified activity i.e., the activity of owning and maintaining race horses. If it cannot be so set-off, it has to be carried forward to the next year for set-off against income from the activity of owning and maintaining race horses, if any, in that year. It can be carried forward for a maximum of four tax years, i.e., upto Tax Year 2028-29, in this case, as specified under section 115.	2,000

6. Computation of Gross Total Income of Mr. Garg for the tax year 2026-27

Particulars	₹	₹
(i) Income from salary		15,000
(ii) Profits and gains of business or profession	66,000	
Less: Unabsorbed depreciation brought forward from tax year 2025-26 (Unabsorbed depreciation can be set-off against any head of income other than "salary")	(11,000)	55,000

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(iii) Capital gains		
Long-term capital gain on sale of land	10,800	
Less: Brought forward short-term capital loss [Short-term capital loss can be set-off against both short-term capital gains and long-term capital gains as per section 111]	(9,800)	1,000
Gross Total Income		**71,000**

Amount of loss to be carried forward to tax year 2027-28

	Particulars	₹
(1)	**Loss from speculative business [to be carried forward as per section 113]** [Loss from a speculative business can be set off only against income from another speculative business. Since there is no income from speculative business in the current year, the entire loss of ₹ 22,000 brought forward from tax year 2025-26 has to be carried forward to tax year 2027-28 for set-off against speculative business income of that year. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 113, i.e., upto tax year 2029-30]	22,000
(2)	**Loss on maintenance of race horses [to be carried forward as per section 115]** [As per section 115, the loss incurred in the activity of owning and maintaining race horses in any tax year cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum of four tax years i.e., upto tax year 2030-31]	15,000
(3)	**Loss from gambling can neither be set-off nor be carried forward.**	

7. Computation of total income of Mr. Srivatsan for the tax year 2026-27

Particulars	₹	₹
Salaries		
Income from Salaries	2,20,000	
Less: Set off of balance loss of ₹ 1,50,000 from house property	(1,50,000)	70,000

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Profits and gains of business or profession		
Income from speculation business	30,000	
Less: Loss from cloth business of ₹ 2,40,000 set off to the extent of ₹ 30,000	(30,000)	Nil
Capital gains		
Long-term capital gains from sale of urban land	2,50,000	
Less: Set-off of balance loss of ₹ 2,10,000 from cloth business	(2,10,000)	
Less: Set-off of loss from house property to the extent of	(40,000)	Nil
Income from other sources		
Income from betting		45,000
Gross Total Income		1,15,000

Losses to be carried forward:

Particulars	₹
(1) Loss from cloth business (₹ 2,40,000 – ₹ 30,000 – ₹ 2,10,000)	Nil
(2) Loss from specified business covered by section 46	20,000

Notes:

(i) Loss from specified business covered by section 46 can be set-off only against profits and gains of any other specified business. Therefore, such loss cannot be set off against any other income. The unabsorbed loss has to be carried forward for set-off against profits and gains of any specified business in the following year. Mr. Srivatsan is entitled to deduction u/s 46, since he has exercised the option of shifting out of the default tax regime. Therefore, he can carry forward loss of ₹ 20,000 from specified business referred u/s 46 indefinitely for set off against profits of any specified business.

(ii) Business loss cannot be set off against salary income. However, the balance business loss of ₹ 2,10,000 (₹ 2,40,000 – ₹ 30,000 set-off against income from speculation business) can be set-off against long-term capital gains of ₹ 2,50,000 from sale of urban land.

(iii) Loss from card games can neither be set off against any other income, nor can be carried forward.

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(iv) Income from betting is chargeable at a flat rate of 30% under section 194 and no expenditure or allowance can be allowed as deduction from such income, nor can any loss be set-off against such income.

8. Computation of total income of Mr. Rajat for the tax year 2026-27

Particulars	₹	₹
1. Income from house property		
House No.1	72,000	
House No.2	(-) 30,000	42,000
2. Profits and gains of business or profession		
Profit from leather business	1,00,000	
Bad debts recovered taxable under section 38(1)(d)	35,000	
	1,35,000	
Less: Current year loss of textile business	(-) 40,000	
	95,000	
Less: Brought forward business loss of textile business for tax year 2021-22 set off against the business income of current year	(-) 95,000	Nil
3. Capital Gains		
Short-term capital gain		60,000
Gross Total Income		**1,02,000**
Less: Deduction under Chapter VIII		
Under section 123 – LIC premium paid (not available since he is paying tax under the default tax regime)		-
Total Income		**1,02,000**

Statement of losses to be carried forward to tax year 2027-28

Particulars	₹
Brought forward chemical business loss of tax year 2022-23 to be carried forward u/s 112	50,000
Long term capital loss of tax year 2026-27 to be carried forward u/s 111	35,000

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Notes:

(1) Share of profit from firm of ₹ 16,550 is exempt under Schedule III (Table: Sl. No. 2).

(2) Long-term capital loss cannot be set-off against short-term capital gains. Therefore, it has to be carried forward to the next year to be set-off against long-term capital gains of that year.

9. Computation of Gross Total Income of Ms. Geeta for the tax year 2026-27

Particulars		₹
Profits and gains of business and profession		
Salary received as a partner from a partnership firm is taxable under the head "Profits and gains of business and profession"		7,50,000
Less: B/f business loss of tax year 2025-26 ₹ 12,50,000 to be set-off to the extent of ₹ 7,50,000		(7,50,000)
		Nil
(Balance b/f business loss of ₹ 5,00,000 can be carried forward to the next year)		
Capital Gains		
Long term capital gain on sale of land	5,00,000	
Less: Long-term capital loss on shares on STT paid **(See Note 2 below)**	(3,00,000)	2,00,000
Income from other sources		
Cash gift received from friends - since the value of cash gift exceeds ₹ 50,000, the entire sum is taxable	51,000	
Dividend income from a domestic company	55,000	1,06,000
Gross Total Income		**3,06,000**

Notes:

1. Balance brought forward business loss of tax year 2025-26 of ₹ 5,00,000 has to be carried forward to the next tax year.

2. Long-term capital loss on sale of shares on which STT is paid at the time of acquisition and sale can be set-off against long-term capital gain on sale of land since long-term capital gain on sale of shares (STT paid) is

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taxable under section 198. Therefore, it can be set-off against long-term capital gain on sale of land as per section 108.

10. Computation of Gross Total Income of Mr. P for the tax year 2026-27

Particulars		₹	₹
(i)	**Income from salary**		18,000
(ii)	**Income from House Property**		
	Net Annual Value	70,000	
	Less: Deduction under section 22(1) (30% of ₹ 70,000)	(21,000)	49,000
(iii)	**Income from business and profession**		
	(a) Income from business	80,000	
	Less : Current year depreciation	(8,000)	
		72,000	
	Less : Unabsorbed depreciation	(9,000)	63,000
	(b) Income from speculative business	12,000	
	Less : B/f loss of ₹ 16,000 from speculative business set-off to the extent of ₹ 12,000	(12,000)	Nil
	(Balance loss of ₹ 4,000 (i.e. ₹ 16,000 – ₹ 12,000) can be carried forward to the next year)		
(iv)	**Income from capital gain**		
	Long-term capital gain on sale of land	15,800	
	Less: Brought forward short-term capital loss	(7,800)	8,000
Gross total income			**1,38,000**

Amount of loss to be carried forward to the next tax year

Particulars	₹
Loss from speculative business (to be carried forward as per section 113)	4,000
Loss on maintenance of race horses (to be carried forward as per section 115)	9,000

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Notes:

(i) Loss on gambling can neither be set-off nor be carried forward.

(ii) As per section 115, the loss from specified activity cannot be set-off against income from any other source other than the specified activity. Such loss can be carried forward for a maximum period of 4 tax years.

(iii) Brought forward speculative business loss can be set off only against income from speculative business of the current year and the balance loss can be carried forward to tax year 2027-28. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 113.

11. Computation of total income of Mr. Prakash for tax year 2026-27

Particulars	₹	₹
Salary from XYZ (P) Ltd.	5,25,000	
Less: Standard Deduction u/s 19(1) (Table: S. No. 2)	50,000	
	4,75,000	
Less: Loss from house property of ₹ 20,000 [₹ 80,000 - ₹ 60,000, being the loss set-off against long-term capital gains]	(20,000)	4,55,000
Income from house property		
Income from let out house property	1,20,000	
Less: Loss from self-occupied house property to the extent of ₹ 2 lakhs, allowable as deduction u/s 22(2) in respect of interest on borrowings	(2,00,000)	
	(80,000)	
Profits and gains from business or profession		
Profit from speculation business Y	45,000	
Less: Loss of ₹ 85,000 from speculation business X set-off against profit from speculation business Y to the extent of such profit	(45,000)	Nil
Presumptive Income from trading and manufacturing business		1,00,000

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Capital Gains		
Long term capital gain on sale of vacant site	1,25,000	
Less: Short term capital loss on sale of jewellery	(65,000)	
	60,000	
Less: Loss from house property to be set-off to the extent of LTCG	(60,000)	Nil
Income from Other Sources		
Interest on PPF deposit	75,000	
Less: Exempt	75,000	Nil
Gross Total Income		**5,55,000**
Less: Deduction under Chapter VIII		
Deduction under section 123		
Investment in tax saver deposit on 31.3.2027		60,000
Total Income		**4,95,000**

Losses to be carried forward to tax year 2027-28

Particulars	₹
Loss from speculation business X (₹ 85,000 - ₹ 45,000) Loss from speculation business can be set-off only against profits of any other speculation business. If loss cannot be so set-off, the same has to be carried forward to the subsequent year for set off against income from speculation business, if any, in that year.	40,000

12. Computation of Total Income of Mr. Jaji for tax year 2026-27

Particulars	₹	₹	₹
Profits and gains from business and profession			
Income from chartered accountancy profession			10,00,000
Capital gains			
Long term capital gains from STT paid shares		10,00,000	

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Long term capital gain (other than above)		4,00,000	
		14,00,000	
Less: Short term capital loss set off against long-term capital gain as per section 108		(6,00,000)	
Less: Short term capital loss u/s 196 set off against long-term capital gain as per section 108 to the extent of		(8,00,000)	Nil
Income from other sources			
Income of minor son Biju			
Income from company deposit includible in the hands of Mr. Jaji as per section 99(1)(c)	1,50,000		
Less: Exemption in respect of income of minor child under schedule III (Table: S. No. 17)	1,500	1,48,500	
Income of minor daughter Chitra			
- Income of ₹ 20,00,000 of minor daughter Chitra (professional dancer) not includible in the hands of parent, since such income is earned on account of her special skills	Nil		
- Interest received on deposit with SBI made out of amount earned on account of her special talent is includible as per section 99(1)(c), since interest income arises out of deposit made and not on account of her special skills	20,000		
Less: Exemption in respect of income of minor child under Schedule III (Table: S. No. 17)	1,500	18,500	

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Other incomes: - Gift of ₹ 45,000 received by her from friends of Mr. Jaji is not taxable under section 92(2)(m), since the aggregate amount from non-relatives does not exceed ₹ 50,000		Nil	1,67,000
Total Income			**11,67,000**

Losses to be carried forward to tax year 2027-28

Particulars	₹
Short term capital loss under section 196	2,00,000

Note – Short-term capital loss under section 196 can be set-off against long-term capital gains first. In such a case, the losses to be carried forward to tax year 2027-28 would be as under –

Particulars	₹
Short term capital loss (other than u/s 196)	2,00,000



Q.NO.	ANSWERS	
1.	(b)	Speculation business loss can be set off only against speculation business profits.
2.	(a)	Income chargeable under the head "Salaries"
3.	(a)	(i) Inter-source set-off; (ii) Inter-head set-off; and (iii) Set-off of brought forward losses.
4.	(d)	Either (a) or (b)
5	(a)	Nil
6	(d)	Cannot be set off against income under any other head
7	(d)	Either (a) or (b)
8	(b)	₹ 4,00,000
9.	(c)	(3), (2), (4) and (1)
10.	(d)	Only unabsorbed depreciation of ₹ 1,00,000

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CHAPTER 6

DEDUCTIONS FROM GROSS TOTAL INCOME



LEARNING OUTCOMES

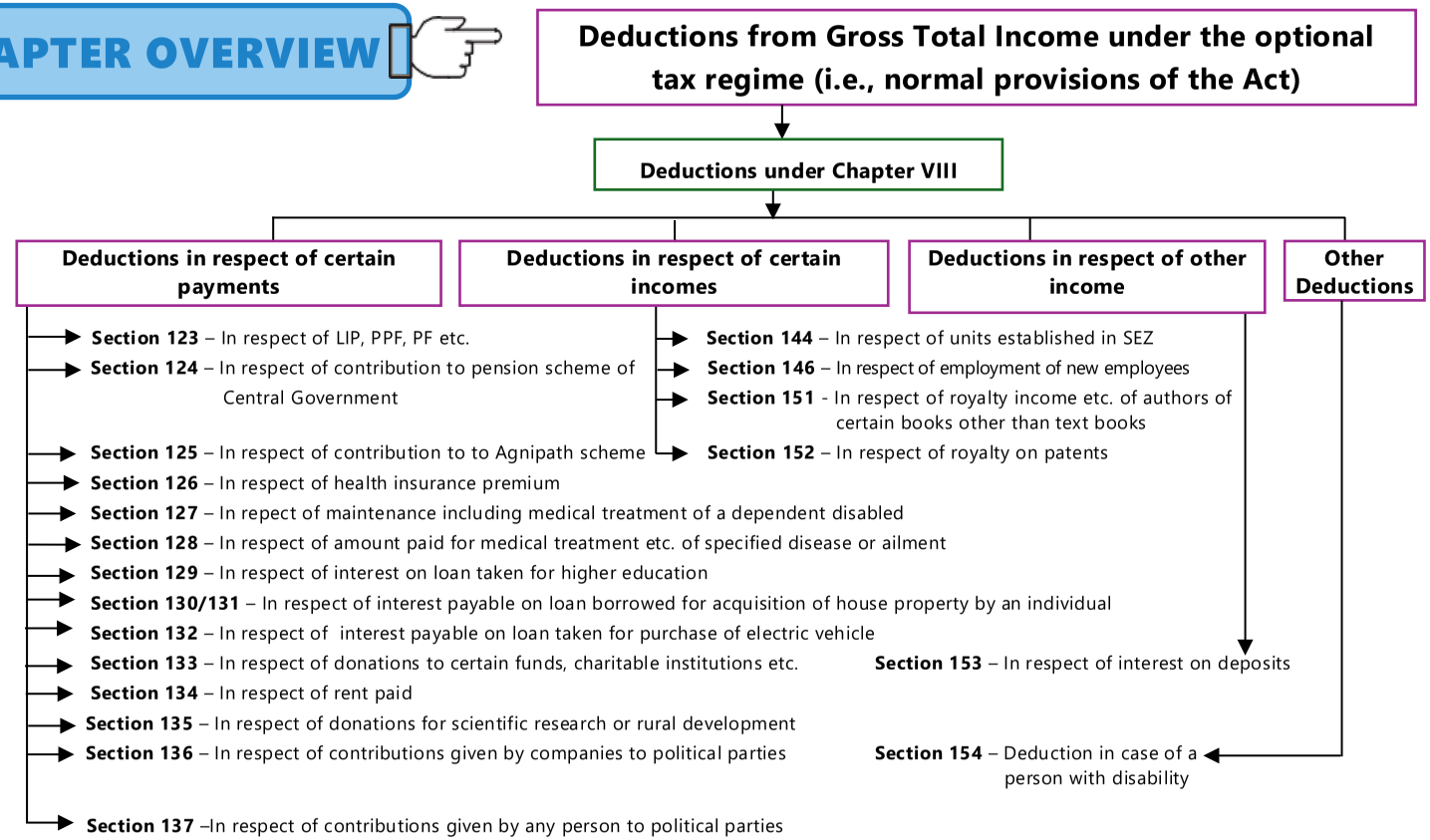
After studying this chapter, you would be able to –

- **appreciate** the types of deductions allowable from gross total income under the default tax regime;
- **appreciate** the types of deductions allowable from gross total income, if the assessee has exercised the option of shifting out of the default tax regime and is paying tax under the optional tax regime as per the normal provisions of the Act;
- **identify** the assessees eligible for deduction under various sections;
- **compute** deductions in respect of payments, applying the provisions under the relevant sections;
- **compute** deductions in respect of certain income, applying the provisions under the relevant sections;
- **compute** the deduction allowable in the case of a person with disability.

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CHAPTER OVERVIEW



Note – *Only deductions u/s 124(1)/(2) [Employer's contribution to pension scheme of Central Government], 125(2) [Central Government's contribution to assessee's account in Agniveer Corpus Fund] and section 146 would be available if the eligible assessee pays tax at concessional rates of tax u/s 202(1) under the default tax regime.*

1. STRUCTURED SECTIONAL LEARNING

Section	Particulars
122	Deductions to be made in computing total income
123	Deduction for life insurance premia, deferred annuity, contributions to provident fund, etc.
124	Deduction in respect of employer and assessee contribution to pension scheme of Central Government
125	Deduction in respect of contribution to Agnipath Scheme
126	Deduction in respect of health insurance premia
127	Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability
128	Deduction in respect of medical treatment, etc.
129	Deduction in respect of interest on loan taken for higher education
130	Deduction in respect of interest on loan taken for residential house property
131	Deduction in respect of interest on loan taken for certain house property
132	Deduction in respect of purchase of electric vehicle
133	Deduction in respect of donations to certain funds, charitable institutions, etc.
134	Deductions in respect of rents paid
135	Deduction in respect of certain donations for scientific research or rural development
136	Deduction in respect of contributions given by companies to political parties
137	Deduction in respect of contributions given by any person to political parties

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144	Special provisions in respect of units established in Special Economic Zones
146	Deduction in respect of additional employee cost
151	Deduction in respect of royalty income, etc., of authors of certain books other than text-books
152	Deduction in respect of royalty on patents
153	Deduction for interest on deposits
154	Deduction in case of a person with disability

2. GENERAL PROVISIONS

Section 11 provides that certain incomes specified in the schedules shall not be included in computing the total income of any person and do not enter into the computation process at all. These incomes are known as exempted incomes. "**Exemption**" means exclusion.

On the other hand, Chapter VIII contains deductions from gross total income. There are incomes which are included in gross total income but are wholly or partly allowed as deduction under Chapter VIII in computation of total income, if the assessee has exercised the option of shifting out of the default tax regime and pays tax as per the optional tax regime under the normal provisions of the Act.

Deduction is allowed on specific investments or expenses incurred by the taxpayer to promote the culture of savings and investments. This could include medical expenditure, donations made to charitable institutions, investments made in specific avenues such as Public Provident Fund (PPF), National Pension Scheme (NPS) etc.

However, if the assessee pays tax under default tax regime u/s 202(1), only deduction in respect of employer's contribution to NPS u/s 124(1)/(2), Central Government's contribution to Agnipath Scheme u/s 125(2) and deduction in respect of employment of new employees u/s 146 would be allowed to the assessee. He cannot claim deduction under any other provision in Chapter VIII under the default tax regime.

The tax liability is calculated on the "total income" which is arrived at after reducing permissible deductions from gross total income.

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Students should note this very important difference between exemption under section 11 read with schedules and deduction under Chapter VIII.

Difference between Deduction under Chapter VIII and exemption under section 11 read with schedules		
Particulars	**Deduction**	**Exemption**
Meaning	Investments/ contributions in certain instruments (as prescribed under the Income-tax Act). Payments made for certain purposes.	The incomes which are specified under schedules will not be included in computing gross total income.
Relevant Sections	Sections 123 to 154 in Chapter VIII	Schedules II to VII
Manner of treatment	First included in the Gross Total Income and then deductions will be allowed from Gross Total Income.	Not included in the Gross Total Income.

The important point to be noted here is that if there is no gross total income, then no deductions will be permissible. This Chapter contains deduction under Chapter VIII which includes deductions in respect of certain payments, deductions in respect of certain incomes, deductions in respect of other income and other deductions.

Section 122

(i) Section 122(1) provides that in computing the total income of an assessee, the deductions specified in Chapter VIII shall be allowed from his gross total income if the assessee has exercised the option of shifting out of the default tax regime.

(ii) **Aggregate deductions under Chapter VIII cannot exceed Gross Total Income:** According to section 122(2), the aggregate amount of the deductions under this Chapter shall not, in any case, exceed the gross total income of the assessee. Therefore, the total income after deductions will either be positive or nil. It cannot be negative due to deductions.

An assessee cannot have a loss or negative income figure as a result of the deduction under Chapter VIII and claim to carry forward the same for the purpose of set-off against his income in the subsequent year.

(iii) **No double deduction to member in respect of share of income from AOP/BOI:** Section 122(3) provides that in the case of AOP/BOI exercising the

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option of shifting out of the default tax regime, if any deduction is admissible under section 133/135/137[1], no deduction under the same section shall be made in relation to the share of income of member of such AOP or BOI in computing the total income of such member.

(iv) **Deduction under Part C of Chapter VIII not allowable again under any other provision:** The profits and gains allowed as deduction under Part "C - Deductions in respect of certain incomes" of Chapter VIII in any tax year, shall not be allowed as deduction under any other provision of the Act for such tax year.

The deduction shall not exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be [Section 122(4)].

(v) **Deduction under Part C of Chapter VIII allowed only if return of income is filed within due date and claim is made in return:** As per section 122(5), no deduction under any of the provisions referred to in (iv) above, shall be allowed if the assessee fails to -

(a) furnish a return of income on or before the due date specified u/s 263(1); or

(b) make a claim of deduction in the return furnished u/s 263(1).

Thus, if in case of failure to file return of income on or before the stipulated due date, the undertakings mentioned under Part C of Chapter VIII would lose the benefit of deduction under these sections.

Table showing the deductions contained in Part "C – Deductions in respect of certain income" of Chapter VIII

Section	Deduction
138	Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development etc.
139	Deduction in respect of profits and gains derived by an undertaking or enterprise engaged in development of SEZ
140	Deduction in respect of profits and gains derived by an eligible start-up from an eligible business

[1] 138/141/142/143 (these sections will be dealt with at the Final level)

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141	Deduction in respect of profits and gains from the business of processing, preservation and packaging of fruits or vegetables or meat and meat products or poultry or marine or dairy products or from the integrated business of handling, storage and transportation of foodgrains
142	Deduction in respect of profits and gains from housing projects/rental housing projects
143	Deduction in respect of profits and gains from manufacture or production of eligible articles or things, substantial expansion to manufacture or produce any eligible article or thing or carrying on of eligible business in North-Eastern States
144	Deduction in respect of units established in SEZs
145	Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste
146	Deduction in respect of additional employee cost
147	Deduction in respect of certain income of Offshore Banking Units and Units of International Financial Services Centre
148	Deduction in respect of certain inter-corporate dividends
149	Deduction in respect of income of co-operative societies
150	Deduction in respect of income of federal co-operative
151	Deduction in respect of royalty income, etc., of authors of certain books other than text books
152	Deduction in respect of royalty on patents

***Note**: The deductions under section 138 to 143, 145, 147 to 150 in respect of certain incomes will be dealt with in detail at the Final Level.*

ILLUSTRATION 1

Examine the following statements with regard to the provisions of the Income-tax Act, 2025:

(a) For grant of deduction under section 146, filing of audit report in prescribed form is mandatory for a corporate assessee; filing of return within the due date laid down in section 263(1) is not required.

(b) Filing of belated return under section 263(4) of the Income-tax Act, 2025 will debar an assessee from claiming deduction under section 152 if the

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assessee exercises the option of shifting out of the default tax regime (i.e., he pays tax under the optional tax regime).

SOLUTION

(a) **The statement is <u>not</u> correct.** Section 122(5) stipulates compulsory filing of return of income on or before the due date specified under section 263(1), as a pre-condition for availing the benefit of deduction, *inter alia*, under section 146.

(b) **The statement is correct.** As per section 122(5), the assessee has to furnish his return of income on or before the due date specified under section 263(1), to be eligible to claim deduction, *inter alia,* under section 152.

(vi) **Transfer of goods or services between eligible business and other business to be at market value:** The transfer price of goods and services between such undertaking or unit or enterprise or eligible business and any other business of the assessee shall be determined at the market value of such goods or services as on the date of transfer [Section 122(6)].

(vii) **Meaning of market value:** For this purpose, the expression "market value" has been defined to mean,-

(a) in relation to any goods or services sold or supplied, the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(b) in relation to any goods or services acquired, the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any;

(viii) **Deduction under section 46 and Part C of Chapter VIII not simultaneously available for specified business:** Where a deduction under Part C of Chapter VIII is claimed and allowed to an assessee exercising the option of shifting out of the default tax regime, in respect of the profits of a specified business for any tax year, no deduction is permissible for such specified business under section 46 for the same or any other tax year.

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In short, once the assessee has claimed the benefit of deduction under section 46 for a particular year in respect of a specified business, he cannot claim benefit under Part C of Chapter VIII for the same or any other year for such specified business. Further, if the assessee pays tax under default tax regime under section 202(1), neither deduction under section 46 nor deductions under Part C of Chapter VIII would be available to him.

(ix) **Deduction under Part C of Chapter VIII to be computed on net income included in gross total income:** For the purpose of computing the deductions under Part C of Chapter VIII, the amount of income computed under provisions of the Act (before making any deduction under Chapter VIII) shall alone be deemed to be the income which is derived or received by the assessee and which is included in his gross total income. Accordingly, the deductions specified in the aforesaid Part C will be calculated with reference to the net income as computed under provisions of the Act (before making deduction under Chapter VIII) and not with reference to the gross amount of such income. This is irrespective of anything contained in the respective sections of Part C of Chapter VIII.

(x) **Meaning of Gross total income:** "Gross total income" means the total income computed as per the provisions of the Act before making deduction under Chapter VIII. "Computed as per the provisions of the Act" implies —

(i) that deductions under appropriate computation section have already been given effect to;

(ii) that income of other persons, if includible under sections 96 to 99, has been included;

(iii) the intra head and/or inter head losses have been adjusted; and

(iv) that unabsorbed brought forward business losses, unabsorbed depreciation etc., have been set-off.

Where the gross total income of an assessee includes any capital gains referred to in section 196, 197, 198 or winning of lotteries etc., deductions under Chapter VIII shall be allowed from the gross total income as reduced by such incomes.

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1.	*ABC Ltd. filed its return of income after the due date under section 263(1). It wants to claim deduction under section 146 in respect of additional employee cost.* *Which of the following is correct?*	
	(a)	*Deduction is allowable since audit report was filed*
	(b)	*Deduction is allowable if tax is paid before assessment*
	(c)	*Deduction is not allowable due to delayed filing of return*
	(d)	*Deduction is allowable at the discretion of the Assessing Officer*
2.	*A taxpayer had Gross Total Income of ₹ 4,80,000 and eligible deductions under Chapter VIII amounting to ₹ 5,50,000. How much deduction can he claim?*	
	(a)	*₹ 5,50,000*
	(b)	*₹ 4,80,000*
	(c)	*Nil*
	(d)	*₹ 70,000*

Deductions under Chapter VIII are allowable from Gross Total Income which are discussed in this chapter.

Let us first consider the deductions allowable under Part "B – Deductions in respect of certain payments".

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3. DEDUCTIONS IN RESPECT OF CERTAIN PAYMENTS

(1) Deduction in respect of investment in specified assets [Section 123] [Available only if the individual/HUF exercises the option of shifting out of the default tax regime]

Section 123 provides for a deduction from the Gross Total Income, of amount deposited in specified modes of investments in a tax year, enumerated in Schedule XV. The deduction under section 123 is available only to an individual or HUF exercising the option of shifting out of the default tax regime. It is not allowable under the default tax regime under section 202(1). The maximum permissible deduction under section 123 is ₹ 1,50,000 in a tax year.

(i) Sums qualifying as deduction - The following are the investments/ contributions eligible for deduction as enumerated in Schedule XV –

Premium paid for life insurance policy



Premium paid for a life insurance policy, in the case of an individual, on the life of the individual, spouse or any child (minor or major) and in the case of HUF, on the life of any member thereof.

This will include a life policy and an endowment policy, other than a contract for deferred annuity.

The following is a tabular summary of the deduction allowable under Schedule XV *vis-à-vis* the date of issue of such policies –

	Deduction under section 123 read with Schedule XV (Para 2)
In respect of policies issued on or before 31.3.2012	Premium paid as is up to 20% of the "actual capital sum assured"
In respect of policies issued on or after 1.4.2012 but before 1.4.2013	Premium paid as is up to 10% of the "actual capital sum assured"

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In respect of policies issued on or after 1.4.2013	**(a)**	**Where the policy covers the life of a person with a disability or severe disability as referred to in section 154 or a person suffering from a disease or ailment as specified under section 128.**
		Premium paid as is up to 15% of the "actual capital sum assured"
	(b)	**Where the insurance covers the life of any person, other than mentioned in (a) above**
		Premium paid as is up to 10% of the "actual capital sum assured"
Meaning of actual capital sum assured - Minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account– (i) the value of any premiums agreed to be returned; or (ii) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.		

ILLUSTRATION 2

Compute the eligible deduction under section 123 for tax year 2026-27 in respect of life insurance premium paid by Mr. Ganesh during the T.Y.2026-27, the details of which are given hereunder, if Mr. Ganesh has exercised the option of shifting out of the default tax regime –

	Date of issue of policy	***Person insured***	***Actual capital sum assured (₹)***	***Insurance premium paid during 2026-27 (₹)***
(i)	*30/3/2012*	*Self*	*9,00,000*	*48,000*
(ii)	*1/5/2019*	*Spouse*	*1,50,000*	*20,000*
(iii)	*1/6/2022*	*Handicapped son (section 154 disability)*	*4,00,000*	*80,000*

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SOLUTION

	Date of issue of policy	Person insured	Actual capital sum assured (₹)	Insurance premium paid during 2026-27 (₹)	Deduction u/s 123 for T.Y.2026-27 (₹)	Remark (restricted to % of actual capital sum assured) (₹)
(i)	30/3/2012	Self	9,00,000	48,000	48,000	20%
(ii)	1/5/2019	Spouse	1,50,000	20,000	15,000	10%
(iii)	1/6/2022	Handicapped son (section 154 disability)	4,00,000	80,000	60,000	15%
	Total				**1,23,000**	

ILLUSTRATION 3

What would your answer if Mr. Ganesh pays tax under default tax regime under section 202(1)?

SOLUTION

If Mr. Ganesh pays tax under default tax regime under section 202(1), he would not be eligible for deduction under section 123.

Premium paid in respect of deferred annuity contract

Premium paid under a deferred annuity contract on the life of the individual, spouse or any child, and such contract does not contain an option to receive cash payments *in lieu* of the annuity.

It is pertinent to note here that a contract for a deferred annuity need not necessarily be with an insurance company. It follows therefore that such a contract can be entered into with any person.

Any sum deducted from the salary payable to the Government employee for securing a deferred annuity

Amount deducted from salary payable by or on behalf of the Government to an employee for securing deferred annuity or making provision for his spouse or children. The excess, if any, over 20% of the salary is to be ignored.

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Contribution to SPF /RPF

Contributions to any provident fund to which the Provident Funds Act, 1925 applies and recognized provident fund qualifies for deduction under section 123.

Contribution to PPF

Contribution made to an account with any Provident Fund, set up and notified by the Central Government (i.e., the Public Provident Fund established under the Public Provident Fund Scheme, 1968) also qualifies for deduction under section 123. Such contribution can be made in the name of the individual, his/her spouse and any child of the individual, and any member of the family, in case of a HUF. The maximum limit for deposit in PPF is ₹ 1,50,000 in a year.

ILLUSTRATION 4

An individual assessee, resident in India, has made the following deposit/payment during the tax year 2026-27:

Particulars	***₹***
Contribution to the public provident fund	*1,50,000*
Insurance premium paid on the life of the spouse (policy taken on 1.4.2021) (Assured value ₹2,20,000)	*25,000*

What is the deduction allowable under section 123 for T.Y.2026-27 if the assessee has exercised the option of shifting out of the default tax regime?

SOLUTION

Computation of deduction under section 123 for T.Y.2026-27

Particulars	**₹**
Deposit in public provident fund	1,50,000
Insurance premium paid on the life of the spouse (Maximum 10% of the assured value of ₹ 2,20,000, as the policy is taken after 31.3.2012)	22,000
Total	**1,72,000**
However, the maximum permissible deduction u/s 123 is restricted to	1,50,000

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Contribution to approved superannuation Fund

Contribution by an employee to an approved superannuation fund qualifies for deduction under section 123.

Any sum paid or deposited in Sukanya Samridhi Account



Subscription to any security or deposit scheme notified by the Central Government qualifies for deduction under section 123. Accordingly, Sukanya Samriddhi Scheme has been notified to provide that any sum paid or deposited during the tax year in the said scheme, by an individual in the name of –

(a) any girl child of the individual; or

(b) any girl child for whom such individual is the legal guardian

would be eligible for deduction under section 123.

Exemption on payment from Sukanya Samriddhi Account [Schedule II (Table: S. No. 5)]

Schedule II (Table: S. No. 5) provides that any payment from an account opened as per the Sukanya Samriddhi Account Scheme, 2019 made under the Government Savings Promotion Act, 1873, shall **not** be included in the total income of the assessee. Accordingly, the interest accruing on deposits in, and withdrawals from any account under the said scheme would be exempt.

Subscription to National Savings Certificates VIII

Subscription to Savings Certificates[2] notified by the Central Government (i.e. National Savings Certificate (VIII Issue) issued under the Government Savings Certificates Act, 1959) would qualify for deduction under section 123.

Contribution in Unit-linked Insurance Plan, 1971

Contributions in the name of the individual, spouse or any child of the individual for participation in the Unit-linked Insurance Plan 1971. In case of HUF, the contribution can be in the name of any member.

[2] as mentioned in section 3(k) of Government Savings Banks Act, 1873 to be read now as 'Government Savings Promotion Act, 1873'

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Contribution in Unit-linked Insurance Plan of LIC Mutual Fund

Contributions in the name of the individual, spouse or any child of the individual for participation in any Unit linked Insurance Plan of the LIC Mutual Fund[3]. In case of a HUF, the contribution can be in the name of any member.

Contribution to approved annuity plan of LIC

Contributions to approved annuity plans of LIC (New Jeevan Dhara and New Jeevan Akshay, New Jeevan Dhara I and New Jeevan Akshay I, II and III) or any other insurer (Tata AIG Easy Retire Annuity Plan of Tata AIG Life Insurance Company Ltd.) as notified by the Central Government.

Subscription towards notified units of mutual fund or UTI

Subscription to any units of any mutual fund[4] or from the Administrator or the specified company under any plan formulated in accordance with such scheme notified by the Central Government.

Contribution to notified pension fund set up by mutual fund or UTI

Contribution by an individual to a pension fund set up by any Mutual Fund or by the Administrator or the specified company as the Central Government may notify (i.e., UTI-Retirement Benefit Pension Fund set up by the specified company referred to in section 2(h) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 as a pension fund).

Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008

Subscription to any deposit scheme or contribution to any pension fund, set up by the National Housing Bank i.e., National Housing Bank (Tax Saving) Term Deposit Scheme, 2008.

Subscription to notified deposit scheme

Subscription to any deposit scheme of

- a public sector company which is engaged in providing long-term finance for construction, or purchase of houses in India for residential purposes or

[3] referred to in Schedule VII (Table: S. No. 20 or 21)

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- an authority constituted in India by any law, 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 and villages or for both.

The deposit scheme should be notified by the Central Government, for example, public deposit scheme of HUDCO.

Payment of tuition fees to any university, college, school or other educational institutions within India for full-time education for maximum 2 children

Payment of tuition fees by an individual at the time of admission or thereafter to any university, college, school or other educational institutions situated in India for full-time education of any **two children** of the individual. This benefit is only for the amount of tuition fees for full-time education and shall not include any development fees or donation or payment of similar nature and payment made for education to any institution situated outside India.

Repayment of housing loan including stamp duty, registration fee and other expenses

Any payment made for **purchase or construction** of a residential house property the income from which –

(i) should be chargeable to tax under the head "Income from house property";

(ii) would have been chargeable to tax under the head "Income from house property" had it not been used for the assessee's own residence.

The approved types of payments are as follows:

(1) Any instalment or part payment of the amount due under any self-financing or other scheme of any development authority, Housing Board or other authority engaged in the construction and sale of house property on ownership basis; or

(2) Any instalment or part payment of the amount due to any company or a co-operative society of which the assessee is a shareholder or member towards the cost of house property allotted to him; or

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(3) Repayment of amount borrowed by the assessee from:

(a) the Central Government or any State Government;

(b) any bank including a co-operative bank;

(c) the Life Insurance Corporation;

(d) the National Housing Bank;

(e) any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under section 32(e);

(f) any company in which the public are substantially interested or any co-operative society engaged in the business of financing the construction of houses;

(g) the assessee's employer, where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act;

(h) the assessee's employer where such employer is a public company or public sector company or a university established by law or a college affiliated to such university or a local authority or a co-operative society.

(4) Stamp duty, registration fee and other expenses for the purposes of transfer of such house property to the assessee.

Inadmissible payments: The following amounts, however, do not qualify for deduction:

(1) admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming a shareholder or member; or

(2) the cost of any addition or alteration to or renovation or repair of the house property carried out after the issue of completion certificate in respect of the house property by the authority competent to issue it or after the house has been occupied by the assessee or any person on his behalf or after it has been let out; or

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(3) any expenditure in respect of which deduction is allowable under section 22.

Investment in five year Term Deposit

Investment in term deposit -

(1) for a fixed period of not less than five years with a scheduled bank; and

(2) which is as per such scheme framed and notified by the Central Government

qualifies as an eligible investment for availing deduction under section 123.

The maximum limit for investment in term deposit is ₹ 1,50,000.

Subscription to notified bonds issued by NABARD

Subscription to such bonds issued by NABARD (as notified by the Central Government) qualifies for deduction under section 123.

Deposit in Senior Citizens Savings Scheme Rules, 2004

Deposit in an account under the Senior Citizens Savings Scheme Rules, 2004 qualifies for deduction under section 123.

Investment in five year term deposit Post Office

Investment in five year term deposit in an account under Post Office Time Deposit Rules, 1981 qualifies for deduction under section 123.

Contribution to additional account under NPS

Contribution by **a Central Government employee** to additional account under NPS for a fixed period of not less than 3 years and which is as per the scheme[4] notified by the Central Government for this purpose qualifies for deduction under section 123.

There are two types of NPS account i.e., Tier I and Tier II, to which an individual can contribute. **Tier II account is the additional account under NPS, contribution to which would qualify for deduction under section 123 only in the hands of a Central Government employee.**

[4] *National Pension Scheme Tier II- Tax Saver Scheme, 2020 notified for this purpose.*

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Contribution for annuity plan of LIC

Contribution made from income chargeable to tax to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from the fund referred to in Schedule VII (Table S. No. 3).

Contribution made by an individual to a pension scheme

Contribution made by an individual to a pension scheme notified by the Central Government (NPS Tier I account), to the extent of –

(i) 10% of salary, including dearness allowance, if the terms of employment so provide, but excluding all other allowances and perquisites, during the tax year in the case of an employee of the Central Government or any other employer; or

(ii) 20% of gross total income during the tax year in the case of any other individual.

Subscription to certain equity shares or debentures or units of mutual fund

Subscription to

- equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form
- any units of any mutual fund[5] and approved by the Board on an application made by such mutual fund in the prescribed form. It is necessary that such units should be subscribed only in the eligible issue of capital of any company.

Meaning of Eligible issue of capital

Eligible issue of capital means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in section 135(9) of the Income-tax Act, 2025 (Section 80-IA of the Income-tax Act, 1961).

[5] referred to in Schedule VII (S. No 20 or 21)

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(ii) Disallowance of deduction and taxation of deduction already allowed - The deductions in respect of the payments specified in the Table below shall not be allowed in the tax year in which the mentioned conditions are fulfilled. Further, the total amount of such deductions allowed in the earlier tax year(s) shall be deemed to be the income of the assessee and shall be chargeable to tax in that tax year.

S. No.	Nature of payment	Conditions for disallowance of the deduction
1.	Premium paid for a life insurance policy	Where the assessee terminates his contract of insurance by notice to that effect or where the contract ceases to be in force by reason of failure to pay any premium, by not reviving contract of insurance, - (a) in case of any single premium policy, within 2 years after the date of commencement of insurance; or (b) in any other case, before premiums have been paid for 2 years.
2.	(a) Contribution for participation in the ULIP Unit-Linked Insurance Plan, 1971; (b) contribution for participation in the unit-linked insurance plan of Life Insurance Corporation Mutual Fund.	Where the assessee terminates his participation in such plan, by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, before contributions in respect of such participation have been paid for 5 years.
3.	Repayment of housing loan including stamp duty, registration fee and other expenses	Where the assessee (a) transfers the house property before the expiry of 5 years from the end of the tax year in which possession of such property is obtained by him; or (b) receives back, whether by way of refund or otherwise, any specified sum.

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4.	Subscription to certain equity shares or debentures	(a) Where the assessee sells or otherwise transfers to any person at any time within a period of 3 years from the date of their acquisition; and (b) such shares or debentures shall be treated as having acquired by the person on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company.

(iii) Taxation of receipts where deduction already allowed – Where deductions in respect of the payments specified in the Table below have already been allowed, and the mentioned conditions in the Table are fulfilled in any tax year, the amounts so received shall be taxed in that tax year in the manner specified in the table.

S. No. (A)	Nature of payment (B)	Conditions for taxation (C)	Manner and amount of taxation in the tax year in which condition in column C is fulfilled (D)
1.	(a) Deposit in Senior Citizens Savings Scheme Rules, 2004; (b) Investment in five year Post Office term deposit.	If any amount, including interest accrued, is withdrawn by the assessee, before the expiry of the period of 5 years from the date of its deposit.	(a) The amount so withdrawn shall be deemed to be the income of the assessee of the tax year in which the amount is withdrawn and shall be liable to tax in the said year. (b) the amount liable to tax shall not include – (i) any interest, which has been included in the

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			total income of the assessee of the tax year or years preceding such tax year; and (ii) any amount received by the nominee or legal heir of the assessee, on the death of such assessee, other than interest, if any, accrued thereon, which was not included in the total income of the assessee for the tax year or years preceding such tax year.
2.	Contribution to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from the fund referred to in Schedule VII	Where any amount standing to the credit of the assessee in the pension fund, in respect of which a deduction has been allowed, together with interest or bonus accrued or credited to the assessee's account is received by the assessee or his nominee, (a) on account of the surrender of the annuity plan whether in whole	An amount equal to the whole of the amount shall be deemed to be the income of the assessee or his nominee, in the tax year in which such withdrawal is made or, pension is received. It shall be liable to tax in the said year.

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	(Table: Sl. No. 3).	or in part, in any tax year; or (b) as pension received from the annuity plan.	
3.	Contribution by an individual to a pension scheme notified by the Central Government	Where any amount standing to the credit of the assessee in the pension scheme, in respect of which a deduction has been allowed, together with the amount accrued thereon, if any, is received by the assessee or his nominee, in whole or in part, in any tax year, and if such amount is not used for purchasing an annuity plan in the same year– (a) on account of closure or his opting out of the pension scheme (except when received by the nominee on the death of the assessee); or (b) as pension received from the annuity plan purchased or taken on such closure or opting out.	The whole of the amount shall be deemed to be the income of the assessee or his nominee, in the tax year in which such amount is received, and it shall be liable to tax in the said year.

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Summary of investment/ contributions eligible for deduction u/s 123

S. No.	Investment/ contributions
(i)	Premium paid in respect of Life Insurance policy **In case of individual** – on the life of individual, his or her spouse or any child of the individual **In case of HUF** – on the life of any member of HUF
(ii)	Premium paid in respect of a contract for deferred annuity **In case of individual** – on the life of individual, his or her spouse or any child of the individual
(iii)	Any sum deducted from the salary payable to the Government employee for securing a deferred annuity [Excess over 1/5th of the salary to be ignored]
(iv)	Contribution to SPF/RPF
(v)	Contribution to PPF **In case of individual** – in the name of Individual, his or her spouse or any child of the individual **In case of HUF** – In the name of any member of HUF
(vi)	Contribution to approved superannuation Fund
(vii)	Paid or deposited in Sukanya Samriddhi Account (a) for any girl child of the individual; or (b) for any girl child for whom such individual is the legal guardian
(viii)	Subscription to National Savings Certificates VIII
(ix)	Contribution in Unit-linked Insurance Plan 1971 **In case of individual** – in the name of individual, his or her spouse or any child of the individual **In case of HUF** – in the name of any member of HUF
(x)	Contribution in Unit-linked Insurance Plan of LIC Mutual Fund **In case of individual** – In the name of individual, his or her spouse or any child of the individual **In case of HUF** – In the name of any member of HUF

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(xi)	Contribution to approved annuity plan of LIC or any other notified insurer
(xii)	Subscription towards notified units of mutual fund or UTI [ELSS]
(xiii)	Contribution to notified pension fund set up by mutual fund or UTI
(xiv)	Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008
(xv)	Subscription to notified deposit scheme of public sector co. or authority constituted in India in relation to housing. For example, public deposit scheme of HUDCO.
(xvi)	Tuition fees to by an individual to any university, college, school or other educational institution within India for full-time education for maximum 2 children of the individual.
(xvii)	Repayment of housing loan for purchase/ construction of house property including stamp duty, registration fee and other expenses for transfer
(xviii)	Investment in five year term deposit with a scheduled bank
(xix)	Subscription to notified bonds issued by NABARD
(xx)	Deposit in Senior Citizens Savings Scheme Rules, 2004
(xxi)	Investment in five year Post Office term deposit
(xxii)	Contribution to additional account under NPS (Tier II account), in case of Central Government employee
(xxiii)	Contribution for annuity plan of LIC
(xxiv)	Contribution made by an individual to a pension scheme - 10% of salary, in case of salaried individuals - 20% of gross total income, in the case of any other individual
(xxv)	Subscription to certain equity shares or debentures forming part of any approved eligible issue of capital by a public company or by any public financial institution or units of mutual fund subscribed only in eligible issue of capital of any company

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(2) Deduction in respect of contribution to pension scheme notified by the Central Government [Section 124]

(i) **Pension Scheme of Central Government:** As per the "Restructured Defined Contribution Pension System" applicable to new entrants to Government service, it is mandatory for persons entering the service of the Central Government on or after 1st January, 2004, to contribute 10% of their salary every month towards their pension account. A matching contribution is required to be made by the Government to the said account. The benefit of this scheme is also available to individuals employed by any other employer as well as to self-employed individuals.

The Central Government has notified the 'Atal Pension Yojana (APY)' as a pension scheme, contribution to which would qualify for deduction under section 123 (schedule XV Para 1(y)) and section 124 in the hands of the individual.

(ii) **Deduction:** The deduction of employee's or assessee's contribution to NPS Scheme has been discussed in section 123 (schedule XV Para 1(y)). The deduction of employer's contribution to NPS Scheme has been dealt with in section 124.

(iii) **Quantum of deduction of employer's contribution:** As per section 124(1), where in the case of an **assessee, being an individual employed by any employer**, if the employer makes any contribution in his account under a pension scheme, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by such employer. However, the deduction should not exceed -

- **14% of his salary in the tax year**, where such contribution is made by the **employer, being the Central Government or the State Government**; and
- **10% of his salary in the tax year**, where such contribution is made by any **other employer (14%, in case assessee is chargeable to tax under section 202(1))**.

(iv) **Quantum of deduction of employee's or assessee's contribution:** Section 124(3) provides for a deduction of up to ₹ 50,000 in respect of the whole of

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the amount paid or deposited by an individual assessee under NPS in the tax year.

Where a deduction has been claimed and allowed under section 123, no deduction for the same amount would be allowed under section 124(3) or *vice versa*.

(v) Quantum of deduction for contribution made to NPS Vatsalya Scheme: NPS Vatsalya is a NPS Scheme designed for minor Indian citizen up to the age of 18 years. The account will be opened and operated by the guardian on behalf of the minor. When the minor attains the age of 18 years, the account will continue to be operational and will be shifted into a NPS Tier-I Account.

Deduction under section 124(4) is allowed for any amount paid or deposited made to the account of a minor under the said pension scheme by the assessee, being the parent or guardian of such minor. The aggregate amount of deduction under section 124(3) and 124(4) shall not exceed ₹ 50,000.



1. Deduction u/s 124(1)/ (2) would be available to an individual irrespective of the regime under which he pays tax.

2. Salary includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

(v) Deemed income: Any amount standing to the credit of the assessee or a minor, in his account or the account of a minor, as the case may be, as referred to in section 124(1), 124(3), 124(4) and para 1y of Schedule XV (for which deduction has been allowed together with the amount accrued thereon), received by the assessee or his nominee, in whole or in part, in any tax year,-

(a) on closure of the account or

(b) on his opting out of the said scheme or

(c) as pension received from the annuity plan purchased or taken on such closure or opting out.

the whole of the amount so received shall be deemed to be the income of the individual or his nominee, in the tax year in which such amount is received, and shall accordingly be charged to tax as income of that tax year.

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The amount received by the nominee on the death of the assessee under the circumstances referred to in (a) and (b) above, shall not be deemed to be the income of the nominee.

It is further provided that the amount received by a person, being the parent or guardian or nominee of a minor on account of closure of pension scheme, due to the death of minor, shall not be deemed to be the income of such person.

Further, the assessee shall not be deemed to have received any amount in the tax year, if such amount is used for purchasing an annuity plan in the same tax year.

(vi) **Unified Pension Scheme:** The Unified Pension Scheme (UPS) has been introduced **as an option** under the National Pension System (NPS) by the Central Government for the Central Government employees covered under NPS so that they may receive an assured payout after their retirement.

It is a 'fund-based' payout system which relies on the regular and timely accumulation and investment of applicable contributions (from both the employee and the employer (the Central Government) for grant of monthly payout to the retiree.

Section 124(11) provides that any amount standing to the credit of the assessee, being a subscriber to the UPS, in his account referred to in section 124(1) or 124(3) and Para 1(y) of Schedule XV (for which deduction has been allowed together with the amount accrued thereon), received by the assessee or his nominee, in whole or in part, in any tax year on account of his superannuation or voluntary retirement or retirement under Fundamental Rules 56(j) (not treated as penalty), the whole of the amount shall be deemed to be the income of the assessee or his nominee, as the case may be, in the tax year in which such amount is received, and shall accordingly be charged to tax as income of that tax year.

However, the assessee shall be deemed not to have received any amount in the tax year if such amount is transferred to the pool corpus from individual corpus on account of his superannuation, voluntary retirement or retirement under Fundamental Rules 56(j) (not treated as penalty) [Section 124(12)].

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(vii) Exemptions: In computing the total income of a person for a tax year, the following incomes shall not be included, subject to the satisfaction of the conditions specified.

Schedule with S. No.	Income not to be included in total income	Eligible persons	Conditions
Schedule II (Table S. No. 6)	Any payment from NPS Trust	Any assessee	(a) such payment is **on closure of account** of the assessee or on his **opting out of the pension scheme** and (b) the said payment does not exceed ***60%*** of the total amount payable at the time of such closure or his opting out of the scheme
Schedule II (Table S. No. 15)	Any payment from NPS Trust received by an assessee, who is a subscriber to the Unified Pension Scheme	Any assessee, who is a subscriber to the Unified Pension Scheme	(a) such payment received at the time of his superannuation or voluntary retirement or retirement under rule 56(j) of the Fundamental Rules (not treated as penalty) and (b) the said payment does not exceed

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			60% of the total individual corpus.
Schedule II (Table S. No. 16)	Any sum received as "lump sum amount" from NPS Trust by an assessee, being a subscriber to the Unified Pension Scheme	Any assessee, who is a subscriber to the Unified Pension Scheme	The said "lump sum amount" is as per clause (vi) of paragraph 2 of the notification number FX-1/3/2024-PR, dated 24th January, 2025, of the Department of Financial Services.
Schedule III (Table: S. No. 4)	Any payment from NPS Trust under the pension scheme	(i) An employee or (ii) an assessee, being the guardian or parent of a minor.	(a) Such payment is on **partial withdrawal** made out of his account or the account of the minor, as the case may be, as per the terms and conditions specified under the Pension Fund Regulatory and Development Authority Act, 2013 and the regulations made thereunder; and (b) exclusion shall not exceed ***25%*** of the amount of contributions made by him.

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3.	*Ms. Kavya invested ₹ 1,50,000 in PPF and paid insurance premium of ₹ 30,000 for a policy issued on 1.5.2020 with actual capital sum assured of ₹ 2,50,000.* *What would be the deduction allowable under section 123 to her if she has shifted out of the default tax regime?*	
	(a)	*₹ 1,75,000*
	(b)	*₹ 1,80,000*
	(c)	*₹ 1,50,000*
	(d)	*₹ 1,55,000*
4.	*Mr. Rahul repaid housing loan principal of ₹ 1,40,000 and incurred ₹ 45,000 towards renovation of the house after obtaining completion certificate. What amount qualifies for deduction under section 123 under optional tax regime?*	
	(a)	*₹ 1,85,000*
	(b)	*₹ 45,000*
	(c)	*₹ 1,40,000*
	(d)	*Nil*
5.	*Mr. Aryan claimed deduction under section 123 in respect of repayment of housing loan. He sold the house property within 3 years from the end of the tax year in which possession was obtained.* *Which of the following is correct?*	
	(a)	*Earlier deduction remains unaffected*
	(b)	*Earlier deduction allowed shall become taxable*
	(c)	*Only 50% of deduction becomes taxable*
	(d)	*Deduction will be withdrawn prospectively only*

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6.	*Mr. Raj received employer's contribution of 13% of salary towards NPS from a private company. He pays tax under the default tax regime under section 202(1). What deduction would be allowable to him under section 124(1)?*	
	(a)	*Nil*
	(b)	*10% of salary*
	(c)	*13% of salary*
	(d)	*14% of salary*

ILLUSTRATION 5

The basic salary of Mr. A is ₹1,00,000 p.m. He is entitled to dearness allowance, which is 40% of basic salary. 50% of dearness allowance forms part of pay for retirement benefits. Both Mr. A and his employer, ABC Ltd., contribute 15% of basic salary to the pension scheme notified by the Central Government. Explain the tax treatment in respect of such contribution in the hands of Mr. A if he has exercised the option of shifting out of the default tax regime.

What would be your answer if Mr. A pays tax under the default tax regime under section 202(1)?

SOLUTION

(i) Tax treatment in the hands of Mr. A in respect of employer's and own contribution to pension scheme, where Mr. A has exercised the option of shifting out of the default tax regime [i.e., where Mr. A pays tax under the normal provisions of the Act]

(a) Employer's contribution to such pension scheme would be treated as salary since it is specifically included in the definition of "salary" under section 16(k). Therefore, ₹ 1,80,000, being 15% of basic salary of ₹ 12,00,000, will be included in Mr. A's salary.

(b) Mr. A's contribution to pension scheme is allowable as deduction under section 123 read with Schedule XV para 1(y). However, the deduction is restricted to 10% of salary. Salary, for this purpose, means basic pay plus dearness allowance, if it forms part of pay.

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Therefore, deduction under section 123 read with Schedule XV para 1(y) for Mr. Arjun would be –

Particulars	₹
Basic salary = ₹ 1,00,000 × 12 =	12,00,000
Dearness allowance = 40% of ₹ 12,00,000 = ₹ 4,80,000	
50% of Dearness Allowance forms part of pay = 50% of ₹ 4,80,000	2,40,000
Salary for the purpose of deduction under section 123	14,40,000
Deduction under section 123 read with Schedule XV para 1(y) is restricted to 10% of ₹ 14,40,000 (as against actual contribution of ₹ 1,80,000, being 15% of basic salary of ₹ 12,00,000)	1,44,000
As per section 124(3), a further deduction of up to ₹ 50,000 is allowable. Therefore, deduction under section 124(3) is ₹ 36,000 (₹ 1,80,000 - ₹ 1,44,000).	36,000

In the alternative, ₹ 50,000 can be claimed as deduction under section 124(3). The balance ₹ 1,30,000 (₹ 1,80,000- ₹ 50,000) can be claimed as deduction under section 123 read with Schedule XV para 1(y).

(c) Employer's contribution to pension scheme would be allowable as deduction under section 124(1), subject to a maximum of 10% of salary. Therefore, deduction under section 124(1), would also be restricted to ₹ 1,44,000, even though the entire employer's contribution of ₹ 1,80,000 is included in salary under section 16(k).

(ii) Where Mr. A pays tax under the default tax regime under section 202(1)

Mr. A would not be eligible for deduction under section 123 read with Schedule XV para 1(y)/124(3) in respect of his contribution to pension scheme under the default tax regime under section 202(1). However, he would be allowed deduction of upto ₹ 2,01,600, being 14% of salary [₹ 14,40,000, computed in (i) above] under section 124(1)/(2) in respect of employer's contribution to pension scheme. Accordingly, entire employer's contributions of ₹ 1,80,000 would be allowed as deduction under section 124(1)/(2).

ILLUSTRATION 6

The gross total income of Mr. X for the T.Y.2026-27 is ₹ 8,00,000. He has made the following investments/payments during the F.Y.2026-27 –

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	Particulars	*₹*
(1)	*Contribution to PPF*	*1,10,000*
(2)	*Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI*	*45,000*
(3)	*Repayment of housing loan taken from Standard Chartered Bank*	*25,000*
(4)	*Contribution to approved pension fund of LIC*	*1,05,000*

Compute the eligible deduction under section 123 for the T.Y.2026-27 if Mr. X exercises the option of shifting out of the default tax regime.

SOLUTION

Computation of deduction under Chapter VIII for the T.Y.2026-27

Particulars	₹
Deduction under section 123	
- Contribution to PPF	1,10,000
- Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000
- Repayment of housing loan	25,000
- Contribution to approved pension fund of LIC	1,05,000
	2,85,000
As per section 123, the aggregate deduction has to be restricted to ₹ 1,50,000	1,50,000

(3) Deduction in respect of contribution to Agnipath Scheme [Section 125]

(i) Meaning of Agnipath Scheme: Agnipath scheme is a Central Government scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces.

(ii) Meaning of Agniveer Corpus Fund: The Agniveer Corpus Fund means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.

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(iii) Features of the Agnipath Scheme: Each Agniveer is to contribute 30% of his monthly customized Agniveer Package to the individual's Agniveer Corpus Fund. Further, the Government will also contribute a matching amount to the 'Agniveer Corpus Fund'. The Government will also pay the subscriber interest as approved from time to time on the contributions standing in his account.

(iv) Quantum of deduction:

(a) Section 125(1) provides a deduction for the amount paid or deposited by an assessee, being an individual who has enrolled in the Agnipath Scheme and subscribes to the Agniveer Corpus Fund on or after 1.11.2022, in his account in the Agniveer Corpus Fund.



Deduction u/s 125(1) would be available to an individual only if he has exercised the option of shifting out of the default tax regime.

(b) Under section 125(2), the whole amount of contribution made by the Central Government to the said account of an assessee in the Agniveer Corpus Fund, is allowed as a deduction in computation of the total income of the assessee.

(e) The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. However, deduction under section 125(2) would be available for the same.



Deduction u/s 125(2) would be available to an individual irrespective of the regime under which he pays tax

Exemption on payment from Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee [Schedule II (Table: S. No. 7)]

Any payment from the Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee would be exempt from tax.

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(4) Deduction in respect of health insurance premium [Section 126] [Available only if the individual/HUF exercises the option of shifting out of the default tax regime]

(i) Eligible assessee: Section 126 provides a deduction out of income chargeable to tax in the tax year to an assessee, being an individual or a HUF for payment of health insurance premium.

(ii) Quantum of deduction in case of an Individual

(a) Deduction in respect of insurance premium paid for self and family: A deduction up to ₹ 25,000 in aggregate is allowed in respect of the following payments –

(1) whole of the amount paid to effect or keep in force insurance on the health of self, spouse and dependant children or

(2) any contribution made to the Central Government Health Scheme or such other health scheme as may be notified by the Central Government Health Scheme or such other scheme notified by the Central Government or

(3) payment made for preventive health check up of self, spouse or dependant children

(b) Deduction in respect of medical expenditure incurred on health of self, spouse or dependant children – A deduction up to ₹ 50,000 on account of medical expenditure incurred on the health of self, spouse or dependant children.

The aggregate of sum referred to in (a) and (b) above shall not exceed ₹ 50,000.

(c) Deduction in respect of insurance premium paid for parents: A deduction up to ₹ 25,000 in aggregate is allowed in respect of the following payments –

(1) whole of the amount paid to effect or keep in force the health insurance for parent or parents of the assessee or

(2) any payment made for preventive health check-up of parent or parents of the assessee.

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(d) Deduction in respect of medical expenditure incurred on health of parent of assessee – A deduction up to ₹ 50,000 on account of medical expenditure incurred on the health of any parent of the assessee.

The aggregate of sum referred to in (c) and (d) above shall not exceed ₹ 50,000.

Deduction for medical expenditure shall be allowed to an individual, if such amount is incurred on health of self, spouse or dependant children or parent who are senior citizen and no amount has been paid for the health insurance of such person.

The payment made on account of preventive health check-up of self, spouse, dependant children or parents made during the tax year shall be allowed up to ₹ 5,000 in aggregate.



Quantum of deduction in case of senior citizen: *An increased deduction in (a) and (c) above shall be* ***₹ 50,000*** *(instead of ₹ 25,000) in case any of the persons mentioned above is a* ***senior citizen***

(iii) Quantum of deduction in case of a HUF

(a) Deduction under section 126 is allowed to a HUF up to ₹ 25,000 in aggregate in respect of the whole of the amount paid to effect or keep in force an insurance on the health of any member of such HUF.

(b) A deduction up to ₹ 50,000 in aggregate is allowed to HUF of the whole of the amount paid on account of medical expenditure incurred on the health of any member of such HUF.

Deduction for medical expenditure shall be allowed, if incurred on the health of a senior citizen and no amount has been paid for the health insurance of such person.

The aggregate of sum allowed to HUF shall not exceed ₹ 50,000.



Quantum of deduction in case of senior citizen: *An increased deduction in (a) above shall be* ***₹ 50,000*** *(instead of ₹ 25,000) in case any of the person mentioned above is a* ***senior citizen***.

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(iv) Deduction where premium for health insurance is paid in lump sum [Section 126(8)(b)]

Where the sum is paid to effect or keep in force the health insurance and such sum is paid in lump sum in the tax year for more than a year, a deduction shall be allowed for each of the relevant tax year equal to the appropriate fraction of such amount.

Meaning of certain terms

Term	Meaning
Appropriate fraction	1 ÷ Total number of relevant tax years
Relevant tax year	The tax year beginning with the tax year in which such lump sum amount is paid and the subsequent tax year(s) during which the insurance would be in force.

(v) Mode of payment: For claiming such deduction under section 126, the payment can be made by any mode:

(1) including cash, in respect of any sum paid on account of preventive health check-up; or

(2) other than cash in all other cases.

(vi) Other conditions

The health insurance should be as per the scheme made in this behalf by -

(a) the General Insurance Corporation of India and approved by the Central Government in this behalf; or

(b) any other insurer and approved by the Insurance Regulatory and Development Authority.

Summary

The following table summarizes the provisions of section 126 –

S. No.	Nature of payment/ expenditure	Expenditure on behalf of		Deduction
I	(i) Any premium paid, otherwise than by way of cash, to keep in force an	In case of individual	Self, spouse and dependent children	₹ 25,000

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	insurance on the health (ii) Contribution to Central Government Health Scheme (CGHS) (iii) Preventive health check up expenditure	In case of HUF | Family member In case any of the above persons is senior citizen	₹ 50,000
III	Amount paid on account of medical expenditure	For senior citizen, being self/spouse/ dependent children or in case of HUF, any member of HUF who is not covered under health insurance	₹ 50,000
Note: The aggregate of deduction to an individual or HUF, in respect of payment of premium, contribution to CGHS, preventive health check up and medical expenditure incurred, as specified in **(I) & (II)** above, cannot exceed **₹ 50,000**.			
III	(i) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health (ii) Preventive health check up	Parents In case either or both the parents is senior citizen	₹ 25,000 ₹ 50,000
IV	Amount paid on account of medical expenditure	Senior citizen parents who is not covered under health insurance	₹ 50,000
Note: The aggregate of deduction to an individual or HUF, in respect of payment of premium, preventive health check-up and medical expenditure incurred, as specified in **(III) & (IV)** above, cannot exceed **₹ 50,000**.			
Maximum ₹ 5,000 allowed as deduction for aggregate of preventive health check-up expenditure, by any mode including cash, mentioned in I and II (Subject to overall limit of ₹ 25,000 or ₹ 50,000, as the case may be)			

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7.	*Ms. Pooja, aged 38 years, paid ₹ 28,000 as health insurance premium for her mother aged 66 years and incurred ₹ 18,000 on medical expenditure for her father aged 70 years, who was not covered under any health insurance policy.* *What is the amount of deduction allowable to her under section 126 under optional tax regime?*	
	(a)	*₹ 28,000*
	(b)	*₹ 18,000*
	(c)	*₹ 46,000*
	(d)	*₹ 50,000*
8.	*Mr. A paid ₹ 60,000 in lump sum on 12.8.2026 for a 3-year health insurance policy covering himself. How much deduction is allowable to him under section 126 for the Tax Year 2026-27 under optional tax regime?*	
	(a)	*₹ 60,000*
	(b)	*₹ 20,000*
	(c)	*₹ 15,000*
	(d)	*No deduction allowed for lump sum payment*

ILLUSTRATION 7

Mr. A, aged 40 years, paid medical insurance premium of ₹ 20,000 during the T.Y. 2026-27 to insure his health as well as the health of his spouse. He also paid medical insurance premium of ₹ 47,000 during the year to insure the health of his father, aged 63 years, who is not dependent on him. He contributed ₹ 3,600 to Central Government Health Scheme during the year. He has incurred ₹ 3,000 in cash on preventive health check-up of himself and his spouse and ₹ 4,000 by cheque on preventive health check-up of his father. Compute the deduction allowable under section 126 for the T.Y. 2026-27 if Mr. A has exercised the option of shifting out of the default tax regime.

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SOLUTION

Deduction allowable under section 126 for the T.Y.2026-27

	Particulars	Actual Payment ₹	Maximum deduction allowable ₹
A.	**Premium paid and medical expenditure incurred for self and spouse**		
(i)	Medical insurance premium paid for self and spouse	20,000	20,000
(ii)	Contribution to CGHS	3,600	3,600
(iii)	Exp. on preventive health check-up of self & spouse	3,000	1,400
		26,600	**25,000**
B.	**Premium paid or medical expenditure incurred for father, who is a senior citizen**		
(i)	Mediclaim premium paid for father, who is over 60 years of age	47,000	47,000
(ii)	Expenditure on preventive health check-up of father	4,000	3,000
		51,000	**50,000**
	Total deduction under section 126 (₹ 25,000 + ₹ 50,000)		75,000

Notes:

(1) The total deduction under A. (i), (ii) and (iii) above should not exceed ₹ 25,000. Therefore, the expenditure on preventive health check-up for self and spouse would be restricted to ₹ 1,400, being (₹ 25,000 – ₹ 20,000 – ₹ 3,600).

(2) The total deduction under B. (i) and (ii) above should not exceed ₹ 50,000. Therefore, the expenditure on preventive health check-up for father would be restricted to ₹ 3,000, being (₹ 50,000 – ₹ 47,000).

(3) In this case, the total deduction allowed on account of expenditure on preventive health check-up of self, spouse and father is ₹ 4,400 (i.e., ₹ 1,400 + ₹ 3,000), which is within the maximum permissible limit of ₹ 5,000.

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ILLUSTRATION 8

Mr. Y, aged 40 years, paid medical insurance premium of ₹ 22,000 during the T.Y. 2026-27 to insure his health as well as the health of his spouse and dependent children. He also paid medical insurance premium of ₹ 33,000 during the year to insure the health of his mother, aged 67 years, who is not dependent on him. He incurred medical expenditure of ₹ 20,000 on his father, aged 71 years, who is not covered under mediclaim policy. His father is also not dependent upon him. He contributed ₹6,000 to Central Government Health Scheme during the year. Compute the deduction allowable under section 126 for the T.Y. 2026-27 if Mr. Y has exercised the option of shifting out of the default tax regime.

SOLUTION

Deduction allowable under section 126 for the T.Y.2026-27

Particulars		₹	₹
(i)	Medical insurance premium paid for self, spouse and dependent children	22,000	
(ii)	Contribution to CGHS	6,000	
		28,000	
	restricted to		25,000
(iii)	Mediclaim premium paid for mother, who is over 60 years of age	33,000	
(iv)	Medical expenditure incurred for father, who is over 60 years of age and not covered by any insurance	20,000	
		53,000	
	restricted to		50,000
			75,000

(5) Deduction in respect of maintenance including medical treatment of a dependant disabled [Section 127] [Available only if the individual/HUF exercises the option of shifting out of the default tax regime]

(i) Eligible assessee: Section 127 provides deduction to an assessee, who is a resident in India, **being an individual or Hindu undivided family**.

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(ii) Payment qualifying for deduction:

(a) Any amount –

- incurred for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability, or
- paid or deposited under a scheme framed by the Life Insurance Corporation or any other insurer or the Administrator or the Specified Company, for the maintenance of a dependant, being a person with disability

qualifies for deduction.

(b) The benefit of deduction under this section is also available to assessees incurring expenditure on maintenance including medical treatment of persons suffering from autism, cerebral palsy, Mental Retardation and multiple disabilities.

(iii) Quantum of deduction: The quantum of deduction of up to **₹ 75,000** and in case of severe disability (i.e., person with 80% or more disability) the deduction shall be up to **₹ 1,25,000**[6].

(iv) Conditions:

(a) The scheme should provide for payment of annuity or a lump sum amount for the benefit of a dependant, being a person with disability,

I on the death of the individual or member of the HUF, in whose name scheme was subscribed; or

II on attaining the age of 60 years or more by such individual or the member of the HUF, and the payment or deposit to such scheme has been discontinued

and the assessee must nominate the dependant, being a person with disability or any other person or a trust to receive the payments on behalf of and for the benefit of such dependant.

[6] Section 80DD of the Income-tax Act, 1961 provides for a flat deduction of ₹ 75,000 or ₹ 1,25,000, as the case may be. However, as per plain reading of section 127 of the Income-tax Act, 2025, it provides for a deduction of up to ₹ 75,000 or ₹ 1,25,000, as the case may be.

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(b) The assessee claiming deduction under this section have to furnish a copy of the medical certificate issued by the medical authority in prescribed form and manner, along with the return of income under section 263 for the tax year in which the deduction is claimed.

(c) If the certificate specifies that the condition of disability requires reassessment, a fresh certificate from the medical authority shall have to be obtained after the expiry of the period mentioned in the original certificate in order to continue to claim the deduction.

(v) Deemed income: In the event of death of the dependent, being a person with disability, before the individual or the member of HUF, in whose name the scheme was subscribed, the amount paid or deposited under the said scheme would be deemed to be the income of the assessee of the tax year in which it is received by him and shall accordingly be chargeable to tax.

However, such deeming provisions would not apply to the amount received by the dependant, being a person with disability, before his death, as an annuity or lump sum by application of the condition referred to in II of (a) above i.e., when the individual or member of HUF attains the age of 60 years or more, and the payment or deposit to such scheme has been discontinued.

(vi) Meaning of "Dependent":

	Assessee	Dependant
(1)	Individual	the spouse, children, parents, brothers or sisters of the individual or any of them dependant wholly or mainly on such individual for his support and maintenance and shall not include a person who has claimed deduction under section 154 in the computing his total income for the tax year.
(2)	HUF	a member of the HUF dependant wholly or mainly on such individual for his support and maintenance and shall not include a person who has claimed deduction under section 154 in the computing his total income for the tax year.

ILLUSTRATION 9

Mr. X is a resident individual. He deposits a sum of ₹ 1,50,000 with Life Insurance Corporation every year for the maintenance of his disabled grandfather who is wholly

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dependent upon him. The disability is one which comes under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. A copy of the certificate from the medical authority is submitted. Compute the amount of deduction available under section 127 for the T.Y. 2026-27, if Mr. X has exercised the option of shifting out of the default tax regime.

SOLUTION

Since the amount deposited by Mr. X was for his grandfather, he will not be allowed any deduction under section 127. The deduction is available if the individual assessee incurs any expense for a "dependant" disabled person. Grandfather does not come within the meaning of "dependant" as defined under section 127.

ILLUSTRATION 10

What will be the deduction if Mr. X had made this deposit for his dependant father?

SOLUTION

Since the expense was incurred for a dependant disabled person, Mr. X will be entitled to claim a deduction of ₹ 75,000 under section 127. In case his father has severe disability, the deduction would be ₹ 1,25,000.

(6) Deduction in respect of medical treatment etc. [Section 128] [Available only if the individual/HUF exercises the option of shifting out of the default tax regime]

(i) Eligible assessee: This section provides deduction to an assessee, who is resident in India, being an individual or Hindu undivided family. The deduction is available to an individual for medical expenditure incurred on himself or a dependant. It is also available to a Hindu undivided family (HUF) for such expenditure incurred on any of its members.

(ii) Meaning of "Dependent":

	Assessee	Dependent
(1)	Individual	the spouse, children, parents, brothers and sisters of the individual or any of them dependant wholly or mainly on such individual for his support and maintenance.
(2)	HUF	a member of the HUF dependant wholly or mainly on such HUF for his support and maintenance.

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(iii) **Payment qualifying for deduction:** Any amount actually paid during the tax year for the medical treatment of such disease or ailment as may be prescribed for himself or a dependant, in case the assessee is an individual or for any member of a HUF, in case the assessee is a HUF will qualify for deduction.

(iv) **Quantum of deduction**: The amount of deduction under this section shall be equal to the amount actually paid or **₹ 40,000**, whichever is less, in respect of that tax year in which such amount was actually paid.

In case the amount is paid in respect of a senior citizen, then the deduction would be the amount actually paid or **₹ 1,00,000**, whichever is less.

The deduction under this section shall be reduced by any amount received under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the assessee or the dependant or any member of HUF.

(v) **Maximum deduction**: The maximum limit of deduction under section 128 for the various categories of assessee/ dependant in whose respect the payment is made are summarized hereunder:

	Assessee/ Dependant	Maximum limit (₹)
(1)	A senior citizen	1,00,000
(2)	Other than a senior citizen	40,000

(vi) **Condition:** A deduction shall be allowed only if the assessee obtains the prescription for the medical treatment from a neurologist, an oncologist, a urologist, a hematologist, an immunologist or any other specialist, as may be prescribed.

(7) Deduction in respect of interest loan taken for higher education [Section 129] [Available only if the individual exercises the option of shifting out of the default tax regime]

(i) **Eligible assessee**: Section 129 provides deduction to an individual assessee in respect of any interest paid by him during the tax year on loan taken by him from any financial institution or approved charitable institution.

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(ii) **Conditions**: The loan must have been taken for the purpose of pursuing higher education of himself or his/her relative. The actual payment of interest must be out of his income chargeable to tax.



(iii) **Period of deduction:** The deduction is allowed in computing the total income in respect of the initial tax year (the tax year in which the assessee starts paying the interest on the loan) and seven tax years immediately succeeding the initial tax year or until the interest is paid in full by the assessee, whichever is earlier.

(iv) **Meaning of certain terms:**

	Term	Meaning
(a)	**Relative**	Spouse and children of the individual or the student for whom the individual is the legal guardian
(b)	**Higher education**	It means any course of study pursued after passing the Senior Secondary Examination or its equivalent from a school, board or University recognised by the Central Government or State Government or local authority or by any other authority authorized by the Central Government or State Government or local authority to do so. Therefore, interest on loan taken for pursuing any course after Class XII or its equivalent, will qualify for deduction under section 129. Even education abroad is eligible for deduction but it must be a recognized course.
(c)	**Approved charitable institution**	It means an institution means a registered non-profit organisation where it was approved earlier under the provisions of section 10(23C) of the Income-tax Act, 1961, or an institution referred to in section 80G(2)(a) of the Income-tax Act, 2025;
(d)	**Financial institution**	It means – (a) a banking company to which the Banking Regulation Act, 1949 applies (including a bank or banking institution referred to in section 51 of the Act); or (b) any other financial institution which the Central Government may, by notification, specify.

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ILLUSTRATION 11

Mr. B has taken three education loans on April 1, 2026, the details of which are given below:

	Loan 1	Loan 2	Loan 3
For whose education loan was taken	*B*	*Son of B*	*Daughter of B*
Purpose of loan	*MBA*	*B. Sc.*	*B.A.*
Amount of loan (₹)	*5,00,000*	*2,00,000*	*4,00,000*
Annual repayment of loan (₹)	*1,00,000*	*40,000*	*80,000*
Annual repayment of interest (₹)	*20,000*	*10,000*	*18,000*

Compute the amount deductible under section 129 for the T.Y.2026-27 if Mr. B has exercised the option of shifting out of the default tax regime under section 202(1).

SOLUTION

Deduction under section 129 is available to an individual assessee exercising the option of shifting out of the default tax regime, in respect of any interest paid by him in the tax year in respect of loan taken for pursuing his higher education or higher education of his spouse or children. Higher education means any course of study pursued after senior secondary examination.

Therefore, interest repayment in respect of all the above loans would be eligible for deduction.

Deduction under section 129 = ₹ 20,000 + ₹ 10,000 + ₹ 18,000 = ₹ 48,000.

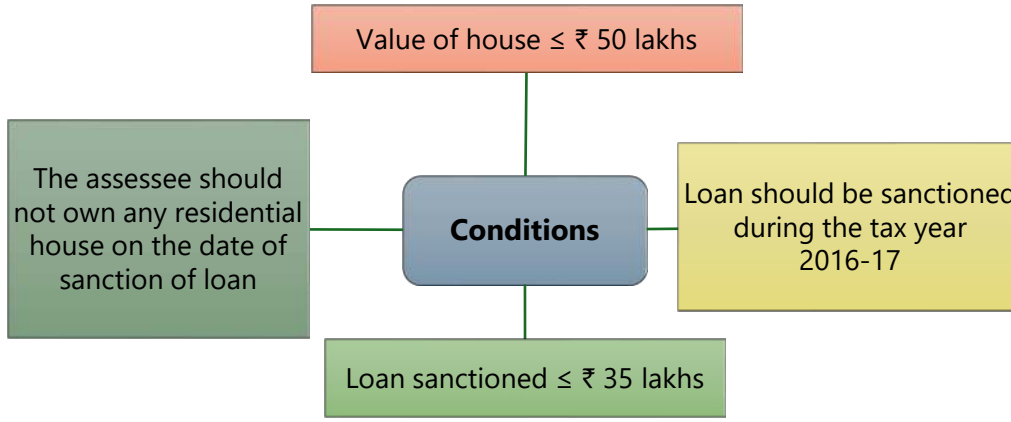
(8) Deduction for interest on loan borrowed for acquisition of residential house property by an individual [Section 130] [Available only if the individual exercises the option of shifting out of the default tax regime]

(i) Eligible assessee: An individual who has taken a loan from any financial institution for purpose of acquisition of a residential house property. Interest payable on such loan would qualify for deduction under this section. It is deductible even if it is not actually paid.



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(ii) **Conditions:** The conditions to be satisfied for availing this deduction are as follows –



(iii) **Period of benefit:** The benefit of deduction under this section would be available till the repayment of loan continues.

(iv) **Quantum of deduction:** The maximum deduction allowable is ₹ 50,000. The deduction of up to ₹ 50,000 under section 130 is over and above the deduction of up to ₹ 2,00,000 available under section 22 for interest paid in respect of loan borrowed for acquisition of a self-occupied property.

(v) **No deduction under any other provision**: The interest allowed as deduction under section 130 will not be allowed as deduction under any other provision of the Act for the same or any other tax year.

(vi) **Meaning of certain terms:**

	Term	Meaning
(a)	Financial institution	♦ A banking company to which the Banking Regulation Act, 1949 applies; or ♦ Any bank or banking institution referred to in section 51 of the Banking Regulation Act, 1949; or ♦ A housing finance company.
(b)	Housing finance company	A public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

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ILLUSTRATION 12

Mr. A purchased a residential house property for self-occupation at a cost of ₹ 45 lakh on 1.4.2017, in respect of which he took a housing loan of ₹ 35 lakh from Bank of India@11% p.a. on the same date. The loan was sanctioned on 28th March, 2017. Compute the eligible deduction in respect of interest on housing loan for tax year 2026-27 if Mr. A has exercised the option of shifting out of the default tax regime, assuming that the entire loan was outstanding as on 31.3.2027 and he does not own any other house property.

SOLUTION

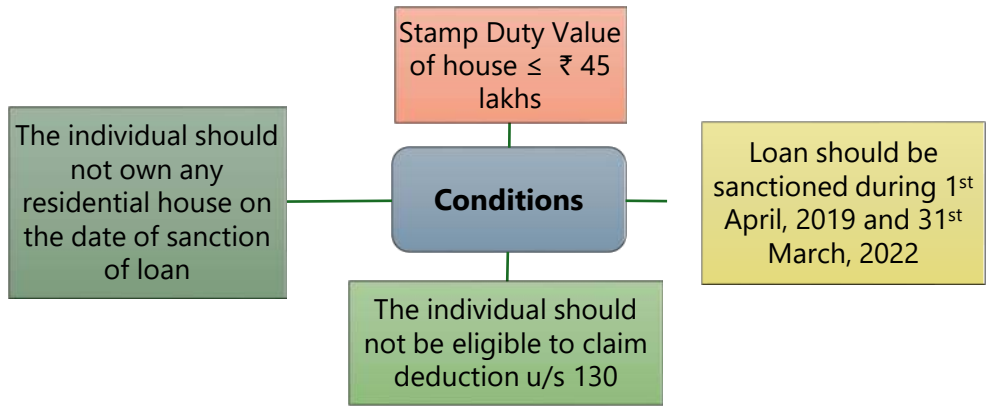
Particulars	₹
Interest deduction for T.Y.2026-27	
(i) Deduction allowable while computing income under the head "Income from house property"	
Deduction under section 22	
₹ 3,85,000 [₹ 35,00,000 × 11%]	
Restricted to	2,00,000
(ii) Deduction under Chapter VIII from Gross Total Income	
Deduction under section 130 ₹ 1,85,000 (₹ 3,85,000 – ₹ 2,00,000)	
Restricted to	50,000

(9) Deduction in respect of interest payable on loan taken for acquisition of residential house property [Section 131] [Available only if the individual exercises the option of shifting out of the default tax regime]

(i) **Eligible assessee**: An individual who has taken a loan from any financial institution for the purpose of acquisition of residential house property. Interest payable on such loan would qualify for deduction under this section.

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(ii) **Conditions:** The conditions to be satisfied for availing this deduction are as follows –



(iii) **Period of benefit:** The benefit of deduction under this section would be available till the loan continues. It is with reference to interest payable for each tax year and on not actual payment basis.

(iv) **Quantum of deduction:** The maximum deduction allowable is ₹ 1,50,000 in a tax year. The deduction of up to ₹ 1,50,000 under section 131 is over and above the deduction available under section 22 in respect of interest payable on loan borrowed for acquisition of a residential house property.

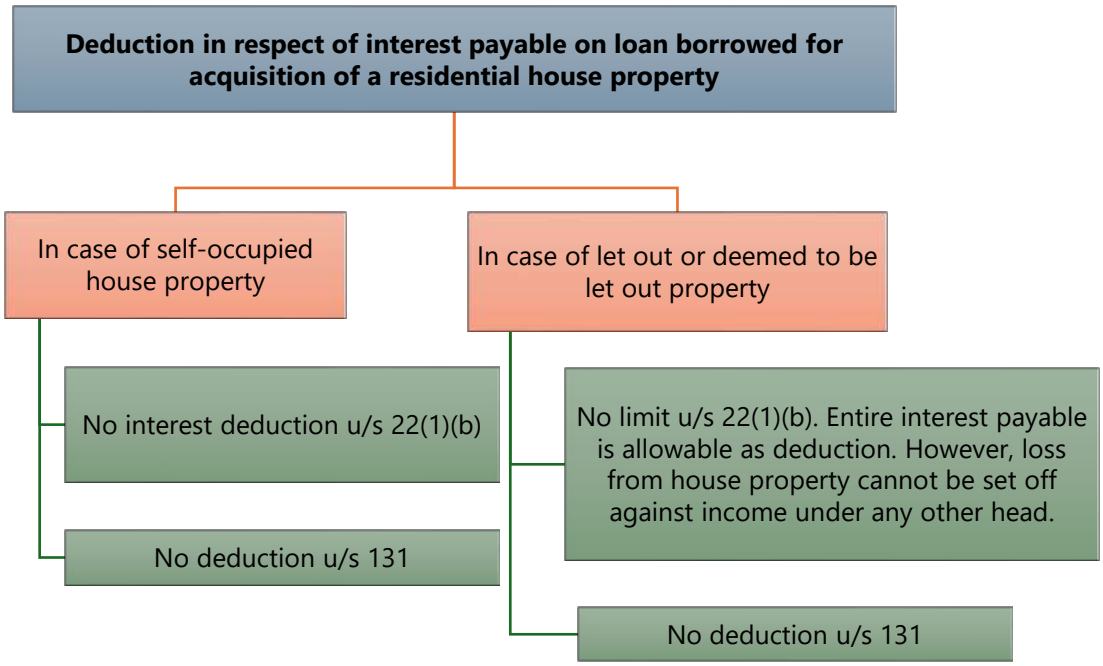
(v) **No deduction under any other provision**: The interest allowed as deduction under section 131 will not be allowed as deduction under any other provision of the Act for the same or any other tax year.

(vi) **Meaning of certain terms:**

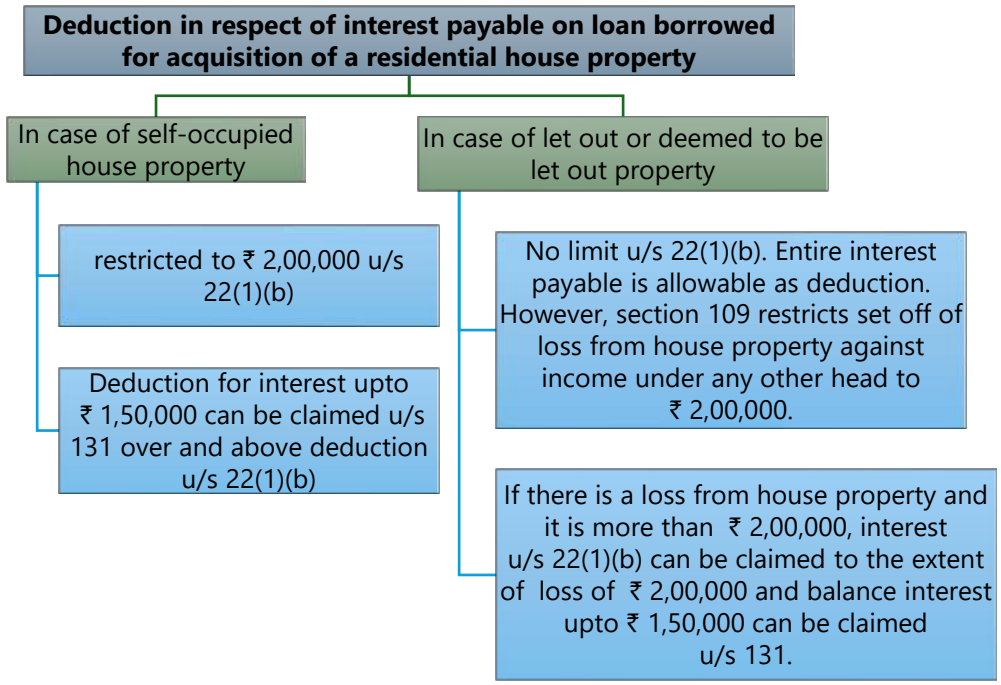
	Term	Meaning
(a)	Financial institution	♦ A banking company to which the Banking Regulation Act, 1949 applies; or ♦ Any bank or banking institution referred to in section 51 of the Banking Regulation Act, 1949; or ♦ A housing finance company.
(b)	Housing finance company	A public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

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In case the assessee pays tax under default tax regime under section 202(1)



In case the assessee has exercised the option of shifting out of the default tax regime



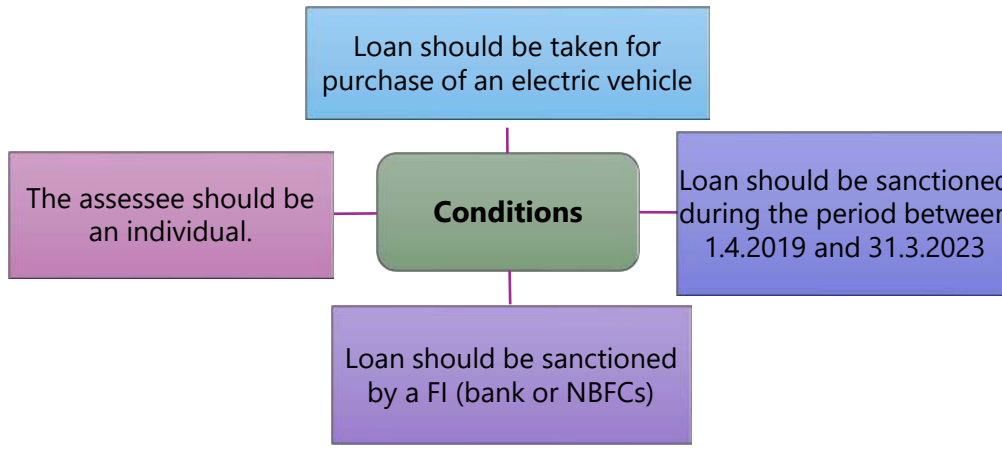
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(10) Deduction in respect of interest payable on loan taken for purchase of electric vehicle [Section 132] [Available only if the individual exercises the option of shifting out of the default tax regime]



(i) **Eligible Assessee**: An individual who has taken a loan by him from any financial institution for the purchase of an electric vehicle. Interest payable on such loan would qualify for deduction under this section.

(ii) **Conditions:** The conditions to be satisfied for availing this deduction are as follows –



(iii) **Period of benefit:** The benefit of deduction under this section would be available for interest payable for each tax year till the loan is repaid.

(iv) **Quantum of deduction:** Interest payable, subject to a maximum of ₹ 1,50,000.

(v) **No deduction under any other provision**: The interest allowed as deduction u/s 132 will not be allowed as deduction under any other provision of the Act for the same or any other tax year.

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(vi) Meaning of certain terms:

	Term	Meaning
(a)	Financial institution	• A banking company to which the Banking Regulation Act, 1949 applies; or • Any bank or banking institution referred to in section 51 of the Banking Regulation Act, 1949; or • Any NBFC
(b)	Electric Vehicle	A vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle. The vehicle should have electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.

ILLUSTRATION 13

The following are the particulars relating to Mr. A, Mr. B, Mr. C and Mr. D, salaried individuals, for T.Y. 2026-27 –

Particulars	***Mr. A***	***Mr. B***	***Mr. C***	***Mr. D***
Amount of loan taken	*₹43 lakhs*	*₹45 lakhs*	*₹20 lakhs*	*₹15 lakhs*
Loan taken from	*HFC*	*Deposit taking NBFC*	*Deposit taking NBFC*	*Public sector bank*
Date of sanction of loan	*1.4.2021*	*1.4.2020*	*1.4.2020*	*30.3.2019*
Date of disbursement of loan	*1.5.2021*	*1.5.2020*	*1.5.2020*	*1.5.2019*
Purpose of loan	*Acquisition of residential house property for self-occupation*	*Acquisition of residential house property for self-occupation*	*Purchase of electric vehicle for personal use*	*Purchase of electric vehicle for personal use*
Stamp duty value	*₹45 lakhs*	*₹48 lakhs*	-	-

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of house property				
Cost of electric vehicle	-	-	*₹ 22 lakhs*	*₹ 18 lakhs*
Rate of interest	*9% p.a.*	*9% p.a.*	*10% p.a.*	*10% p.a.*

Compute the amount of deduction, if any, allowable under the provisions of the Income-tax Act, 2025 for T.Y.2026-27 in the hands of Mr. A, Mr. B, Mr. C and Mr. D if they have exercised the option of shifting out of the default tax regime. Assume that there has been no principal repayment in respect of any of the above loans upto 31.3.2027.

SOLUTION

Particulars	₹
Mr. A	
Interest deduction for T.Y.2026-27	
(i) Deduction allowable while computing income under the head "Income from house property"	
Deduction u/s 22(1)(b)	
₹ 3,87,000 [₹ 43,00,000 × 9%]	
Restricted to	2,00,000
(ii) Deduction under Chapter VIII from Gross Total Income	
Deduction u/s 131	
₹ 1,87,000 (₹ 3,87,000 – ₹ 2,00,000)	1,50,000
Restricted to	
Mr. B	
Interest deduction for T.Y.2026-27	
(i) Deduction allowable while computing income under the head "Income from house property"	
Deduction u/s 22(1)(b)	
₹ 4,05,000 [₹ 45,00,000 × 9%]	
Restricted to	2,00,000
(ii) Deduction under Chapter VIII from Gross Total Income	
Deduction u/s 131 is not permissible since:	Nil
(i) loan is taken from NBFC and not a housing finance company.	

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(ii) stamp duty value exceeds ₹ 45 lakh. Deduction under section 131 would not be permissible due to either violation listed above.	
Mr. C	
Deduction under Chapter VIII from Gross Total Income	
Deduction u/s 132 for interest payable on loan taken for purchase of electric vehicle [₹ 20 lakhs x 10% = ₹ 2,00,000, restricted to ₹ 1,50,000, being the maximum permissible deduction]	1,50,000
Mr. D	
Deduction under Chapter VIII from Gross Total Income	
Deduction u/s 132 is not permissible since loan was sanctioned before 1.4.2019.	Nil

(11) Deduction in respect of donations to certain funds, charitable institutions etc. [Section 133]

(i) **Eligible assessee:** Where an assessee pays any sum as donation to eligible funds or institutions, he is entitled to a deduction, subject to certain limitations, from the gross total income.

In case of an individual, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person, deduction u/s 133 would be available only if they have exercised the option of shifting out of the default tax regime. It would not be available if they pay concessional rates of tax under the default tax regime u/s 202(1).

In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions contained in section 200/201 and section 203/204, respectively. In other words, deduction would be available only if they pay tax under the normal provisions of the Act.

(ii) **Quantum of deduction**: There are four categories of deductions. The following table gives the details of the institutions and funds to which donations can be made for the purpose of claiming deduction under section 133, –

I	Whole of the aggregate of sum paid in the tax year allowed as deduction
(1)	The National Defence Fund set up by the Central Government
(2)	Prime Minister's National Relief Fund

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(3)	Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)
(4)	Prime Minister's Armenia Earthquake Relief Fund
(5)	The Africa (Public Contributions-India) Fund
(6)	The National Children's Fund
(7)	The National Foundation for Communal Harmony
(8)	Approved University or educational institution of national eminence
(9)	Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat
(10)	Any *Zila Saksharta Samiti* for improving primary education in villages and towns and for literacy and post-literacy activities
(11)	National Blood Transfusion Council or any State Blood Transfusion Council which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks
(12)	Any fund set up by a State Government to provide medical relief to the poor
(13)	The Army Central Welfare Fund or Indian Naval Benevolent Fund or Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants
(14)	The Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996
(15)	The National Illness Assistance Fund
(16)	The Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund
(17)	The National Sports Development Fund set up by the Central Government
(18)	The National Cultural Fund set up by the Central Government
(19)	The Fund for Technology Development and Application set up by the Central Government
(20)	National Trust for welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities
(21)	The Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of CSR u/s 135(5) of the Companies Act, 2013
(22)	The Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent

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	by the assessee in pursuance of CSR u/s 135(5) of the Companies Act, 2013
(23)	The National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985
II	**Whole of the aggregate of sum paid in the tax year allowed as deduction, subject to qualifying limit**
(1)	The Government or to any approved local authority, institution or association as may be approved to be utilized for the purpose of promoting family planning
(2)	**Sum paid by a company** as donation to the Indian Olympic Association or any other association/institution established in India, as may be notified by the Government established – ♦ for the development of infrastructure for sports or games in India, or ♦ the sponsorship of sports and games in India
III	**Amount of 50% of aggregate of sum paid in the tax year**
(1)	Prime Minister's Drought Relief Fund
IV	**Amount of 50% of aggregate of sum paid in the tax year, subject to qualifying limit**
(1)	Any fund or any Institution which is established in India for a charitable purpose and is a registered non-profit organization or an institution or fund mentioned in Schedule VII (Table S. No. 1) and approved under section 354.
(2)	The Government or any local authority, to be utilised for any charitable purpose other than the purpose of promoting family planning.
(3)	An authority constituted in India by or under any law enacted either for the purpose ♦ of dealing with and satisfying the need for housing accommodation or ♦ of planning, development or improvement of cities, towns and villages, or for both.
(4)	A Corporation established by the Central Government or any State Government for promoting the interests of the members of such minority community as notified by Central Govt.

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(5)	Any entity, for the renovation or repair of any temple, mosque, gurdwara, church or other place which is notified by the Central Government to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States.

(iii) **Qualifying limit:** The eligible donations referred to in II and IV should be aggregated and the sum total should be limited to 10% of the adjusted gross total income. This would be the maximum permissible deduction.

The donations qualifying for 100% deduction would be first adjusted from the maximum permissible deduction and thereafter 50% deduction of the balance would be allowed.

Steps for computation of qualifying limit

Step 1:	Compute adjusted total income i.e., the GTI as reduced by the following: (i) Deductions under Chapter VIII, except under section 133 (ii) Short-term capital gain taxable under section 196 (iii) Long-term capital gains taxable under sections 197 & 198 (iv) Any income on which income-tax is not payable
Step 2:	Calculate 10% of adjusted total income
Step 3:	Calculate the actual donation, which is subject to qualifying limit (Total of Category II and IV donations, shown in the table above)
Step 4:	Lower of Step 2 or Step 3 is the maximum permissible deduction.
Step 5:	The said deduction is adjusted first against donations qualifying for 100% deduction (i.e., Category II donations). Thereafter, 50% of balance qualifies for deduction under section 133.

(iv) **Conditions:** Any claim of deduction by the assessee in the return of income for any tax year filed for any tax year in case of a donation made to an institution or fund is allowed

- only on the basis of information relating to such donation furnished by such institution or fund to the prescribed authority or person authorised by such authority

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- subject to verification as per the risk management strategy formulated by the Board from time to time.

(v) Other points:

(1) Where an assessee has claimed and allowed any deduction under this section for any tax year in respect of any amount of donation, the same amount will not qualify for deduction under any other provision of the Act for the same or any other tax year [Section 133(3)].

(2) Deduction for donations is allowed only for donations made as a sum of money.

(3) Any deduction for a donation over **₹ 2,000** shall be allowed only if the payment is made by a mode other than cash [Section 133(5)].

(4) The deduction under section 133 can be claimed whether it has any nexus with the business of the assessee or not.

(5) As per *Circular No.2/2005 dated 12.1.2005*, in cases where employees make donations to the Prime Minister's National Relief Fund, the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund through their respective employers, it is not possible for such funds to issue separate certificate to every such employee in respect of donations made to such funds as contributions made to these funds are in the form of a consolidated cheque. An employee who makes donations towards these funds is eligible to claim deduction under section 133. It is, hereby, clarified that the claim in respect of such donations as indicated above will be admissible under section 133 on the basis of the certificate issued by the Drawing and Disbursing Officer (DDO)/ Employer in this behalf.

(6) Charitable purpose does not include any purpose the whole or substantially the whole of which is of a religious nature.

(7) An association or institution having as its object the control, supervision, regulation or encouragement in India of such games or sports as may be notified by the Central Government, shall be deemed to be an institution established in India for a charitable purpose.

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ILLUSTRATION 14

Mr. Shiva aged 58 years, has gross total income of ₹ 7,75,000 comprising of income from salary and house property. He has made the following payments and investments:

(i) Premium paid to insure the life of her major daughter (policy taken on 1.4.2019) (Assured value ₹ 1,80,000) – ₹ 20,000.

(ii) Medical Insurance premium for self – ₹ 12,000; Spouse – ₹ 14,000.

(iii) Donation to a public charitable institution, a registered NPO - ₹ 50,000 by way of cheque.

(iv) LIC Pension Fund – ₹ 60,000.

(v) Donation to National Children's Fund - ₹ 25,000 by way of cheque

(vi) Donation to PM CARES Fund - ₹ 25,000 by way of cheque

(vii) Donation to approved institution for promotion of family planning - ₹ 40,000 by way of cheque

(viii) Deposit in PPF – ₹ 1,00,000

Compute the total income of Mr. Shiva for T.Y. 2026-27 if he exercises the option of shifting out of the default tax regime.

SOLUTION

Computation of Total Income of Mr. Shiva for T.Y. 2026-27

Particulars	₹	₹
Gross Total Income		7,75,000
***Less*: Deduction under section 123**		
Deposit in PPF	1,00,000	
LIC pension fund	60,000	
Life insurance premium paid for insurance of major daughter (Maximum 10% of the assured value of ₹ 1,80,000, as the policy is taken after 31.3.2012)	18,000	
	1,78,000	
As per section 123, deduction is restricted to		1,50,000

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Deduction under section 126		
Medical Insurance premium in respect of self and spouse	26,000	
Restricted to		25,000
Deduction under section 133 (See Working Note below)		1,00,000
Total income		**5,00,000**

Working Note: Computation of deduction under section 133

	Particulars of donation	Amount donated (₹)	% of deduction	Deduction u/s 133 (₹)
(i)	National Children's Fund	25,000	100%	25,000
(ii)	PM Cares Fund	25,000	100%	25,000
(iii)	Approved institution for promotion of family planning	40,000	100%, subject to qualifying limit	40,000
(iv)	Public Charitable Trust	50,000	50% subject to qualifying limit (See Note below)	10,000
				1,00,000

Note - Adjusted total income = Gross Total Income – Amount of deductions under section 123 to 154 except section 133 i.e., ₹ 6,00,000, in this case.

₹ 60,000, being 10% of adjusted total income is the qualifying limit, in this case.

Firstly, donation of ₹ 40,000 to approved institution for family planning qualifying for 100% deduction subject to qualifying limit, has to be adjusted against this amount. Thereafter, donation to public charitable trust qualifying for 50% deduction, subject to qualifying limit is adjusted. Hence, the contribution of ₹ 50,000 to public charitable trust is restricted to ₹ 20,000 (being, ₹ 60,000 - ₹ 40,000), 50% of which would be the deduction under section 133. Therefore, the deduction under section 133 in respect of donation to public charitable trust would be ₹ 10,000, which is 50% of ₹ 20,000.

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(12) Deduction in respect of rent paid [Section 134] [Available only if the individual/HUF exercises the option of shifting out of the default tax regime]

(i) **Eligible assessee**: Assessee, who is not in receipt of HRA qualifying for exemption under Schedule III (Sl. No. 11) from employer and who pays rent for accommodation (whether furnished or unfurnished) occupied by him for the purposes of his own residence.

(ii) **Conditions**: The following conditions have to be satisfied for claiming deduction under section 134 -

(1) The assessee should not receive any income falling in Schedule III (Sl. No. 11) i.e., house rent allowance.

(2) The accommodation should be occupied by the assessee for the purposes of his own residence.

(3) The assessee should fulfill such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations.

(4) The assessee or his spouse or his minor child or an HUF of which he is a member should not own any residential accommodation at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession; or

(5) If the assessee owns any residential accommodation at any other place, such accommodation should not be in the occupation of the assessee and its annual value is not required to be determined under section 21(6) or section 21(7)(a).

(iii) **Quantum of deduction**: The deduction admissible will be the least of the following:

(1) Actual rent paid *minus* 10% of the total income of the assessee before allowing the deduction, or

(2) 25% of such total income (arrived at after making all deductions under Chapter VIII but before making any deduction under this section), or

(3) Amount calculated at ₹ 5,000 p.m.

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ILLUSTRATION 15

Mr. Ganesh, a businessman, whose total income (before allowing deduction under section 134) for T.Y.2026-27 is ₹4,60,000, paid house rent at ₹12,000 p.m. in respect of residential accommodation occupied by him at Mumbai. Compute the deduction allowable to him under section 134 for T.Y.2026-27 if he has exercised the option of shifting out of the default tax regime.

SOLUTION

The deduction under section 134 will be computed as follows:

(i) Actual rent paid *less* 10% of total income

₹ 1,44,000 (-) $\frac{(10 \times 4,60,000)}{100}$ = ₹ 98,000

(ii) 25% of total income = $\frac{25 \times 4,60,000}{100}$ = ₹ 1,15,000

(iii) Amount calculated at ₹ 5,000 p.m. = ₹ 60,000

Deduction allowable u/s 134 [least of (i), (ii) and (iii)] = ₹ 60,000

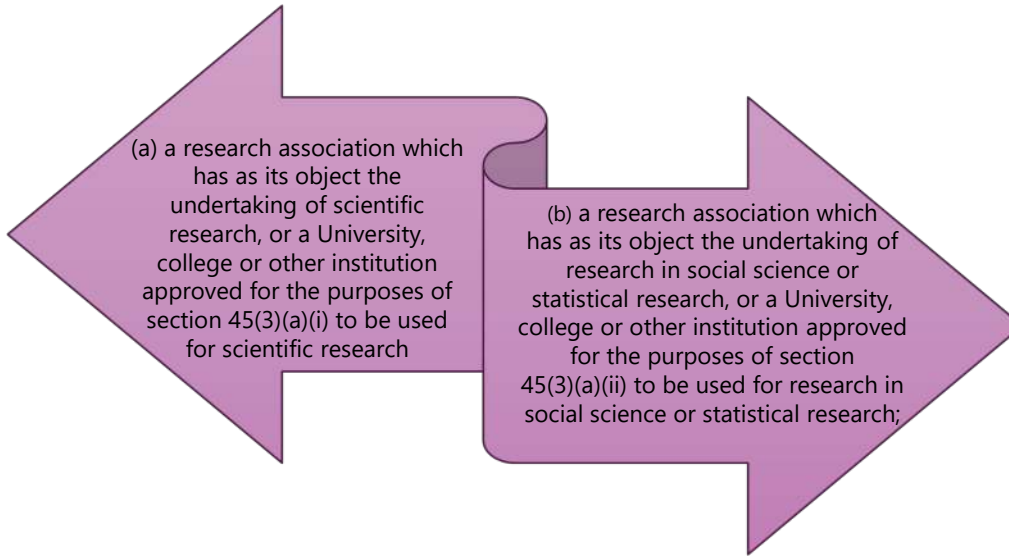
(13) Deduction in respect of donations for scientific research [Section 135] [Available only if the individual, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person exercise the option of shifting out of the default tax regime]

(i) Eligible assessee: Section 135 grants deduction in respect of the donations made for scientific research by any assessee not having income chargeable under the head "Profits and gains of business or profession".

(ii) Donations qualifying for deduction:

In computing the total income of an assessee, there shall be deducted any sum paid by the assessee in the tax year to –

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Further, the deduction under (a) and (b) above shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to any of the aforesaid entities has been withdrawn.

(iii) Restrictions on deduction:

(1) No deduction under this section would be allowed in the case of an assessee whose gross total income includes income which is chargeable under the head "Profits and gains of business or profession".

(2) Where a deduction under this section is claimed and allowed for any tax year, deduction shall not be allowed in respect of such payment under any provision of this Act for the same or any other tax year.

(3) No deduction shall be allowed in respect of contribution made in cash exceeding **₹ 2,000**.

(4) Deduction under this section claimed by the assessee in the return of income for any tax year would be allowable on the basis of the information relating to donation furnished by the payee to the prescribed income-tax authority or person specified by such authority, subject to verification as per the risk management strategy formulated by the CBDT from time to time.

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(14) Deduction in respect of contributions given by companies to political parties [Section 136]

(i) **Deduction & Conditions**: This section provides for deduction of the amount contributed during the tax year by an Indian company not opting for section 200/ 201 to any political party or an electoral trust. However, no deduction shall be allowed in respect of any sum contributed by way of cash.

(ii) **Meaning of "Contribute":** For the purposes of this section, the word "contribute" has the same meaning assigned to it under section 182 of the Companies Act, 2013, which provides that -

(a) a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to affect public support for a political party shall also be deemed to be contribution for a political purpose;

(b) the expenditure incurred, directly or indirectly, by a company on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

(iii) **Meaning of "Political party"**: It means a political party registered under section 29A of the Representation of the People Act, 1951.

ILLUSTRATION 16

During the T.Y. 2026-27, ABC Ltd., an Indian company,

(1) contributed a sum of ₹2 lakh to an electoral trust; and

(2) incurred expenditure of ₹25,000 on advertisement in a brochure of a political party.

Is the company eligible for deduction in respect of such contribution/expenditure, assuming that the contribution was made by cheque? If so, what is the quantum of deduction? ABC Ltd. does not opt for section 200.

SOLUTION

An Indian company is eligible for deduction under section 136 in respect of any sum contributed by it during the tax year to any political party or an electoral trust. Further, the word "contribute" in section 136 has the meaning assigned to it in

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section 182 of the Companies Act, 2013, and accordingly, it includes the amount of expenditure incurred on advertisement in a brochure of a political party.

Therefore, ABC Ltd. is eligible for a deduction of ₹ 2,25,000 under section 136 in respect of sum of ₹ 2 lakh contributed to an electoral trust and ₹ 25,000 incurred by it on advertisement in a brochure of a political party.

It may be noted that there is a specific disallowance under section 34(2)(c) in respect of expenditure incurred on advertisement in a brochure of a political party. Therefore, the expenditure of ₹ 25,000 would be disallowed while computing business income/gross total income. However, the said expenditure incurred by an Indian company is allowable as a deduction from gross total income under section 136.

(15) Deduction in respect of contributions given by any person to political parties [Section 137]

(i) **Deduction & Conditions:** This section provides for deduction of any amount contributed during the tax year by any person to a political party or an electoral trust. However, no deduction shall be allowed in respect of any sum contributed by way of cash.

(ii) **Persons not eligible for deduction:** This deduction will, however, not be available to a local authority and an artificial juridical person, wholly or partly funded by the Government.

(iii) **Meaning of "Political party":** It means a political party registered under section 29A of the Representation of the People Act, 1951.



An individual, HUF, AoP (other than a co-operative society) or BoI would be eligible for deduction u/s 137 only if they have exercised the option of shifting out of the default tax regime. A co-operative society will not be eligible for deduction if it opts for special provisions of section 203/204.

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9.	*Mr. Rohan made the following payments during T.Y. 2026-27:* *1. Contribution of ₹ 1,50,000 by cheque to an electoral trust; and* *2. Expenditure of ₹ 25,000 on advertisement in a brochure published by a political party.* *What deduction is allowable to him in respect of the above payments under optional tax regime?*	
	(a)	*Nil*
	(b)	*₹ 1,75,000*
	(c)	*₹ 1,50,000*
	(d)	*₹ 25,000*

4. DEDUCTIONS IN RESPECT OF CERTAIN INCOMES

(1) Special provisions in respect of units established in Special Economic Zones [Section 144]

Section 144 provides that where the assessee is eligible to claim deduction from profits and gains derived from business referred to in section 10AA of Income-tax Act, 1961, he shall be allowed deduction under this section provided the deduction is calculated as per provisions of section 10AA of Income-tax Act, 1961 and deduction would be allowed only for such tax years as would have been allowed under section 10AA of Income-tax Act, 1961, as if the said Act had not been repealed.

The provisions of section 10AA of Income-tax Act, 1961 are discussed as follows:

A deduction of profits and gains which are derived by an assessee being an entrepreneur from the export of articles or things or providing any service, shall be allowed from the total income of the assessee.

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In case of an individual, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person, deduction would be available only if they have exercised the option of shifting out of the default tax regime. The deduction would be available only under the optional tax regime, where they pay tax under the normal provisions of the Act.

In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions contained in section 200/ 201 and section 203/ 204, respectively. The deduction would be available if they pay tax under the normal provisions of the Act.

(1) Assessees who are eligible for deduction

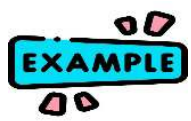
Deduction is available to all categories of assessees who derive any profits or gains from an undertaking, being a unit, engaged in the manufacturing or production of articles or things or provision of any service. Such assessee should be an entrepreneur referred to in section 2(j) of the SEZ Act, 2005 i.e., a person who has been granted a letter of approval by the Development Commissioner under section 15(9) of the said Act.

(2) Essential conditions to claim deduction

The deduction would be available to an undertaking which fulfils the following conditions:

(i) It has begun to manufacture or produce articles or things or provide any service in any SEZ during the tax year 2005-06 or any subsequent tax year but not later than tax year 2019-20.

However, in case where letter of approval, required to be issued in accordance with the provisions of the SEZ Act, 2005, has been issued on or before 31st March, 2020 and the manufacture or production of articles or things or providing services has not begun on or before 31st March, 2020 then, the date for manufacture or production of articles or things or providing services has been extended to 31st March, 2021 or such other date after 31st March, 2021, as notified by the Central Government.



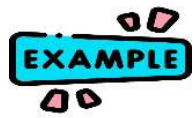
If SEZ unit has received the necessary approval by 31.3.2020 and begins manufacture or production of articles or things or providing services on or before 31st March, 2021, then it would be deemed to have begun

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manufacture or production of articles or things or providing services during the tax year 2019-20 and would be eligible for deduction under section 144 of Income-tax Act, 2025.[7]

(ii) The assessee should furnish in the prescribed form, before the date specified in section 63 i.e., one month prior to the due date for furnishing return of income u/s 263(1), the report of a chartered accountant certifying that the deduction has been correctly claimed.

(iii) **No deduction** under section 144 of Income-tax Act, 2025 would be allowed to an assessee **who does not furnish a return of income on or before the due date specified u/s 263(1).**



An individual, subject to tax audit u/s 63, claiming deduction u/s 144 of Income-tax Act, 2025 is required to furnish return of income on or before 31.10.2027 for tax year 2026-27 and the report of a chartered accountant before 30.9.2027, certifying the deduction claimed u/s 144.

(iv) Deduction under section 144 of Income-tax Act, 2025 would be available to a Unit, if the proceeds from sale of goods or provision of services is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of 6 months from the end of the tax year or, within such further period as the competent authority may allow in this behalf.

The export proceeds from sale of goods or provision of services shall be deemed to have been received in India where such export turnover is credited to a separate account maintained for that purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

Meaning of Competent authority – Competent authority means RBI or such authority as is authorized under any law for the time being in force for regulating payments and dealings in foreign exchange.

[7] *The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020*

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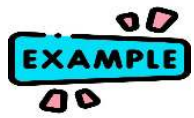
(3) Period for which deduction is available

The unit of an entrepreneur, which begins to manufacture or produce any article or thing or provide any service in a SEZ on or after 1.4.2005, shall be allowed a deduction of:

(i) 100% of the profits and gains derived from the export, of such articles or things or from services for a period of 5 consecutive tax years beginning with the tax year in which the Unit begins to manufacture or produce such articles or things or provide services, and

(ii) 50% of such profits and gains for further 5 tax years.

(iii) so much of the amount not exceeding 50% of the profit as is debited to the profit and loss account of the year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Reserve Account") to be created and utilised in the manner laid down for next 5 consecutive tax years.



An undertaking is set up in a SEZ and begins manufacturing on 15.10.2012. The deduction under section 10AA of the Income-tax Act, 1961/ 144 of the Income-tax Act, 2025 shall be allowed as under:

(a) 100% of profits of such undertaking from exports from tax year 2012-13 to tax year 2016-17.

(b) 50% of profits of such undertaking from exports from tax year 2017-18 to tax year 2021-22.

(c) 50% of profits of such undertaking from exports from tax year 2022-23 to tax year 2026-27 provided certain conditions are satisfied.

(4) Conditions to be satisfied for claiming deduction for further 5 years (after 10 years)

The deduction under (3)(iii) above shall be allowed only if the following conditions are fulfilled, namely:-

(a) the amount credited to the Special Economic Zone Re-investment Reserve Account is utilized -

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(1) for the purposes of acquiring machinery or plant which is first put to use before the expiry of a period of three years following the tax year in which the reserve was created; and

(2) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking. However, it should not be utilized for

(i) distribution by way of dividends or profits; or

(ii) for remittance outside India as profits; or

(iii) for the creation of any asset outside India;

(b) the particulars, as may be specified by the CBDT in this behalf, have been furnished by the assessee in respect of machinery or plant. Such particulars include details of the new plant/machinery, name and address of the supplier of the new plant/machinery, date of acquisition and date on which new plant/machinery was first put to use. Such particulars have to be furnished along with the return of income for the tax year in which such plant or machinery was first put to use.

(5) Consequences of mis-utilisation / non-utilisation of reserve

Where any amount credited to the Special Economic Zone Re-investment Reserve Account -

(a) has been utilised for any purpose other than those referred to in (4) above, the amount so utilized shall be deemed to be the profits in the year in which the amount was so utilised and charged to tax accordingly; or

(b) has not been utilised before the expiry of the said period of 3 years, the amount not so utilised, shall be deemed to be the profits in the year immediately following the said period of three years and be charged to tax accordingly.

(6) Computation of profits and gains from exports of such undertakings

The profits derived from export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the unit, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking i.e.

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$$\text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit SEZ}}{\text{Total turnover of Unit SEZ}}$$

Clarification on issues relating to export of computer software

The profits and gains derived from the on-site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

Meaning of Export turnover: It means the consideration in respect of export by the undertaking, being the unit of articles or things or services received in India or brought into India by the assessee in convertible foreign exchange within 6 months from the end of the tax year or within such further period as the competent authority may allow in this behalf.

However, it does not include

- freight
- telecommunication charges
- insurance

attributable to the delivery of the articles or things outside India or expenses incurred in foreign exchange in rendering of services (including computer software) outside India.



Clarification on issues relating to deduction of freight, telecommunication charges and other expenses from total turnover

"Export turnover", *inter alia*, does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India.

CBDT has, vide circular No. 4/2018, dated 14/08/2018, clarified that freight, telecommunication charges and insurance expenses are to be excluded both from "export turnover" and "total turnover', while working out deduction admissible under section 144 of the Income-tax Act, 2025 to the extent they are attributable to the delivery of articles or things outside India.

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Similarly, expenses incurred in foreign exchange for rendering services outside India are to be excluded from both "export turnover" and "total turnover" while computing deduction admissible under section 144 of Income-tax Act, 2025.

(7) Restriction on other tax benefits

(i) During the period of deduction, depreciation is deemed to have been allowed on the assets. Written Down Value shall accordingly be reduced.

(ii) No deduction under section 138 and 141 shall be allowed in relation to the profits and gains of the undertaking.

(iii) Any unabsorbed depreciation under section 33(11) or business loss under section 112(1) or loss under the head "Capital gains" under section 111 of the undertaking, being the Unit shall be allowed to be carried forward or set off.

(iv) Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee, or where any goods or service held for any other business carried on by the assessee are transferred to the eligible business and, in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, then the profits eligible for deduction shall be computed by adopting market value of such goods or services on the date of transfer.

In case of exceptional difficulty in this regard, the profits shall be computed by the Assessing Officer on a reasonable basis as he may deem fit. Similarly, Where due to the close connection between the assessee and the other person or for any other reason, it appears to the Assessing Officer that the profits of eligible business are increased to more than the ordinary profits, the Assessing Officer shall compute the amount of profits of such eligible business on a reasonable basis for allowing the deduction.

(v) Where a deduction under this section is claimed and allowed in relation to any specified business eligible for investment-linked deduction under section 46, no deduction shall be allowed under section 46 in relation to such specified business for the same or any other tax year.

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(8) Deduction allowable in case of amalgamation and demerger

In the event of any undertaking, being the Unit which is entitled to deduction under this section, being transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger, -

(a) no deduction shall be admissible under this section to the amalgamating or the demerged Unit for the tax year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section would apply to the amalgamated or resulting Unit, as they would have applied to the amalgamating or the demerged Unit had the amalgamation or demerger had not taken place.



10.	*Mr. Kamal commenced operations in SEZ in tax year 2018-19. He had the following details for T.Y. 2026-27:* *Profit of SEZ unit: ₹ 2 crore* *Export turnover (received in convertible foreign exchange): ₹ 12 crore* *Total turnover: ₹ 15 crore* *Freight attributable to exports included in turnover: ₹ 1 crore* *Compute the amount of deduction allowable to Mr. Kamal for the tax year 2026-27 under optional tax regime.*	
	(a)	*₹ 1.6 crore*
	(b)	*₹ 1.57 crore*
	(c)	*₹ 2 crore*
	(d)	*₹ 0.785 crore*
11.	*An SEZ unit transferred to another company under a scheme of amalgamation during T.Y. 2026-27.* *Who can claim deduction under section 144 for that tax year?*	
	(a)	*Amalgamating company only*
	(b)	*Both companies proportionately*
	(c)	*Amalgamated company only*
	(d)	*Neither company*

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ILLUSTRATION 17

Mr. Y furnishes you the following information for the year ended 31.3.2027:

Particulars	***₹ (in lacs)***
Total turnover of Unit A located in Special Economic Zone	*100*
Profit of the business of Unit A	*30*
Export turnover of Unit A received in India in convertible foreign exchange on or before 30.9.2027	*50*
Total turnover of Unit B located in Domestic Tariff Area (DTA)	*200*
Profit of the business of Unit B	*20*

Compute deduction under section 144 for the T.Y. 2026-27, assuming that Mr. Y commenced operations in SEZ and DTA in the year 2019-20 and Mr. Y has exercised the option of shifting out of the default tax regime.

SOLUTION

Deduction under section 144 shall be calculated as per section 10AA of the Income-tax Act, 1961, as if the said Act has not been repealed.

50% of the profit derived from export of articles or things or services is eligible for deduction under section 144, since tax year 2026-27 is the eighth year commencing from the year of manufacture or production of articles or things or provision of services by the Unit in SEZ. The profit derived from export of articles or things or services shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of articles or things or services bears to the total turnover of the business carried on by the undertaking.

Deduction under section 144 of Income-tax Act, 2025

$$= \text{Profit of the business of Unit A} \times \frac{\text{Export Turnover of Unit A}}{\text{Total Turnover of Unit A}} \times 50\%$$

$$= ₹\ 30 \text{ lakhs} \times \frac{50}{100} \times 50\% = ₹\ 7.5 \text{ lakhs}$$

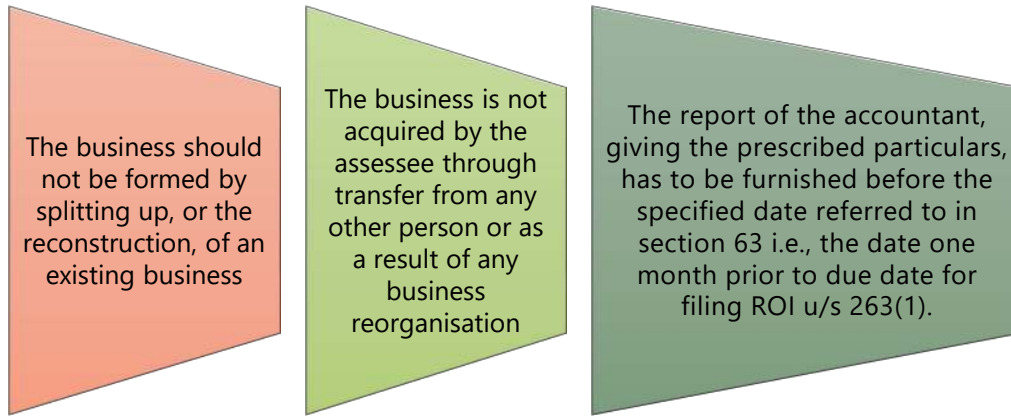
Note – No deduction under section 144 is allowable in respect of profits of business of Unit B located in DTA.

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(2) Deduction in respect of additional employment cost [Section 146]

(i) Quantum and period of deduction: Where the gross total income of an assessee to whom section 63 applies, includes any profits and gains derived from business, a deduction of an amount equal to 30% of additional employee cost incurred in the course of such business in the tax year, would be allowed for three consecutive tax years beginning from the tax year in which the employment is provided.

(ii) Conditions to be fulfilled: The deduction would be allowed only subject to fulfilment of the following conditions:



(iii) Meaning of certain terms:

	Term	Meaning	
(a)	Additional employee cost	Total emoluments paid or payable to additional employees employed during the tax year.	
		In the case of an existing business	The additional employee cost shall be Nil, if— (a) there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding tax year; or (b) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by

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			use of electronic clearing system through a bank account or through any other prescribed electronic mode [As per Rule 48, Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), BHIM (Bharat Interface for Money) Aadhaar Pay, and Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC].
		In the first year of a new business	The emoluments paid or payable to employees employed during the tax year.
(b)	Additional employee	An employee who has been employed during the tax year and whose employment increases the total number of employees employed by the employer as on the last day of the preceding tax year. **Exclusions from the definition:** (a) an employee whose total emoluments exceed ₹ 25,000 per month; or (b) an employee for whom the Government pays the entire contribution under the Employees' Pension Scheme notified as per the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or (c) an employee employed for less than 150 days in case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products, except where such employee is employed for said number of days in the immediately succeeding tax year, he shall be deemed as an additional employee of the succeeding tax year;		

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		(d) an employee employed for less than 240 days during the tax year in case of any other assessee, except where such employee is employed for said number of days in the immediately succeeding tax year, he shall be deemed as an additional employee of the succeeding tax year; (e) an employee who does not participate in the recognised provident fund.
(c)	Emoluments	any sum paid or payable to an employee *in lieu* of his employment by whatever name called. **Exclusions from the definition:** (a) employer contributions paid or payable to any pension or provident fund or any other fund for the benefit of the employee as mandated by any law; and (b) lump-sum payments paid or payable to an employee at the time of termination of his service, superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.



Deduction u/s 146 would be available to an assessee irrespective of the regime under which such assessee pays tax



12.	*ABC Ltd. employed 20 new employees during T.Y. 2026-27. However, total employees as on 31.03.2027 remained the same as on 31.03.2026 due to resignation of existing employees.* *What would be the additional employee cost?*	
	(a)	*Actual emoluments paid*

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	(b)	*50% of emoluments paid*
	(c)	*Nil*
	(d)	*30% of emoluments paid*
13.	*Mr. A operates a footwear manufacturing business. His turnover for T.Y. 2026-27 exceeds ₹ 10 crores. 50 employees were employed for 120 days during T.Y. 2026-27 and continued employment for more than 150 days in T.Y. 2027-28.* *When would such employee be treated as an additional employee?*	
	(a)	*In T.Y. 2026-27 only*
	(b)	*In T.Y. 2027-28 only*
	(c)	*In both years*
	(d)	*Never*

ILLUSTRATION 18

Mr. A has commenced the business of manufacture of computers on 1.4.2026. He employed 350 new employees during the T.Y. 2026-27, the details of whom are as follows –

	No. of employees	**Date of employment**	**Regular/ Casual**	**Total monthly emoluments per employee (₹)**
(i)	*75*	*1.4.2026*	*Regular*	*24,000*
(ii)	*125*	*1.5.2026*	*Regular*	*26,000*
(iii)	*50*	*1.8.2026*	*Casual*	*24,500*
(iv)	*100*	*1.9.2026*	*Regular*	*24,000*

The regular employees participate in recognized provident fund while the casual employees do not. Compute the deduction, if any, available to Mr. A for T.Y. 2026-27, if the profits and gains derived from manufacture of computers that year is ₹ 75 lakhs and his total turnover is ₹ 10.16 crores.

What would be your answer if Mr. A has commenced the business of manufacture of footwear on 1.4.2026?

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SOLUTION

Mr. A is eligible for deduction under section 146 since he is subject to tax audit under section 63 for T.Y. 2026-27 and he has employed "additional employees" during the T.Y. 2026-27.

I **<u>If Mr. A is engaged in the business of manufacture of computers</u>**

Additional employee cost = ₹ 24,000 × 12 × 75 **[See Working Note below]**

= ₹ 2,16,00,000

Deduction under section 146 = 30% of ₹ 2,16,00,000 = ₹ 64,80,000.

Working Note:

Number of additional employees

Particulars		No. of workmen	
Total number of employees employed during the year			350
Less:	Casual employees employed on 1.8.2026 who do not participate in recognized provident fund	50	
	Regular employees employed on 1.5.2026, since their total monthly emoluments exceed ₹ 25,000	125	
	Regular employees employed on 1.9.2026 since they have been employed for less than 240 days in the tax year 2026-27.	100	275
Number of "additional employees"			**75**

Notes –

(i) Since casual employees do not participate in recognized provident fund, they do not qualify as additional employees. Further, 125 regular employees employed on 1.5.2026 also do not qualify as additional employees since their monthly emoluments exceed ₹ 25,000. Also, 100 regular employees employed on 1.9.2026 do not qualify as additional employees for the tax year 2026-27, since they are employed for less than 240 days in that year.

Therefore, only 75 employees employed on 1.4.2026 qualify as additional employees, and the total emoluments paid or payable to them during the tax year 2026-27 is deemed to be the additional employee cost.

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(ii) As regards 100 regular employees employed on 1.9.2026, they would be treated as additional employees for tax year 2027-28, if they continue to be employees in that year for a minimum period of 240 days. Accordingly, 30% of additional employee cost in respect of such employees would be allowable as deduction under section 146 in the hands of Mr. A for the tax year 2027-28.

II If Mr. A is engaged in the business of manufacture of footwear

If Mr. A is engaged in the business of manufacture of footwear, then, he would be entitled to deduction under section 146 in respect of employee cost of regular employees employed on 1.9.2026, since they have been employed for more than 150 days in the tax year 2026-27.

Additional employee cost = ₹ 2,16,00,000 + ₹ 24,000 × 7 × 100 = ₹ 3,84,00,000

Deduction under section 146 = 30% of ₹ 3,84,00,000 = ₹ 1,15,20,000.

(3) Deduction in respect of royalty income, etc., of authors of certain books other than text books [Section 151] [Available only if the individual exercises the option of shifting out of the default tax regime]



(i) Eligible assessee & Quantum of deduction: Under section 151, deduction of up to a maximum ₹ 3,00,000 is allowed to an individual resident in India, being an author including a joint author in respect of income derived by him in the exercise of his profession i.e., the deduction shall be the income derived as author or **₹ 3,00,000**, whichever is less.

(ii) Eligible Income:

(a) This income may be received either by way of a lumpsum consideration for the assignment or grant of any of his interests in the copyright of any book. Lumpsum consideration in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.

(b) Such book should be a work of literary, artistic or scientific nature, or of royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of such book.

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(c) This deduction shall not, however, be available in respect of royalty income from brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, textbook for schools, tracts and other publications of similar nature.

(ii) No deduction under any other section: Where a deduction for any tax year has been claimed and allowed in respect of any income under this section, no deduction in respect of such income shall be claimed under any other provision of the Act in any other tax year.

(iii) Manner of computation of deduction: For the purpose of calculating the deduction under this section, the amount of eligible income (royalty or copyright fee received otherwise than by way of lumpsum) before allowing expenses attributable to such income, shall not exceed 15% of the value of the books sold during the relevant tax year.

However, this condition is not applicable where the royalty or copyright fees is receivable in lump sum in lieu of all rights of the author in the book.

(iv) Conditions:

(a) Furnishing of certificate in prescribed form: For claiming the deduction, the assessee shall have to furnish a certificate in the prescribed manner in the prescribed format, duly verified by the person responsible for making such payment to the assessee along with the return of income, setting forth such particulars as may be prescribed.

(b) Period for repatriation of income earned outside India: Where the assessee earns any income from any source outside India, he should bring such income into India in convertible foreign exchange within a period of six months from the end of the tax year in which such income is earned or within such further period as the competent authority may allow in this behalf for the purpose of claiming deduction under this section. The assessee has to furnish a certificate, in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

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The competent authority shall mean the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

ILLUSTRATION 19

Mr. Aakash earned royalty of ₹ 2,88,000 from a foreign country for a book authored by him, being a work of literary nature. The rate of royalty is 18% of value of books. The expenditure incurred by him for earning this royalty was ₹ 40,000. The amount remitted to India till 30th September, 2027 is ₹ 2,30,000. The remaining amount was not remitted till 31st March, 2028. Compute the amount includible in the gross total income of Mr. Aakash and the amount of deduction which he will be eligible for under section 151 if he has exercised the option of shifting out of the default tax regime.

SOLUTION

The net royalty of ₹ 2,48,000 (i.e., royalty of ₹ 2,88,000 *less* ₹ 40,000, being expenditure to earn such income) is includible in gross total income. Deduction under section 151 would be ₹ 1,90,000 as calculated hereunder –

Particulars	₹
Royalty ₹ 2,88,000 x 15/18 = ₹ 2,40,000	
Restricted to	
Amount brought into India in convertible foreign exchange within the prescribed time	2,30,000
Less: Expenses already allowed as deduction while computing royalty income	40,000
Deduction under section 151	**1,90,000**

(4) Deduction in respect of royalty on patents [Section 152] [Available only if the individual exercises the option of shifting out of the default tax regime]

(i) Eligible assessee: This deduction shall be available only to a resident individual who is

- A patentee i.e., the true and first inventor recorded as the patentee under the Patents Act, 1970, including joint patentees recorded as such true and first inventors.

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- in receipt of income by way of royalty in respect of a patent registered on or after 1st April, 2003 under the Patents Act, 1970; and
- having gross total income for the tax year which includes royalty.



(ii) **Quantum of deduction**: This section allows deduction to a resident individual in respect of income by way of royalty of a patent registered on or after 1.4.2003 up to an amount of **₹ 3 lakhs**.

(iii) **No deduction under any other section:** Where a deduction for any tax year has been claimed and allowed in respect of any income under this section, no deduction in respect of such income shall be claimed under any other provision of the Act in any other tax year.

(iv) **Eligible income:** This deduction shall be restricted to the royalty income including consideration for transfer of rights in the patent or for providing information for working or use of a patent, use of a patent or the rendering of any services in connection with these activities.

The deduction shall not be available on any consideration for sale of product manufactured with the use of the patented process or patented article for commercial use or consideration which would be income of the recipient chargeable under the head "Capital Gains".

(v) **Conditions:**

(a) **Furnishing of certificate in prescribed form**: For claiming the deduction, the assessee shall have to furnish a certificate in the prescribed form, duly signed by the prescribed authority along with the return of income, setting forth such particulars as may be prescribed.

(b) **Period for repatriation of income earned outside India:** In respect of any such income which is earned from sources outside India, the deduction shall be restricted to such sum as is brought to India in convertible foreign exchange within a period of 6 months from the end of the tax year in which such income is earned or within such further

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period as the competent authority may allow in this behalf for the purpose of claiming deduction under this section. The assessee has to furnish a certificate, in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.



14.	*Mr. R, a resident individual, earned ₹ 5 lakhs from sale of products manufactured using his patented process.* *How much deduction is allowable to him under section 152 under optional tax regime?*	
	(a)	*₹ 5 lakh*
	(b)	*₹ 3 lakh*
	(c)	*₹ 2 lakh*
	(d)	*Nil*
15.	*Mr. Z earned ₹ 2,50,000 during the T.Y. 2026-27 for rendering technical services connected with use of his patented invention registered after 1.4.2003. He pays tax under optional tax regime.* *Which of the following statements is correct?*	
	(a)	*Such income is not royalty income*
	(b)	*Deduction under section 152 is available*
	(c)	*Deduction under section 152 is available only if service is rendered in India*
	(d)	*Deduction under section 152 is restricted to ₹ 1 lakh*

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5. DEDUCTION IN RESPECT OF OTHER INCOME

Deduction in respect of interest on deposits [Section 153] [Available only if the individual/HUF exercises the option of shifting out of the default tax regime]

(i) Eligible assessee: Section 153 provides as assessee being an individual or a Hindu Undivided Family, shall be allowed a deduction under section 153 where the gross total income of an assessee, includes any income by way of an interest on deposits with:

(1) a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act);

(2) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

(3) a post office.

(ii) Quantum of deduction

(1) In case of assessee being an individual (not being a senior citizen) or an HUF, the whole of interest upto a maximum amount of **₹ 10,000** on deposits in a savings account (excluding time deposits)

(2) In case of an individual who is a senior citizen, the whole of interest upto a maximum amount of **₹ 50,000** on deposits in any account (including time deposits);

Assessee	Maximum deduction (₹)	Eligible Deposits
Individual (Non-Senior Citizen)	10,000	Interest on **savings account** deposits only
Individual (Senior Citizen)	50,000	Interest on **all types of deposits**, including **savings and time/term deposits**
HUF	10,000	Interest on **savings account** deposits only

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(iii) Restriction: If the aforesaid income is derived from any deposit in a bank account held by, or on behalf of, a firm, an AOP/BOI, no deduction shall be allowed in respect of such income in computing the total income of any partner of the firm or any member of the AOP or any individual of the BOI.

In effect, the deduction under this section shall be allowed only in respect of the income derived in form of the interest on the deposits made by the individual or Hindu Undivided Family directly.

ILLUSTRATION 20

Mr. A, a resident individual aged 61 years, has earned business income (computed) of ₹ 1,35,000, lottery income of ₹ 1,20,000 (gross) during the T.Y. 2026-27. He also has interest on Fixed Deposit of ₹ 30,000 with banks. He invested an amount of ₹ 1,50,000 in Public Provident Fund account. What is the total income of Mr. A for the T.Y. 2026-27 if he has exercised the option of shifting out of the default tax regime?

SOLUTION

Computation of total income of Mr. A for T.Y.2026-27

Particulars	₹	₹
Profits and gains of business or profession		1,35,000
Income from other sources		
- Interest on Fixed Deposit with banks		30,000
- lottery income		1,20,000
Gross Total Income		**2,85,000**
***Less:* Deductions under Chapter VIII [See Note below]**		
Under section 123		
- Deposit in Public Provident Fund	1,50,000	
Under section 153		
- Interest on fixed deposits with banks	30,000	
	1,80,000	
Restricted to		1,65,000
Total Income		**1,20,000**

Note: *In case of senior citizen, interest on bank fixed deposits qualifies for deduction upto ₹ 50,000 under section 153.*

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Though the aggregate of deductions under Chapter VIII is ₹ 1,80,000, however, the maximum permissible deduction cannot exceed the gross total income exclusive of long-term capital gains taxable under section 197 and section 198, short-term capital gains covered under section 196 and winnings from lotteries of the assessee.

Therefore, the maximum permissible deduction under Chapter VIII = ₹ 2,85,000 – ₹ 1,20,000 = ₹ 1,65,000.

ILLUSTRATION 21

Mr. Gurnam, aged 42 years, has salary income (computed) of ₹ 5,50,000 for the tax year ended 31.03.2027. He has earned interest of ₹ 14,500 on the saving bank account with State Bank of India during the year. Compute the total income of Mr. Gurnam for the tax year 2026-27 from the following particulars, assuming he has exercised the option of shifting out of the default tax regime:

(i) Life insurance premium paid to Birla Sunlife Insurance in cash amounting to ₹ 25,000 for insurance of life of his dependent parents. The insurance policy was taken on 15.07.2022 and the sum assured on life of his dependent parents is ₹ 2,00,000.

(ii) Life insurance premium of ₹ 19,500 paid for the insurance of life of his major son who is not dependent on him. The sum assured on life of his son is ₹ 3,50,000 and the life insurance policy was taken on 30.3.2012.

(iii) Life insurance premium paid by cheque of ₹ 22,500 for insurance of his life. The insurance policy was taken on 08.09.2020 and the sum assured is ₹ 2,00,000.

(iv) Premium of ₹ 26,000 paid by cheque for health insurance of self and his wife.

(v) ₹ 1,500 paid in cash for his health check-up and ₹ 4,500 paid in cheque for preventive health check-up for his parents, who are senior citizens.

(vi) Paid interest of ₹ 6,500 on loan taken from bank for MBA course pursued by his daughter.

(vii) A sum of ₹ 5,000 donated in cash to an institution approved for purpose of section 133 for promoting family planning.

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SOLUTION

Computation of total income of Mr. Gurnam for the tax year 2026-27

Particulars	₹	₹	₹
Income from salary			5,50,000
Interest on saving bank deposit			14,500
Gross Total Income			**5,64,500**
Less: **Deduction under Chapter VIII**			
Under section 123 (See Note 1)			
- major son	19,500		
- self ₹ 22,500 restricted to 10% of ₹ 2,00,000	20,000	39,500	
Under section 126 (See Note 2)			
Premium paid for ₹ 26,000 health insurance of self and wife by cheque, restricted to	25,000		
Payment made for health check-up for parents	4,500	29,500	
Under section 129			
For payment of interest on loan taken from bank for MBA course of his daughter		6,500	
Under section 153 (See Note 4)			
Interest on savings bank account ₹ 14,500 restricted to		10,000	85,500
Total Income			**4,79,000**

Notes:

(1) As per section 123, no deduction is allowed in respect of premium paid for life insurance of parents, whether they are dependent or not. Therefore, no deduction is allowable in respect of ₹ 25,000 paid as premium for life insurance of dependent parents of Mr. Gurnam.

In respect of insurance policy issued on or after 01.04.2012, deduction shall be allowed for life insurance premium paid only upto 10% of actual capital sum assured. In case the insurance policy is issued before 01.04.2012, deduction of premium paid on life insurance policy shall be allowed up to 20% of actual capital sum assured.

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Therefore, in the present case, deduction of ₹ 19,500 is allowable in full in respect of life insurance of Mr. Gurnam's son since the insurance policy was issued before 01.04.2012 and the premium amount is less than 20% of ₹ 3,50,000. However, in respect of premium paid for life insurance policy of Mr. Gurnam himself, deduction is allowable only up to 10% of ₹ 2,00,000 since, the policy was issued on or after 01.04.2012 and the premium amount exceeds 10% of sum assured.

(2) As per section 126, in case the premium is paid in respect of health of a person specified therein and for health check-up of such person, deduction shall be allowed up to ₹ 25,000. Further, deduction up to ₹ 5,000 in aggregate shall be allowed in respect of health check-up of self, spouse, children and parents. In order to claim deduction under section 126, the payment for health-checkup can be made in any mode including cash. However, the payment for health insurance premium has to be paid in any mode other than cash.

Therefore, in the present case, in respect of premium of ₹ 26,000 paid for health insurance of self and wife, deduction would be restricted to ₹ 25,000. Since the limit of ₹ 25,000 has been exhausted against medical insurance premium, no deduction is allowable for preventive health check-up for self and wife. However, deduction of ₹ 4,500 is allowable in respect of health check-up of his parents, since it falls within the limit of ₹ 5,000.

(3) No deduction shall be allowed under section 133 in case the donation is made in cash of a sum exceeding ₹ 2,000. Therefore, deduction under section 133 is not allowable in respect of **cash donation** of ₹ 5,000 made to an institution approved for the purpose of section 133 for promotion of family planning.

(4) As per section 153, deduction shall be allowed from the gross total income of an individual or Hindu Undivided Family in respect of income by way of interest on deposit in the savings account included in the assessee's gross total income, subject to a maximum of ₹ 10,000. Therefore, deduction of ₹ 10,000 is allowable from the gross total income of Mr. Gurnam, though the interest from savings bank account is ₹ 14,500.

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6. OTHER DEDUCTIONS

Deduction in the case of a person with disability [Section 154] [Available only if the individual exercises the option of shifting out of the default tax regime]

(i) **Eligible assessee:** This section is applicable to a resident individual, who, at any time during the tax year, is certified by the medical authority to be a person with disability.

The benefit of deduction under this section is also available to persons suffering from autism, cerebral palsy and multiple disabilities.

(ii) **Quantum of deduction:** A deduction of ₹ 75,000 in respect of a person with disability and ₹ 1,25,000 in respect of a person with severe disability (having disability over 80%) is allowable under this section.

(iii) **Conditions:**

(a) The assessee claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority.

(b) Where the condition of disability requires reassessment, a fresh certificate from the medical authority shall have to be obtained after the expiry of the period mentioned in the original certificate in order to continue to claim the deduction.

(c) The certificate has to be furnished in the form and manner, as may be prescribed, along with the return of income under section 263, for the tax year in which the deduction is claimed.

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LET US RECAPITULATE

Deductions in respect of certain payments

Section	Eligible Assessee	Eligible Payments	Permissible Deduction
123	Individual or HUF	**Contribution to PPF, Payment of LIC premium, etc.** Sums paid or deposited in the tax year by way of - Life insurance premium - Contribution to PPF/ SPF/RPF and approved superannuation fund - Repayment of housing loan taken from Govt., bank, LIC, specified employer etc. - Tuition fees to any Indian university, college, school for full-time education of any two children - Term deposit for a fixed period of not less than 5 years with schedule bank - Subscription to notified bonds of NABARD - Five year post office term deposit - Senior Citizen's Savings Scheme Account etc. - Contribution by Central Govt. employee	Sum paid or deposited, subject to a maximum of ₹ 1,50,000 [Deduction would be available only if the individual/HUF exercises the option of shifting out of the default tax regime]

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		to additional account (Tier II A/c) of NPS referred to u/s 124 - amount paid or deposited to keep in force a contract for any annuity plan of LIC of India or any other insurer for receiving pension from the fund - Employer's contribution to the extent of 10% of salary; in any other, individual's contribution to the extent of 20% of gross total income	
124	Individuals employed by the Central Govt or any other employer; Any other individual assessee.	**Contribution to Pension Scheme of Central Government** An individual employed by the Central Government on or after 1.1.2004 or any other employer or any other assessee, being an individual, who has paid or deposited any amount in his account under a notified pension scheme [to his individual pension account [Tier I A/c] under National Pension Scheme & Atal Pension Yojana]	**Employer's Contribution** The entire employer's contribution would be included in the salary of the employee. The deduction of employer's contribution under section 124(1)/(2) would be restricted to 14% of salary, where the employer is the Central Government or State Government; and 10% of salary (14% under default tax regime), in case of any other employer. [Deduction u/s 124(1)/(2) would be available irrespective of the regime under which he pays tax.]

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			Employee's Contribution/ Individual' Contribution Additional deduction of upto ₹ 50,000 is available u/s 124(3). [Deduction u/s 124(3) would be available only if the individual exercises the option of shifting out of the default tax regime].
		Amount paid or deposited in the minor's account under the pension scheme by parents or guardian	In case of amount paid or deposited in minor's account, the deduction is available under section 124(4). However, the aggregate deduction under section 124(3) and 124(4) cannot exceed ₹ 50,000.
125	Individual	**Contribution to Agniveer Corpus Fund** An individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after 1.11.2022, who has paid or deposited any amount in his account in the Agniveer Corpus Fund	**Individual' Contribution** Whole of the amount paid or deposited [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime]
			Central Government's Contribution The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee.

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<table>
<tr><td></td><td></td><td></td><td>Thereafter, deduction u/s 125(2) would be available for the same.
[Deduction u/s 125(2) would be available irrespective of the regime under which he pays tax]</td></tr>
<tr><td rowspan="2">126</td><td rowspan="2">Individual and HUF</td><td>Medical Insurance Premium
(1) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health of –
<table><tr><td>in case of an individual</td><td>self, spouse and dependent children</td></tr><tr><td>in case of HUF</td><td>family member</td></tr></table>(2) In case of an individual, contribution, otherwise than by way of cash, to CGHS or any other scheme as notified by Central Government.</td><td>Maximum ₹ 25,000 (₹ 50,000, in case the individual or his or her spouse is a senior citizen)</td></tr>
<tr><td>(3) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health of parents, whether or not dependent on the individual.
Notes:
(i) Any amount paid, otherwise than by way of cash, on account of</td><td>Maximum ₹ 25,000 (₹ 50,000, in case either or both of the parents are senior citizen(s))

Amount paid subject to a cap of ₹ 50,000 (in case one parent is a senior</td></tr>
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		medical expenditure incurred on the health of the assessee or his family member or his parent, who is a senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person. (ii) Payment, including cash payment, for preventive health check up of himself, spouse, dependent children and parents.	citizen, in respect of whom insurance premium is paid, and the other is a senior citizen on whom medical expenditure is incurred, the total deduction cannot exceed ₹ 50,000) Amount paid subject to a cap of ₹ 5,000, in aggregate (subject to the overall individual limits of ₹ 25,000/₹ 50,000, as the case may be) [Deduction would be available only if the individual/HUF exercises the option of shifting out of the default tax regime]
127	Resident Individual or HUF	**Maintenance including medical treatment of a dependent disabled** Any amount incurred for the medical treatment (including nursing), training and rehabilitation of a dependent disabled **and / or** Any amount paid or deposited under the scheme framed in this behalf by the LIC or any other insurer or Administrator or Specified Company and approved by Board.	Deduction of up to ₹ 75,000. In case of severe disability (i.e. person with 80% or more disability) the flat deduction shall be up to ₹ 1,25,000. [Deduction would be available only if the individual/HUF exercises the option of shifting out of the default tax regime]

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<tr><th>(1)
In case of</th><th>(2)
Dependent</th></tr>
<tr><td>An individual</td><td>Spouse, children, parents, brothers, sisters</td></tr>
<tr><td>A HUF</td><td>Any member</td></tr>
</table>
Persons mentioned in column (2) should be wholly or mainly dependant on the person mentioned in corresponding column (1) for support and maintenance. Such persons should not have claimed deduction under section 154 in computing total income of that year.
</td>
<td></td>
</tr>
<tr>
<td>128</td>
<td>Resident Individual or HUF</td>
<td>
Deduction for medical treatment of specified diseases or ailments
Amount paid for specified diseases or ailment
<table>
<tr><th>Assessee</th><th>Amount spent</th></tr>
<tr><td>An individual</td><td>For himself or his dependant being spouse, children, parents, brothers or sisters wholly or mainly dependant on the individual for support and maintenance</td></tr>
<tr><td>A HUF</td><td>For any member wholly or mainly dependant on the individual for support and maintenance</td></tr>
</table>
</td>
<td>Actual sum paid or ₹ 40,000 (₹ 1,00,000, if the payment is for medical treatment of a senior citizen), whichever is less,
minus
the amount received from the insurance company or reimbursed by the employer.

[Deduction would be available only if the individual/HUF exercises the option of shifting out of the default tax regime]</td>
</tr>
</table>

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129	Individual	**Interest on loan taken for higher education** Interest on loan taken from any financial institution or approved charitable institution. Such loan is taken for pursuing his higher education or higher education of his or her relative i.e., spouse or children of the individual or the student for whom the individual is the legal guardian.	The deduction is available for interest payment in the initial tax year (year of commencement of interest payment) and seven tax years immediately succeeding the initial tax year (or) until the interest is paid in full by the assessee, whichever is earlier. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime]
130	Individuals	**Deduction for interest on loan borrowed from any financial institution [bank/housing finance company (HFC)] for acquisition of residential house property**	Deduction of upto ₹ 50,000 would be allowed in respect of interest on loan taken from a FI. **Conditions:** Loan should be sanctioned during T.Y.2016-17 Loan sanctioned ≤ ₹ 35 lakhs Value of house ≤ ₹ 50 lakhs The assessee should not own any residential house on the date of sanction of loan. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime]

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131	Individual	**Deduction in respect of interest payable on loan taken from a FI (bank or HFC) for acquisition of residential house property**	Deduction of upto ₹ 1,50,000 would be allowed in respect of interest payable on loan taken from a FI for acquisition of house property. **Conditions:** • Loan should be sanctioned by a FI during the period between 1st April 2019 to 31st March 2022. • Stamp Duty Value of house ≤ ₹ 45 lakhs • The individual should not own any residential house on the date of sanction of loan. • The individual should not be eligible to claim deduction u/s 130. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime]
132	Individual	**Deduction in respect of interest payable on loan taken from a FI (bank or certain NBFCs) for purchase of electric vehicle**	Deduction of upto ₹ 1,50,000 would be allowed in respect of interest payable on loan taken for purchase of electric vehicle. Loan should be sanctioned by a FI during the period from 1.4.2019 to 31.3.2023.

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<table>
<tr><td></td><td></td><td></td><td>[Deduction would be available only if the individual exercises the option of shifting out of the default tax regime]</td></tr>
<tr><td>133</td><td>All assessees</td><td colspan="2">Donations to certain funds, charitable institutions etc.
There are four categories of deductions –
<table>
<tr><th></th><th>Category</th><th>Donee</th></tr>
<tr><td>(I)</td><td>100% deduction of amount donated, without any qualifying limit</td><td>Prime Minister's National Relief Fund, National Children's Fund, Swachh Bharat Kosh, National Defence Fund, PM CARES Fund etc.</td></tr>
<tr><td>(II)</td><td>100% deduction of amount donated, subject to qualifying limit</td><td>Government or local authority, institution for promotion of family planning etc.</td></tr>
<tr><td>(III)</td><td>50% deduction of amount donated, without any qualifying limit</td><td>Prime Minister's Drought Relief Fund.</td></tr>
<tr><td>(IV)</td><td>50% deduction of amount donated, subject to qualifying limit.</td><td>Government or any local authority to be used for charitable purpose, other than promotion of family planning notified temple, church gurudwara, mosque etc.</td></tr>
</table>
Calculation of Qualifying limit for Category II & IV donations:
Step 1: Compute adjusted total income, i.e., the gross total income as reduced by the following:
<table>
<tr><td>1.</td><td>Deductions under Chapter VIII, except u/s 133</td></tr>
<tr><td>2.</td><td>Short term capital gains taxable u/s 196</td></tr>
<tr><td>3.</td><td>Long term capital gains taxable u/s 197 & 198</td></tr>
</table>
Step 2: Calculate 10% of adjusted total income.
Step 3: Calculate the actual donation, which is subject</td></tr>
</table>

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		to qualifying limit **Step 4:** Lower of Step 2 or Step 3 is the maximum permissible deduction. **Step 5:** The said deduction is adjusted first against donations qualifying for 100% deduction (i.e., Category II donations). Thereafter, 50% of balance qualifies for deduction under section 133. ***Note -*** *No deduction shall be allowed for donation in excess of ₹ 2,000, if paid in cash.* [In case of individuals, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person, deduction would be available only if they exercise the option of shifting out of the default tax regime]	
134	Individual not in receipt of house rent allowance	**Rent paid for residential accommodation**	Least of the following is allowable as deduction: (1) 25% of total income; (2) Rent paid – 10% of total income (3) ₹ 5,000 p.m. No deduction if any residential accommodation is owned by the assessee/his spouse/minor child/HUF at the place where he ordinarily resides or performs the duties of his office or employment or carries on his business or profession. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime]

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135	Any assessee not having income chargeable under the head "Profits and gains of business or profession"	**Donations for scientific research and rural development**	Actual donation [No deduction shall be allowed for donation in excess of ₹ 2,000, if paid in cash] [Deduction would be available to individual, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person only if they exercise the option of shifting out of the default tax regime]
136	Indian company (not opting for section 200/ 201)	**Contributions to political parties** Any sum contributed by it to a registered political party or an electoral trust.	Actual contribution (otherwise than by way of cash)
137	Any person, other than local authority and an artificial juridical person funded by the Government.	**Contributions to political parties** Amount contributed to a registered political party or an electoral trust.	Actual contribution (otherwise than by way of cash) [An individual, HUF, AoP (other than a co-operative society) or BoI would be eligible for deduction u/s 137 only if the assessee exercises the option of shifting out of the default tax regime]

Deductions in respect of Certain Incomes

As per section 122, furnishing return of income on or before due date is mandatory for claiming deduction in respect of certain incomes.

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Section	Eligible Assessee	Eligible Income	Permissible Deduction
144	An assessee who derives profits from an under-taking, being a Unit established in SEZ, which begins to manufactur e or produce articles or things or provide any service on or after 1.4.2005 but before 1.4.2020	Profits derived from exports of such articles or things or export of services (including computer software). **Conditions for deduction** 1. Proceeds to be received in convertible foreign exchange within 6 months from the end of the T.Y. or such further period as the competent authority may allow in this behalf. 2. The report of chartered accountant certifying that the deduction has been correctly claimed should be furnished before the date specified in section 63. 3. Return of income to be filed on or before due date u/s 263(1).	Deduction for 15 consecutive tax years Amount of deduction = Profits of Unit in SEZ x $\frac{\text{Export turnover of Unit SEZ}}{\text{Total turnover of Unit SEZ}}$ **Years 1 to 5** - 100% of such profits would be exempt in the first five years; **Years 6 to 10** - 50% of such profits in the next five years; and **Years 11 to 15** - In the last five years, 50% of such profits subject to transfer to SEZ Re-investment Reserve Account. [In case of individuals, HUF, AoP (other than a co-operative society), BoI or an artificial juridical person, deduction would be available only if they exercise the option of shifting out of the default tax regime]
146	An assessee to whom section 63 applies, whose	Deduction in respect of employment of new employees	30% of additional employee cost incurred in the tax year. Deduction is allowable for 3 consecutive tax

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	Gross total income includes profits and gains derived from business		years beginning from the tax year in which the employment is provided. [Deduction would be available irrespective of the regime under which the employer pays tax]
151	Resident individual, being an author	**Royalty income, etc., of authors of certain books other than text books** Consideration for assignment or grant of any of his interests in the copyright of any book, being a work of literary, artistic or scientific nature or royalty or copyright fee received as lumpsum or otherwise.	Income derived in the exercise of profession or ₹ 3,00,000, whichever is less. In respect of royalty or copyright fee received otherwise than by way of lumpsum, income to be restricted to 15% of value of books sold during the relevant tax year. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime]
152	Resident individual, being a patentee	**Royalty on patents** Any income by way of royalty on patents registered on or after 1.4.2003	Whole of such income or ₹ 3,00,000, whichever is less. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime]

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Deductions in respect of Other Income			
Section	**Eligible Assessee**	**Eligible Income**	**Permissible Deduction**
153	Individual other than a senior citizen, individual, being a senior citizen or a HUF	**Interest on deposits** Interest on deposits with a bank, a co-operative society engaged in carrying on the business of banking or a post office	**Individual other than a senior citizen or a HUF** Actual interest subject to a maximum of ₹ 10,000 on deposits in savings account excluding time deposits. **Individual, being a senior citizen** Actual interest subject to a maximum of ₹ 50,000 on deposits in any account, including time deposits. [Deduction would be available only if the individual/HUF exercises the option of shifting out of the default tax regime]
Other Deductions			
Section	**Eligible Assessee**	**Condition for deduction**	**Permissible Deduction**
154	Resident Individual	**Deduction in case of a person with disability** Any person, who is certified by the medical authority to be a person with disability.	Flat deduction of ₹ 75,000, in case of a person with disability. Flat deduction of ₹ 1,25,000, in case of a person with severe disability (80% or more disability). [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime]

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TEST YOUR KNOWLEDGE

1. *Prakash is retired Government Officer aged 65 years, resides in Cochin, derived following income:*

	₹
Pension	*6,60,000*
Interest from bank on fixed deposits (Gross)	*55,000*

Compute the total income of Mr. Prakash for the tax year 2026-27 under normal provisions of the Act from the following particulars:

(i) Life insurance premium paid by cheque ₹ 22,500 for insurance of his life. The insurance policy was taken on 08-09-2020 and the actual capital sum assured is ₹ 2,00,000.

(ii) Premium of ₹ 26,000 paid by cheque for health insurance of self and his wife.

(iii) ₹ 1,500 paid in cash for his health check-up and ₹ 4,500 paid through cheque for preventive health check-up of his parents, who are senior citizens.

(iv) Paid interest of ₹ 6,500 on loan taken from bank for MBA course pursued by his daughter.

(v) A sum of ₹ 15,000 donated in cash to an institution approved for the purpose of section 133 for promoting family planning.

2. *Examine the following statements with regard to the provisions of the Income-tax Act, 2025:*

(i) During the tax year 2026-27, Mr. Amit paid interest on loan availed by him for his son's higher education. His son is already employed in a firm. Mr. Amit will get the deduction under section 129.

(ii) Subscription to notified bonds of NABARD would qualify for deduction under section 123.

(iii) In order to be eligible to claim deduction under section 123, investment/ contribution/ subscription etc. in eligible or approved modes, should be made from out of income chargeable to tax.

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(iv) *Where an individual repays a sum of ₹ 30,000 towards principal and ₹ 14,000 as interest in respect of loan taken from a bank for pursuing eligible higher studies, the deduction allowable under section 129 is ₹ 44,000 irrespective of the tax regime.*

(v) *Mrs. Sheela, widow of Mr. Satish (who was an employee of M/s. XYZ Ltd.), received ₹ 7 lakhs on 1.5.2026, being amount standing to the credit of Mr. Satish in his NPS Account, in respect of which deduction has been allowed under section 124 to Mr. Satish in the earlier tax years. Such amount received by her as a nominee on closure of the account is deemed to be her income for T.Y.2026-27.*

(vi) *Mr. Vishal, a Central Government employee, contributed ₹ 50,000 towards Tier II account of NPS. The same would be eligible for deduction under section 124. He has exercised the option of shifting out of the default tax regime.*

3. *Examine the allowability of the following if the assessees have exercised the option of shifting out of the default tax regime:*

(i) *Rajan, a resident individual, has to pay to a hospital for treatment ₹ 1,62,000 and spent nothing for life insurance or for maintenance of dependent disabled.*

(ii) *Varun, a resident Indian, has spent nothing for treatment in the tax year and deposited ₹ 2,50,000 with LIC for maintenance of dependant disabled.*

(iii) *Hari, a resident individual, has incurred ₹ 1,20,000 for treatment and ₹ 25,000 was deposited with LIC for maintenance of dependant disabled.*

4. *Ms. Jyoti purchased a house property costing ₹ 42 lakhs on 1st May, 2021. The property is used exclusively for her residential purpose. For this purpose, she obtained loan from DHFL of ₹ 35 lakhs bearing interest @ 14% p.a. on 1st April, 2021. She does not own any other house.*

State with brief reasons the deductions that can be claimed by Ms. Jyoti in respect of interest on loan for Tax Year 2026-27 if she has opted out of the default tax regime. No repayment of loan has been made so far.

5. *For the T.Y. 2026-27, the Gross total income of Mr. Chaturvedi, a resident in India, was ₹ 15,18,240 which includes long-term capital gain of ₹ 2,45,000*

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taxable under section 197 and Short-term capital gain of ₹ 58,000. The Gross total income also includes interest income of ₹ 12,000 from savings bank deposits with banks and ₹ 40,000 interest on fixed deposits with banks. Mr. Chaturvedi has invested in PPF ₹ 1,20,000 and also paid a medical insurance premium ₹ 51,000. Mr. Chaturvedi also contributed ₹ 50,000 to Public Charitable Trust eligible for deduction under section 133 by way of an account payee cheque. Compute the total income and tax thereon of Mr. Chaturvedi, who is 70 years old as on 31.3.2027, in a tax efficient manner.

6. *Mr. Rajmohan whose gross total income was ₹ 6,40,000 for the tax year 2026-27, furnishes you the following information:*

   (i) Repayment of loan taken from SBI for acquisition of residential house (self-occupied) - ₹ 50,000.

   (ii) Five year post office time deposit - ₹ 20,000.

   (iii) Donation to a recognized charitable trust ₹ 25,000 which is eligible for deduction under section 133 at the applicable rate.

   (iv) Interest on loan taken for higher education of spouse paid during the year - ₹ 10,000.

   Compute the total income of Mr. Rajmohan for the T.Y. 2026-27 if he has exercised the option of shifting out of the default tax regime.

7. *Compute the eligible deduction under Chapter VIII for the T.Y. 2026-27 of Ms. Roma, aged 40 years, who has a gross total income of ₹ 15,00,000 for the T.Y. 2026-27 and has exercised the option of shifting out of the default tax regime. She provides the following information about her investments/ payments during the T.Y. 2026-27:*

Sl. No.	***Particulars***	***Amount (₹)***
1.	*Life Insurance premium paid (Policy taken on 31-03-2012 and sum assured is ₹ 4,70,000)*	*35,000*
2.	*Public Provident Fund contribution*	*1,50,000*
3.	*Repayment of housing loan to Bhartiya Mahila Bank, Bangalore*	*20,000*
4.	*Payment to L.I.C. Pension Fund*	*1,40,000*

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5.	*Mediclaim Policy taken for self, wife and dependent children, premium paid by cheque*	*30,000*
6.	*Medical Insurance premium paid by cheque for parents (Senior Citizens)*	*52,000*

8. *Mr. Rudra has one unit at Special Economic Zone (SEZ) and other unit at Domestic Tariff Area (DTA). He provides the following details for the tax year 2026-27.*

Particulars	***Mr. Rudra (₹)***	***Unit in DTA (₹)***
Total Sales	*6,00,00,000*	*2,00,00,000*
Export Sales	*5,60,00,000*	*1,60,00,000*
Net Profit	*80,00,000*	*20,00,000*

Proceeds from export sales in SEZ received in convertible foreign exchange by 30.9.2027 is ₹ 3,00,00,000. He has exercised the option of shifting out of the default tax regime. Calculate the eligible deduction under section 144, for the Tax Year 2026-27 if both the units were set up and started manufacturing from 22-05-2017.

ANSWERS

1. Computation of total income of Mr. Prakash for T.Y.2026-27

Particulars	**₹**	**₹**	**₹**
Income under the head "Salaries"			
Pension	6,60,000		
Less: Standard deduction u/s section 19(1) (Table: Sl. No. 2)	50,000		6,10,000
Lower of ₹ 50,000 or actual salary/ pension			
Income from Other Sources			
Interest from bank on fixed deposit (Gross)			55,000
Gross Total Income			**6,65,000**

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***Less:* Deduction under Chapter VIII**			
Deduction under section 123			
LIC premium of ₹ 22,500 (restricted to 10% of ₹ 2,00,000, being the actual capital sum assured, as the policy is taken after 31.3.2012)		20,000	
Deduction under section 126			
Premium for health insurance for self and his wife paid by cheque, allowed upto ₹ 50,000 since Mr. Prakash is a senior citizen	26,000		
Preventive health check-up for self, ₹ 1,500, and for his parents, ₹ 4,500, restricted to ₹ 5,000 i.e., aggregate preventive health check-up deduction = ₹ 5,000. (deduction allowed even if the same is paid in cash)	5,000		
		31,000	
Deduction under section 129			
Interest on loan taken from bank for MBA course pursued by his daughter		6,500	
Deduction under section 133			
Donation to an approved institution for promoting family planning not allowed since the amount exceeding ₹ 2,000 is paid in cash		Nil	
Deduction under section 153			
Interest on fixed deposit with bank allowable as deduction upto ₹ 50,000, since Mr. Prakash is a senior citizen		50,000	1,07,500
Total Income			**5,57,500**

2. (i) **The statement is correct.** The deduction under section 129 is available to an individual in respect of interest on loan taken for his higher education or for the higher education of his relative only if he exercises the option of shifting out of the default tax regime. For this purpose,

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relative means, *inter alia,* spouse and children of the individual. Therefore, Mr. Amit will get the deduction under section 129 in respect of interest on loan availed by him for his son's higher education, if he exercises the option of shifting out of the default tax regime. It is immaterial that his son is already employed in a firm. This would not affect Mr. Amit's eligibility for deduction under section 129.

(ii) **The statement is correct.** Subscription to such bonds issued by NABARD (as the Central Government may notify in the Official Gazette) would qualify for deduction under section 123, if the assessee has exercised the option of shifting out of the default tax regime.

(iii) **The statement is <u>not</u> correct.** There is no stipulation under section 123 that the investment, subscription, etc. should be made from out of income chargeable to tax.

(iv) **The statement is <u>not</u> correct.** An individual would not be eligible for deduction u/s 129 if he pays tax under default tax regime under section 202(1). If he has exercised the option of shifting out of the default tax regime, deduction under section 129 would be available in respect of interest paid on education loan. Hence, the deduction will be limited to interest of ₹ 14,000, if he has exercised the option of shifting out of the default tax regime.

(v) **The statement is <u>not</u> correct.** Section 124(7) provides that the amount received by the nominee, on closure of NPS account on the death of the assessee, shall not be deemed to be the income of the nominee. Hence, amount received by Mrs. Sheela would not be deemed to be her income for T.Y. 2026-27.

(vi) **The statement is <u>not</u> correct.** Contribution to Tier II account of NPS would qualify for deduction under section 123 and not section 124.

3. **(i)** The deduction of ₹ 75,000 under section 127 is allowable to Rajan. If the expenditure is incurred in respect of a dependant with severe disability, the deduction allowable is ₹ 1,25,000.

(ii) The assessee Varun has deposited ₹ 2,50,000 for maintenance of dependent disabled. He is, however, eligible to claim ₹ 75,000 since the deduction of up to ₹ 75,000 is allowed. In the case of dependant with severe disability, the deduction allowable is ₹ 1,25,000.

(iii) Section 127 allows a deduction of up to ₹ 75,000 for amount spent on maintenance of a dependent disabled and/or amount deposited with

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LIC. Therefore, the deduction will be ₹ 75,000. If the dependant is a person with severe disability the quantum of deduction is ₹ 1,25,000.

4. Ms. Jyoti can claim the following deductions for the T.Y. 2026-27 in respect of the interest of ₹ 4,90,000 (₹ 35,00,000 x 14%) payable on loan taken for acquisition of residential house property for self-occupation:

Deduction under section 22(1)(b) while computing income under the head "Income from house property": Interest on housing loan taken for acquisition of residential house property for self-occupation, would be eligible for deduction under section 22(1)(b) while computing income from house property, subject to a maximum of ₹ 2,00,000	**2,00,000**
Deduction under section 131 (while computing deduction under Chapter VIII from gross total income): Interest payable on housing loan taken by Ms. Jyoti qualifies for deduction under section 131, subject to a maximum of ₹ 1,50,000, since – (i) The loan is sanctioned by the Financial Institution between 1.4.2019 to 31.3.2022 (ii) Stamp duty value of the house (₹ 42 lakhs) does not exceed ₹ 45 lakhs (iii) She is not eligible to claim deduction u/s 130 (iv) She does not own any residential house on the date of sanction of loan	**1,50,000**
Therefore, out of the interest of ₹ 4,90,000, ₹ 2 lakhs is allowable as deduction under section 22(1)(b); and out of the balance of ₹ 2,90,000, ₹ 1,50,000 is allowable as deduction under section 131 from gross total income.	

5. **Computation of total income and tax liability of Mr. Chaturvedi for the T.Y. 2026-27 under default tax regime**

Particulars	₹
Gross total income incl. long term capital gain	15,18,240
Less: **Deductions under Chapter VIII** No deduction would be available under default tax regime u/s 202	-
Total income	**15,18,240**

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Tax on total income	
LTCG ₹ 2,45,000 x 12.5%	30,625
Balance total income ₹ 12,73,240	70,986
	1,01,611
Add: Health and Education cess @4%	4,064
Total tax liability	**1,05,675**
Total tax liability (Rounded off)	**1,05,680**

Computation of total income and tax liability of Mr. Chaturvedi for the T.Y. 2026-27 under the optional tax regime (i.e., the normal provisions of the Act)

Particulars	₹	₹
Gross total income incl. long term capital gain		15,18,240
Less: Long term capital gain		2,45,000
		12,73,240
Less: **Deductions under Chapter VIII**		
Under section 123 in respect of PPF deposit	1,20,000	
Under section 126 (it is assumed that premium of ₹ 51,000 is paid by otherwise than by cash. The deduction would be restricted to ₹ 50,000, since Mr. Chaturvedi is a senior citizen)	50,000	
Under section 133 **(See Notes 1 & 2 below)**	25,000	
Under section 153 **(See Note 3 below)**	50,000	2,45,000
Total income (excluding long term capital gains)		**10,28,240**
Total income (including long term capital gains)		**12,73,240**
Tax on total income (including long-term capital gains of ₹ 2,45,000)		
LTCG ₹ 2,45,000 x 12.5%		30,625
Balance total income ₹ 10,28,240 **(See Note 4 below)**		1,18,472
		1,49,097
Add: Health and Education cess @4%		5,964
Total tax liability		**1,55,061**
Total tax liability (Rounded off)		**1,55,060**

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Since the tax liability is lower under the default tax regime as compared to the optional tax regime, Mr. Chaturvedi should not exercise the option of shifting out of the default tax regime.

Notes:

1. Computation of deduction under section 133:

Particulars	₹
Gross total income (excluding long term capital gains)	12,73,240
Less: Deduction under section 123, 126 & 153	2,20,000
	10,53,240
10% of the above	1,05,324
Contribution made	50,000
Lower of the two eligible for deduction under section 133	50,000
Deduction under section 133 – 50% of ₹ 50,000	**25,000**

2. Deduction under section 133 is allowed only if amount is paid by any mode other than cash, in case of amount exceeding ₹ 2,000. Therefore, the contribution made to public charitable trust is eligible for deduction since it is made by way of an account payee cheque.

3. Deduction of upto ₹ 50,000 under section 153 is allowed to a senior citizen if gross total income includes interest income on bank deposits, both fixed deposits and savings account.

4. Mr. Chaturvedi, being a senior citizen is eligible for a higher basic exemption of ₹ 3,00,000.

6. Computation of total income of Mr. Rajmohan for the T.Y.2026-27

Particulars		₹	₹
Gross Total Income			6,40,000
Less:	**Deduction under Chapter VIII**		
	Under section 123		
	Repayment of loan taken for acquisition of residential house	50,000	
	Five year time deposit with Post Office	20,000	
		70,000	

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	Under section 129		
	Interest on loan taken for higher education of spouse, being a relative.	10,000	
	Under section 133 (See Note below)		
	Donation to recognized charitable trust (50% of ₹ 25,000)	12,500	92,500
Total Income			**5,47,500**

Note: *In case of deduction under section 133 in respect of donation to a charitable trust, the net qualifying amount has to be restricted to 10% of adjusted total income, i.e., gross total income less deductions under Chapter VIII except 133. The adjusted total income is, therefore, ₹ 5,60,000 (i.e. 6,40,000 – ₹ 80,000), 10% of which is ₹ 56,000, which is higher than the actual donation of ₹ 25,000. Therefore, the deduction under section 133 would be ₹ 12,500, being 50% of the actual donation of ₹ 25,000.*

7. Computation of eligible deduction under Chapter VIII of Ms. Roma for T.Y. 2026-27

Particulars	₹	₹
Deduction under section 123		
Life insurance premium paid ₹ 35,000 (allowed in full since the same is within the limit of 20% of the actual capital sum assured, the policy being taken before 1.4.2012)	35,000	
Public Provident Fund	1,50,000	
Repayment of housing loan to Bhartiya Mahila Bank, Bangalore	20,000	
Payment towards LIC pension fund	1,40,000	
	3,45,000	
Restricted to a maximum of ₹ 1,50,000		**1,50,000**
Deduction under section 128		
Payment of medical insurance premium of ₹ 30,000 towards medical policy taken for self, wife and dependent children restricted to	25,000	
Medical insurance premium paid ₹ 52,000 for parents, being senior citizens, restricted to	50,000	75,000
Eligible deduction under Chapter VIII		**2,25,000**

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8. Computation of deduction u/s 144

As per section 144, in computing the total income of Mr. Rudra from his unit located in a Special Economic Zone (SEZ), which begins to manufacture or produce articles or things or provide any services on or after 1.4.2005 but before 01.04.2020, there shall be allowed a deduction of 100% of the profit and gains derived from export of such articles or things or from services for a period of five consecutive tax years beginning with the tax year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and 50% of such profits for further five tax years.

Since Mr. Rudra has exercised the option of shifting out of the default tax regime, he would be eligible for deduction u/s 144.

The deduction u/s 144 would be available only if Mr. Rudra furnishes report of chartered accountant before the date specified in section 63 and files return of income on or before due date u/s 263(1).

Since T.Y. 2026-27 is the 10th tax year from tax year 2017-18, in which the SEZ unit began manufacturing of articles or things, it shall be eligible for deduction of 50% of the profits derived from export of such articles or things, assuming all the other conditions specified in section 144 are fulfilled.

$$= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 50\%$$

$$= 60 \text{ lakhs} \times \frac{300 \text{ lakhs}}{400 \text{ lakhs}} \times 50\% = ₹ 22.50 \text{ lakhs}$$

Export turnover of Unit in SEZ is the export sales in SEZ received in convertible foreign exchange by 30.9.2027 which is ₹ 3,00,00,000.

The unit set up in Domestic Tariff Area is not eligible for the benefit of deduction u/s 144 in respect of its export profits, in both the situations.

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Working Note:

Computation of total sales, export sales and net profit of unit in SEZ

Particulars	Rudra Ltd. (₹)	Unit in DTA (₹)	Unit in SEZ (₹)
Total Sales	6,00,00,000	2,00,00,000	**4,00,00,000**
Export Sales	4,60,00,000	1,60,00,000	**3,00,00,000**
Net Profit	80,00,000	20,00,000	**60,00,000**



Q. No.	ANSWERS	
1.	(c)	Deduction is not allowable due to delayed filing of return
2.	(b)	₹ 4,80,000
3.	(c)	₹ 1,50,000
4.	(c)	₹ 1,40,000
5.	(b)	Earlier deduction allowed shall become taxable
6.	(c)	13% of salary
7.	(c)	₹ 46,000
8.	(c)	₹ 15,000
9.	(c)	₹ 1,50,000
10.	(d)	₹ 0.785 crore
11.	(c)	Amalgamated company only
12.	(c)	Nil
13.	(b)	In T.Y. 2027-28 only
14.	(d)	Nil
15.	(b)	Deduction under section 152 is available

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OVERVIEW OF SECTION IV

Section IV comprises of the procedural and compliance provisions of income-tax law.

This Section of the syllabus comprises of the following two chapters –

Chapter 7 Tax deduction or collection at source and Advance tax

Chapter 8 Provisions for filing return of income and self-assessment.

The provisions relating to tax deduction at source (TDS), tax collection at source (TCS) and advance tax enable the Government to garner tax revenue at an earlier point of time i.e., in the relevant tax year itself. These provisions are discussed in Chapter 7. TDS and TCS provisions ensure that transactions do not escape the tax net and thus, help in maintaining an audit trail. Also, taxpayers are required to pay advance tax in four instalments in the relevant tax year. Failure to remit advance tax as required under the Act will attract interest for deferment and for default in payment. Also, for failure to deduct tax at source/collect tax at source or remit the same within the prescribed time, the deductor/collector will be deemed as an assessee-in-default. For such failure, penal consequences would be attracted.

Chapter 8 contains the provisions relating to filing return of income and self-assessment. Here, you will get to understand the assessees for whom filing of return of income is mandatory and the due dates for filing of return of income for different persons. Persons who do not file return within the due date can file a belated return within the extended time allowed. Also, persons who have filed their return on time or a belated return can file a revised return within the prescribed time. In this chapter, you will also understand the persons who are mandatorily required to apply for permanent account number (PAN) and the transactions/documents in which PAN has to be compulsorily quoted. This chapter also discusses the provisions for self-assessment.

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Read the Scenario below including its different components described in the table below and the "Points to Ponder" indicated in respect thereof. Thereafter, read the chapter, comprehend the TDS, TCS and return filing provisions and write your responses in the last column of the table. Finally, solve the Crossword Puzzle given at the end.

SCENARIO

Prem, a resident Indian aged 48 years, is carrying on the sole-proprietary business of retail trade, the annual turnover of which is around ₹ 4.50 crores in the last few years including the current year. Prem's wife Ramya, a resident Indian aged 45 years, is employed with an Art Gallery at a salary of ₹ 2,00,000 p.m. Their son, Siddhant, is studying MS in Data Sciences and Artificial Intelligence in an Ivy League University in the USA. Prem's father is a retired professor aged 78 years and his mother is a house-wife aged 75 years. Both of them are resident Indians. Prem's brother Ram, a resident Indian aged 46 years and an interior decorator, is a partner in Ram & Co. Ram's wife, Harini, is a commerce graduate employed in Ram's firm as a junior accountant. Their daughter, Mega, is also studying in an Ivy League University in the USA. Prem opts out of the default tax regime and pays tax under the optional tax regime as per the regular provisions of the Act. Prem and Ramya have been filing their return of income regularly on or before the due date under section 263(1).

The scenario is continued below and divided into components depicting the different types of transactions entered into by the family members, and "Points to Ponder" are raised in respect of each component in order to urge you to put your thinking caps on and give your responses after reading the chapters and comprehending and analysing the TDS/TCS and other tax consequences of the different transactions.

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Read the Scenario and each component thereof described in Column (1) of the table below and the "Points to Ponder" raised in the corresponding row of Column (2). Thereafter, read the relevant chapter and give your responses thereto in Column (5) of the table. Reference to the section number is mentioned in Column (4) to enable you to give your response after reading and understanding the relevant provision of law.

(1)		(2)	(3)	(4)	(5)
Scenario Component		**Point(s) to Ponder**	**Relevant Chapter**	**Relevant Provision of law**	**Write your response after reading the Chapter**
(1)	Prem has to pay to Ravi, a contractor, ₹ 25,000 in June 2026, ₹ 24,000 in July 2026, ₹ 28,000 in August 2026 and ₹ 26,000 in September 2026 in connection with his business. His contract payments in the earlier years in total to any one contractor were in	Prem has been splitting up contract payments to every contractor in order to avoid deduction of tax therefrom. By doing so, he was able to avoid tax deduction on contract payments in the earlier years without attracting interest or penalty. He is of the opinion that this year also, he need not deduct tax in respect of contract payments to Ravi since each payment does not exceed the individual threshold limit.	7	393(1) [Table: Sl. No. 6(i)]	

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	the range of ₹ 50,000 to ₹ 60,000 and individual installments were in the range of ₹ 15,000 to ₹ 25,000.	(i)	Is he correct? If not, why?			
		(ii)	If tax has to be deducted, how much and at what point of time?			
(2)	Prem's own business premises is under major renovation. Therefore, he rented a premises for carrying on his business from May, 2026 for which he has to pay rent of ₹ 40,000 per month to Hari.	Prem wants to know whether he is liable to deduct tax at source on such rental payment to Hari. If so, how much?		7	393(1) [Table: Sl. No. 2(ii)]	
	Ramya thinks she does not have to deduct tax in respect of transactions in (3), (4), (5) and (6) below, since she is a salaried employee and is not carrying on business or profession. Is she correct?					
(3)	Ramya has to pay ₹ 51 lakhs to a contractor for reconstruction of her residential house in January 2027.	Is Ramya liable to deduct tax at source and if so, how much?		7	393(1) [Table: Sl. No. 6(ii)]	

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(4)	Ramya has to pay ₹ 2 lakhs as brokerage for purchase of land in Coimbatore in April 2026 from Meena for ₹ 40 lakhs. Stamp duty value of land at that time is ₹ 42 lakhs	(i)	Is she liable to deduct tax at source on payment of brokerage? If so, at what rate?	7	393(1) [Table: Sl. No. 6(ii)]	
		(ii)	Is she liable to deduct tax at source on the amount payable to Meena?		393(1) [Table: Sl. No. 3(i)]	
		(iii)	Is she required to quote PAN in the documents related to the purchase transaction?	8	262	
(5)	Ramya transferred the land in Coimbatore for ₹ 52 lakhs to her friend Sheela in December 2026, when the stamp duty value was ₹ 55 lakhs.	(i)	Is tax deductible at source by Sheela on the amount payable to Ramya? If so, at what rate?	7	393(1) [Table: Sl. No. 3(i)]	
		(ii)	Is Ramya required to quote PAN in the documents related to the sale transaction?	8	262	
(6)	Ramya is due to receive ₹ 10 lakhs on 31.12.2026 from a life insurance policy for which the sum assured was ₹ 8 lakh	Is tax deductible at source on proceeds of life insurance policy received by Ramya? If so, how much?		7	393(1) [Table: Sl. No. 8(i)]	

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	and the annual premium was ₹ 85,000. The policy was taken on 1.1.2018.				
(7)	Prem owns a house which he has given on rent to Shyam, who is employed with a multi-national firm, for ₹ 55,000 per month during T.Y. 2026-27.	Is Shyam liable to deduct tax at source on rent payable to Prem? If so, how much and at what point of time?	7	393(1) [Table: Sl. No. 2(i)]	
(8)	Ram renders consultancy services to ABC Ltd. for ₹ 60,000.	Is ABC Ltd. liable to deduct tax on the amount payable to Ram? If so, at what rate?	7	393(1) [Table: Sl. No. 6(iii)]	
(9)	Prem's father gets pension of ₹ 80,000 every month which is credited to Bank of India, Tambaram branch. His father's only other source of income is interest of ₹ 14,000 from	Prem's father wants to know whether he is exempted from filing return of income. Is he eligible for exemption?	7	393(1) [Table: Sl. No. 8(iii)] and 263(8)	

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	savings bank account with the said bank.				
(10)	Prem purchases an overseas tour package from Thomas Cook Travels for travel to Singapore with family for ₹ 6 lakh.	Prem thinks that since the value of overseas tour package is less than ₹ 7 lakh, there would be no TCS liability. Is he correct?	7	394(1) [Table: Sl. No. 8]	
(11)	Prem remits ₹ 4 lakh under the LRS of RBI towards tuition fees of Siddhant. He remits the same through SBI, an authorized dealer.	Prem is not sure whether TCS is attracted in respect of this remittance. Is SBI required to collect tax at source on such remittance? If so, how much?	7	394(1) [Table: Sl. No. 7]	
(12)	Ram remits ₹ 18 lakh under the LRS of RBI towards tuition fees of Mega out of loan taken from Indian bank. He remits the same through Indian bank itself, which is an authorized dealer.	Ram wants to know whether the transaction attracts TCS and if so, whether he is entitled for any concessional rate, since the remittance is for the purpose of education. Is Indian bank required to collect tax at source on such remittance? If so, how much?	7	394(1) [Table: Sl. No. 7]	

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(13)	Prem purchases goods aggregating to ₹ 60 lakhs this year from MNO Ltd., whose turnover has been around ₹ 12 crores in the last couple of years. In the last two years, he had purchased goods aggregating to ₹ 35 lakhs from MNO Ltd. Purchases of goods from other vendors are to the tune of ₹ 10 lakhs to ₹ 15 lakhs.	Prem is of the opinion that since there was no TDS liability in respect of purchases made by him last year and prior to that, there would be no TDS liability this year also. Is he correct?	7	393(1) [Table: Sl. No. 8(ii)]	
(14)	Prem purchased a Honda City car from Unipro, a dealer, for ₹ 15 lakhs.	Prem is not sure whether this purchase has any TDS/TCS implications.			
		(i) Is Prem required to deduct tax at source on payment made to Unipro?	7	393(1) [Table: Sl. No. 8(ii)]	

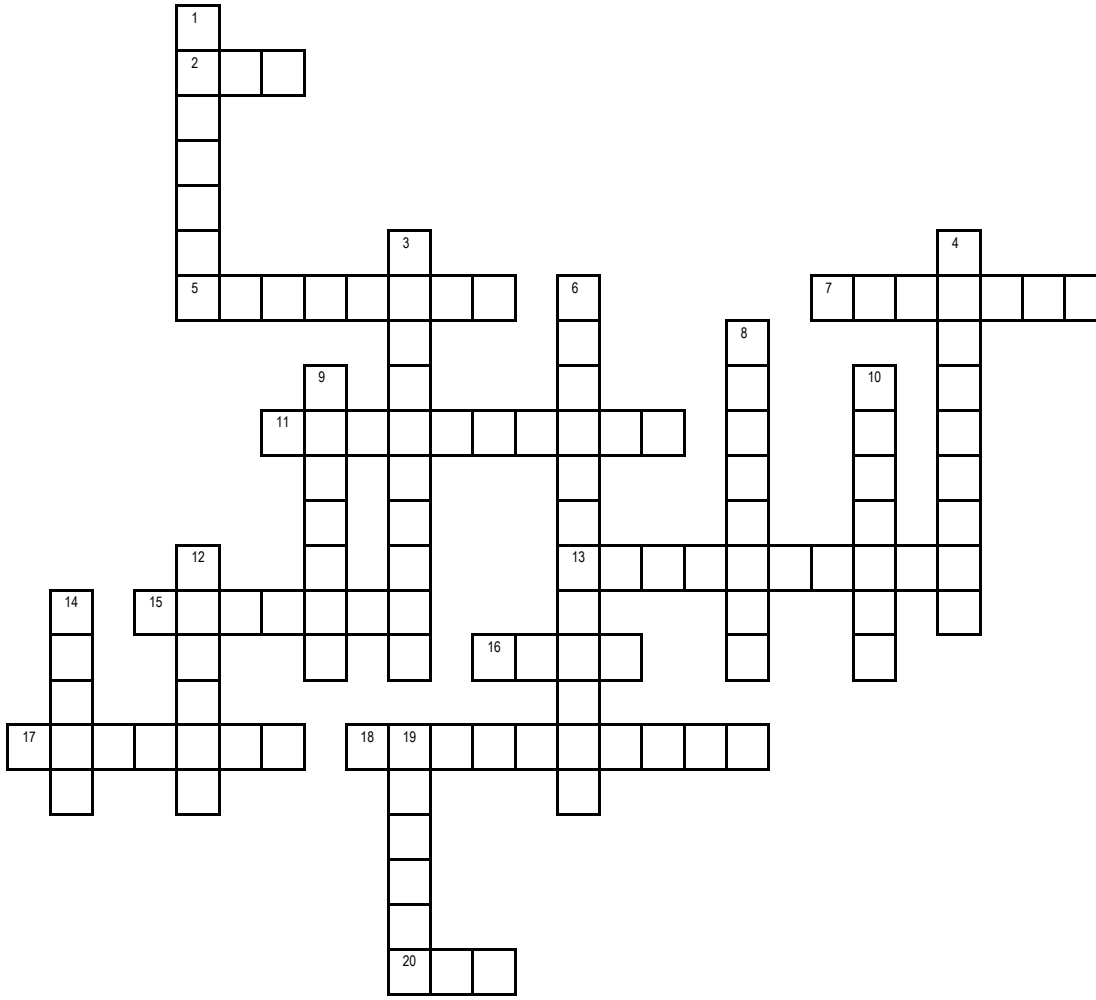
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		(ii)	Is Unipro required to collect tax at source on such receipt from Prem?		394(1) [Table: Sl. No. 6]	
		(iii)	Is Prem required to quote PAN?	8	262	
(15)	Prem's mother incurs an expenditure of ₹ 2.20 lakhs for travel to USA to stay with her daughter. She does not have any other income other than interest on fixed deposits of ₹ 3 lakhs.	Prem's mother thinks that she is not required to file her return of income since her income does not exceed the basic exemption limit. Is she correct?		8	263(1)	
(16)	Ram paid ₹ 1,60,000 by account payee cheque to a hotel in Manali for a week's stay with his family.	Is Ram required to quote PAN in the documents?		8	262	
(17)	In November, 2027, Ram realized that he has not filed his return of income for T.Y.2026-27.	Ram wants to file his return now (i.e., in November, 2027). Can he do so?		8	263(4)	

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(18)	Prem has filed his return of income for T.Y.2026-27 in July, 2027. In November, 2027, he realizes that he has not claimed deduction under section 123 in respect of deposit in PPF.	(i)	Prem wants to revise his return and claim the deduction now (i.e., in November, 2027). Can he do so?	8	263(5)	
		(ii)	If so, by what date should he file his revised return?			
(19)	Harini made a fixed deposit of ₹ 80,000 with ICICI bank on 3rd October.	Is Harini required to quote her PAN in the documents related to fixed deposit?		8	262	

CROSSWORD PUZZLE



ACROSS

2. Higher rate of TDS is attracted for non-furnishing of ..... (acronym)

5. Under section 393(1) [Table: Sl. No. 7], tax is deductible on .....

7. Under section 393(1) [Table: Sl. No. 6(iii)], tax is deductible in respect of, *inter alia*, ...

11. Section 393(1) [Table: Sl. No. 5(i)] provides for tax deduction at source on interest on .....

13. A person authorised to verify return of a company which is being wound up.

15. Tax under section 392 is deductible at the time of ……. of salaries.

16. Advance tax is generally payable in …. installments

17. Section 262(6) requires linking of …….. Number with Permanent Account Number

18. Section 393(1) [Table: Sl. No. 6(i)] provides for TDS on payment to a ……..

20. Section 392(7) requires tax to be deducted on premature withdrawals from ……(acronym)

DOWN

1. A return filed under section 263(6) is an …… return.

3. TDS under section 393(1) [Table: Sl. No. 8(iv)] is attracted on benefit or ……. in respect of business.

4. Under section 393(1) [Table: Sl. No. 2(ii)], tax is deductible at source@2% in respect of rent for, *inter alia*, …….

6. Section 393(1) [Table: Sl. No. 3(i)] is not attracted on transfer of …….. land.

8. The definition of "work" includes, *inter alia*, …….

9. A return filed under section 263(5) is a ……. return

10. A return filed under section 263(4) is a …… return.

12. Tax is deductible at source@30% in respect of …… income.

14. Under section 394(1), TCS@2% is attracted on sale of, *inter alia,* ……..

19. Tax is deductible at source@30% in respect of winnings from ……. games.

Find the answers to the Scenario and Crossword puzzle at the end of Module 2.

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CHAPTER 7

TAX DEDUCTION OR COLLECTION AT SOURCE AND ADVANCE TAX



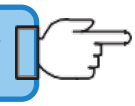
LEARNING OUTCOMES

After studying this chapter, you would be able to–

- **appreciate** the modes of recovery of income-tax from an assessee;
- **comprehend** and **apply** the provisions governing deduction of tax at source from certain specified income and payments;
- **examine** whether tax is deductible in a particular case(s) considering the provisions of the relevant section;
- **compute** the tax deductible at source in respect of a particular case(s);
- **identify** the cases where tax is not required to be deducted at source and the conditions to be satisfied for this purpose;
- **comprehend** and **appreciate** the duty of the person deducting tax;
- **comprehend** the concept of tax collection at source and **appreciate** when tax is collectible at source;
- **examine** the consequences of failure to deduct/ collect tax at source or make payment of the tax deducted/ collected at source;
- **appreciate** when the liability to pay advance tax arises;
- **compute** advance tax liability and the schedule of instalments for payment of advance tax.

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CHAPTER OVERVIEW



Tax deduction or collection at source

- Deduction of tax at source [Section 392 to 393(1) to (4)]
- Collection of tax at source [Section 394]
- Certificate of deduction or collection of tax at a lower rate [Section 395]
- No deduction of tax in certain cases [Section 393(6)]
- Compliance and reporting [Section 397]
- Consequences of failure to deduct or pay or, collect or pay [Section 398

Advance Tax

- Liability to pay advance tax [Section 403 and 404]
- Computation of advance tax [Section 405]
- Instalments of advance tax and due dates [Section 408]
- Credit for advance tax [Section 410]
- Interest on non-payment / short payment or deferment of advance tax [Section 424 & 425]

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1. STRUCTURED SECTIONAL LEARNING

Section	Particulars
2(16)	Meaning of average rate of income-tax
2(59)	Meaning of interest
2(60)	Meaning of interest on securities
390	Deduction or collection at source and advance payment
391	Direct Payment
392	Salary and accumulated balance due to an employee
393	Tax to be deducted at source
394	Collection of tax at source
395	Certificates
396	Tax deducted is income received
397	Compliance and reporting
398	Consequences of failure to deduct or pay or, collect or pay
400	Power of Central Government to relax provisions of this Chapter
402	Interpretation
403	Liability for payment of advance tax
404	Conditions of liability to pay advance tax
405	Computation of advance tax
406	Payment of advance tax by assessee on his own accord
408	Instalments of advance tax and due dates
409	When assessee is deemed to be in default
410	Credit for advance tax
424	Interest for defaults in payment of advance tax
425	Interest for deferment of advance tax
427	Fee for default in furnishing statements

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2. DEDUCTION OR COLLECTION AT SOURCE AND ADVANCE PAYMENT [SECTION 390]

(1) The tax on income shall be recovered from the assessee in the tax year by way of –

(a) deduction or collection at source (TDS or TCS)

(b) advance tax

(c) payment under section 392(2)(a) (i.e., tax paid by the employer on the non-monetary perquisites provided to the employee).

(2) The tax referred to above shall be payable as per the provisions of the Act, irrespective of the fact that the assessment in respect of such income is to be made in a later tax year. The payment of tax referred to above shall be in addition to any other mode of tax recovery to discharge the liability in respect of income assessed for a tax year.

(3) The tax deducted at source or collected at source or sum referred to in section 392(2)(a) and paid to the Central Government shall be treated as payment of tax on behalf of the person-

(a) from whose income such tax has been deducted; or

(b) from whom such tax has been collected; or

(c) in respect of whose income such tax has been paid.

(4) The Board may make rules for -

(a) giving credit of tax deducted or collected or paid to a person referred to in (5) above and also a person other than the person mentioned in (5) above;

(b) the tax year for which the credit may be given.

3. DIRECT PAYMENT [SECTION 391]

Direct payment of tax - Section 391(1) provides that in the following cases, tax on any income shall be payable by the assessee directly -

(i) if there is no provision to deduct tax on such income at the time of payment; or

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(ii) if income-tax has not been deducted as per the provisions.

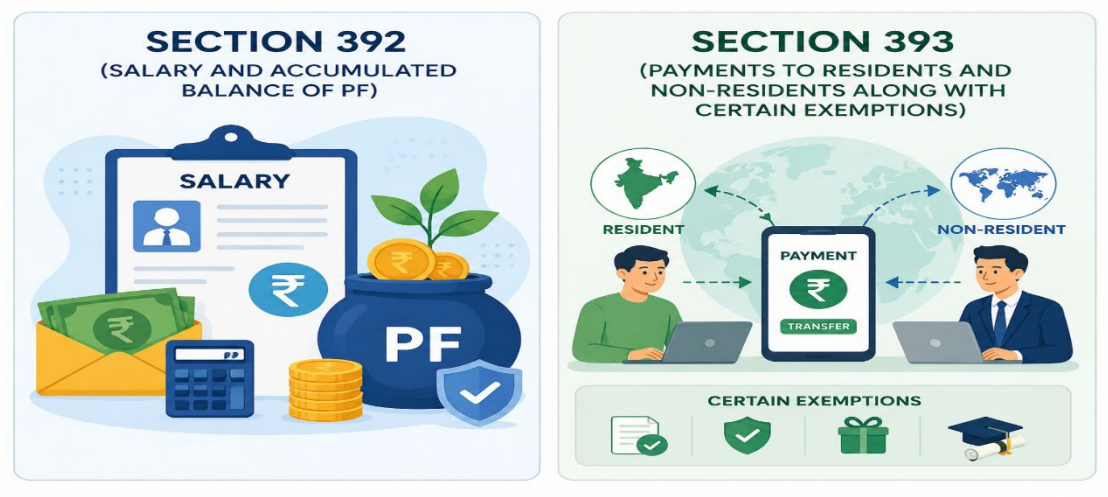
Section 391(3) provides that where any person, including the principal officer of the company -

(i) who is required to deduct tax at source; or

(ii) an employer paying tax on non-monetary perquisites under section 392(2)(a),

does not deduct, or after deducting fails to pay such tax, or does not pay, the whole or any part of the tax, and where the assessee has also failed to pay such tax directly, then, such person shall be deemed to be an assessee-in-default.

4. TAX DEDUCTION AT SOURCE



Students may note that under the new Income-tax Act, 2025, the various transactions that attract Tax Deduction at Source (TDS) are covered under two main sections, i.e., section 392 (Salary and accumulated balance of PF due to an employee) and section 393 (Payments to residents, non-residents and any person along with certain exemptions), followed by the compliance and reporting provisions. Let's first discuss the provisions of section 392 relating to "Salary and Accumulated Balance due to an Employee"

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Salary and Accumulated Balance of PF due to an Employee [Section 392]

Salary

(1) *Applicability of TDS under section 392(1)*

This section casts an obligation on every person responsible for paying any income chargeable under the head 'Salaries' to deduct income-tax on the amount payable.



(2) *Time and Manner of deduction of tax*

(i) Such deduction has to be made at the time of payment at the average rate of income-tax computed on the basis

- of the rates in force for the relevant tax year in which the payment is made,
- on the estimated total income of the assessee
- where the employee intimates to the employer his intent to exercise the option of shifting out of the default tax regime.

Note - The liability to deduct tax at source in the case of salaries arises only **at the time of payment.**

(ii) **Average rate of income-tax** means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income [Section 2(16)].

(iii) **Computation of TDS under default tax regime:** The income-tax in respect of the total income of an employee would be computed at the rates provided in section 202(1), subject to certain conditions, including the condition that the employee does not avail of specified exemptions and deductions. The tax regime provided in section 202(1) is the default tax regime applicable, *inter alia*, to an individual.

However, under section 202(4), an employee may exercise an option to opt out of this tax regime.

(iv) **Information regarding intended tax regime:** A deductor, being an employer, has to seek information from each of its employees having income under section 392 regarding their intended tax regime and each

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such employee would intimate the same to the deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor has to compute his total income, and deduct tax at source thereon according to the option exercised.

If intimation is not made by the employee, it would be presumed that the employee continues to be in the default tax regime and has not exercised the option to opt out of the default tax regime. Accordingly, in such a case, the employer has to deduct tax at source, on income under section 392, as per the rates provided under section 202(1).

(v) **Tax on non-monetary perquisites:** The concept of payment of tax on non-monetary perquisites has been provided in sections 392(2). This section provides that the employer may pay this tax, at his option, in lieu of deduction of tax at source from salary payable to the employee. Such tax will have to be worked out at the average rate applicable to the income chargeable under the head "Salaries", including the value of non-monetary perquisites, and payment of tax will have to be made every month along with tax deducted at source on monetary payment of salary, allowances etc.

ILLUSTRATION 1

Mr. A, the employer, pays gross salary including allowances and monetary perquisites amounting to ₹ 7,30,000 to his General Manager. Besides, the employer provides non-monetary perquisites to him whose value is estimated at ₹ 1,20,000. The General Manager is exercising the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act. What is the tax implication in the hands of Mr. A, the employer and General Manager, the employee?

SOLUTION

	₹
Gross salary, allowances and monetary perquisites	7,30,000
Non-Monetary perquisites	1,20,000
	8,50,000
Less: Standard deduction under section 19(1) (Table: Sl. No. 2)	50,000
	8,00,000

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Tax Liability	75,400
Average rate of tax (₹ 75,400 / ₹ 8,00,000 × 100)	9.425%

Mr. A can deduct ₹ 75,400 at source from the salary of the General Manager at the time of payment.

Alternatively, Mr. A can pay tax on non-monetary perquisites as under –

Tax on non-monetary perquisites = 9.425% of ₹ 1,20,000 = ₹ 11,310

Balance to be deducted from salary = ₹ 64,090

If Mr. A pays tax of ₹ 11,310 on non-monetary perquisites, the same is not a deductible expenditure as per section 35(a). The amount of tax paid towards non-monetary perquisite by the employer, however, is exempt in the hands of the employee as per schedule III (Table: Sl. No. 10).

(vi) **Particulars for determining the tax deducted at source:** The person responsible for making payment of salary shall take into account the following particulars furnished by the assessee, at his option[1], for the purpose of making deduction of tax at source and such particulars shall have an effect of increasing or decreasing the tax to be deducted:

(a) any income under the head "Salaries" due or received by the assessee, from any other employer(s) during the tax year;

(b) any relief allowable under section 157, where the assessee being a Government servant, or an employee in a company, co-operative society, local authority, university, institution, association or body is entitled for such relief;

(c) any loss under the head "Income from house property" for the same tax year if the assessee intimated to the employer his intent to exercise the option of shifting out of the default tax regime;

(d) any income chargeable under any other head of income, not being a loss under any such head other than the loss from house property for the same tax year;

[1] in Form no. 122

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(e) any tax deducted or collected at source for the same tax year any other provision of the Act.

However, the tax deductible from income under the head "Salaries" shall not be reduced in any case, **except on account of -**

(a) loss under the head "Income from house property" if the assessee intimated to the employer his intent to exercise the option of shifting out of the default tax regime; and

(b) the tax deducted and collected as per other provisions of this Chapter.

(3) Furnishing of statement of particulars of perquisites or profits in lieu of salary by employer to employee

The person responsible for paying any income chargeable under the head "Salaries" to the assessee –

(i) shall **furnish a statement** in prescribed form[2] with correct and complete particulars of perquisites or profits in lieu of salary paid, along with their value, to him.

(ii) shall **obtain from the assessee the evidence or proof or particulars** of prescribed claims (including claim for set off of loss) for the purposes of estimating income of the assessee or computing tax deductible under section 392(1).

In case an employee has intimated his employer of his intent to exercise the option **under section 202(4)** of shifting out of the default tax regime, Rule 205 requires furnishing of evidence or particulars of the following claims by him to the person responsible for making payment under section 392(1)[3] for the purpose of estimating his income or for computing TDS:

[2] The statement shall be in Form 123. This requirement is applicable only if the salary paid/payable to an employee for the tax year is more than ₹ 1,50,000. For other employees, the particulars of perquisites/profits in lieu of salary shall be given in Form 130 itself.

[3] in Form No.124

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S. No.	Nature of Claim	Evidence or particulars
1.	House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the tax year exceeds ₹ 1 lakh and relationship with the landlord, if any.
2.	Leave Travel Concession or Assistance	Evidence of expenditure
3.	Deduction of interest under the head "Income from house property"	Name, address and PAN of the lender
4.	Deduction under Chapter VIII	Evidence of investment or expenditure.

(iii) may, increase or reduce the amount to be deducted under this section for adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the tax year.

Accumulated balance of PF due to an employee

(1) Compliance with Paragraph 9 of Part A of the Schedule XI: Certain Concerns

(i) **Provident Fund Scheme:** Under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act, 1952)[4], certain specified employers are required to comply with the Employees' Provident Fund Scheme, 1952 (EPFS). However, these employers are also permitted to establish and manage their own private provident fund (PF) scheme subject to the fulfilment of certain conditions.

(ii) **Recognised Provident Fund:** The provident funds established under a scheme framed under EPF & MP Act, 1952, or Provident Fund exempted under section 17 of the said Act and recognised under the Income-tax Act, 2025, are termed as Recognised Provident Fund (RPF)

[4] Now Code on Social Security, 2020

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(iii) **Withdrawal of accumulated balance:** Part A of the Schedule XI to the Income-tax Act, 2025, contains the provisions relating to RPFs. Under the provisions of Paragraph 8 of Part A of the Schedule XI, the withdrawal of an accumulated balance by an employee from the RPF is exempt from taxation.

(iv) **Withdrawals subject to tax:** For the purpose of discouraging pre-mature withdrawal and promoting long term savings, if the employee makes withdrawal

- **before continuous service of five years** (other than the cases of termination due to ill health, contraction or closure of business, other cause beyond his control, cessation of employment etc.) and
- **does not opt for transfer** of accumulated balance to the new employer,

the withdrawal would be subject to tax.

(v) **TDS on withdrawals:** Paragraph 9 of Part A of the Schedule XI provides the manner of computing the tax liability of the employee in respect of such premature withdrawal. To ensure the collection of tax in respect of such premature withdrawals, Paragraph 10 of Part A of the Schedule XI casts responsibility on the trustees of the RPF or any person authorised by the regulations of the fund to make payment of the accumulated balances to deduct tax as computed in Paragraph 9 at the time of payment.

(vi) Paragraph 9 provides that the tax on the withdrawn amount is required to be calculated by re-computing the tax liability of the years for which the contribution to RPF has been made by treating the same as a contribution to an unrecognised provident fund.

(2) Applicability and Rate of TDS

Section 392(7) provides for the deduction of tax @10% on premature taxable withdrawal from the employees' provident fund scheme.

TDS@ 10%

Accordingly, in a case where the accumulated balance due to an employee participating in a RPF is includible in his total income owing to the provisions

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of Paragraph 8 of Part A of Schedule XI not being applicable, the trustees of the Employees Provident Fund Scheme, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees are required to deduct income-tax @10%.

(3) Time of tax deduction at source

Tax should be deducted **at the time of payment** of the accumulated balance due to the employee participating in a RPF.

(4) Threshold limit for deduction of tax under section 392(7)

The tax is required to be deducted under section 392(7) where the aggregate amount of payment of the accumulated balance due to the employee is ₹ 50,000 or more.

Tax to be deducted at source [Section 393]

The Income-tax Act, 2025, seeks to consolidate all transactions (other than salary and the accumulated balance of PF) involving payments to both residents and non-residents that are liable for tax deduction at source under a single comprehensive provision, i.e., Section 393.

Section 392 provides for tax deduction from salaries and payment of accumulated balance due to an employee in respect of provident fund. All other TDS provisions have been merged under the Income-tax Act, 2025 into one section, namely, section 393. Accordingly, sub-sections (1) to (4) of section 393 relate to the following –

Section No.	Particulars
Section 393(1)	TDS on income or sum credited, paid or distributed during the tax year to a resident
Section 393(2)	TDS on income or sum credited or paid during the tax year to a non-resident
Section 393(3)	TDS on income or sum credited or paid during the tax year to any person
Section 393(4)	For no tax deduction at source

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(1) TDS on payment to residents [Section 393(1)]

Table to section 393(1) contains certain payments made to residents listed from Sl. No. 1 to 8, along with the details of the payer, being the person responsible for paying such sum, the rate of TDS and the threshold limit.

Further, **Table to section 393(4)** contains the relevant conditions and exemptions from deduction of tax at source, while the interpretation of certain terms is contained in section 402.

For ease of understanding, the discussion to section 393(1) has been arranged transaction-wise with reference to each Serial Number. While discussing each transaction, the relevant conditions and exemptions specified in the Table referred to in section 393(4), along with the interpretation of certain terms referred to in section 402, have also been incorporated so as to enable students to understand the complete implications of the transaction in one comprehensive reading. Now let's begin with the discussion:

As per section 393(1), where any income or sum of the nature specified in the Table to section 393(1), is credited or paid or distributed by the person specified in the said table during the tax year, **to a resident**, the person responsible for paying (referred as "Payer") such income or sum, shall deduct income-tax -

(a) on the **entire amount** of such income or sum, where the amount or aggregate of amounts exceeds the specified threshold limit **unless otherwise mentioned**;

(b) at the specified rate; and

(c) at the time of credit of such income or sum to the account of the payee or at the time of its payment in cash or by way of a cheque or a draft or by any other mode, whichever is earlier, **unless otherwise mentioned**.

The credit of any income or sum to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income or sum, shall be deemed to be the credit of such income or sum to the account of the payee and tax has to be deducted at source accordingly [Section 393(11)].

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Commission or brokerage

Insurance commission [Section 393(1) {Table Sl. No. 1(i)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
1(i)	Any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of insurance policies)	Any person	Rate in force i.e., 2% in case of resident other than a domestic company and 10% in case of a domestic company	₹ 20,000

Analysis

Section 393(1) [Table: Sl. No. 1(i)] casts responsibility **on any person** responsible for paying to a resident insurance commission as referred above to deduct tax at source **@**

- **2% in case of resident other than a domestic company and**
- **10% in case of a domestic company**

on the entire amount if the amount or aggregate of amounts of such income **exceeds ₹ 20,000,** at the time of credit or payment, whichever is earlier.

Commission or brokerage other than insurance commission [Section 393(1) {Table Sl. No. 1(ii)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
1(ii)	Any income by way of commission [not being insurance commission] or brokerage	Specified person	2%	₹ 20,000

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Meaning of certain terms:

Term	Meaning
Commission or brokerage	Commission or brokerage includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person- (a) for services rendered (not being professional services); or (b) for any services in the course of buying or selling of goods; or (c) in relation to any transaction relating to any asset, valuable article or thing, not being securities
Specified person	Specified person means – (a) any person, not being an individual or HUF; or (b) an individual or a HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid.

Analysis

Section 393(1) [Table: Sl. No. 1(ii)] casts responsibility **on specified person** responsible for paying to a resident any **income by way of commission (not being insurance commission) or brokerage** to deduct tax at source **@2% on the entire amount if the amount or aggregate of amounts of such income exceeds ₹ 20,000**.

It implies that an Individual or HUF who are not carrying on business or profession or whose total sales, gross receipts or turnover does not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of the profession during the tax year immediately preceding the tax year in which the income or sum is credited or paid are not required to deduct tax at source.

Non applicability of TDS [Section 393(4) (Table Sl. No. 1]

No tax is required to be deducted where commission or brokerage is payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.

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Rent

Payment of Rent on immovable property by certain individuals or HUF [Section 393(1) {Table Sl. No. 2(i)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
2(i)	Any income by way of rent	Person other than specified person	2%	₹ 50,000 for a month or part of a month

Meaning of rent

"Rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any land or building (including factory building) or land appurtenant to a building (including factory building) whether or not are owned by the payee.

Time of deduction of TDS

The tax shall be deducted on such rent -

(a) at the time of credit of rent to the account of the payee; or

(b) at the time of payment,

whichever is earlier, for the last month of the tax year or the last month of tenancy.

Deduction of tax not to exceed the rent for last month

As per section 397(2)(b)(i), where PAN is not furnished by the payee to the payer, tax is deductible at higher of the rate of 2% or 20%. However, as per section 397(2)(e), the amount of TDS cannot exceed the amount of rent payable for the last month of the tax year or the last month of the tenancy.

*[**Note -** Section 397(2)(b)(i), providing deduction of tax at source at a higher rate on non-furnishing of PAN by the payee, is discussed at length later in this chapter]*

No requirement to obtain TAN

The payer is not required to obtain Tax Deduction and Collection Account Number (TAN) [Section 397(1)(c)].

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Section 393(1) [Table: Sl. No. 2(i)] casts responsibility on **an individual or HUF**



- not carrying on any business or profession or
- whose total sales, gross receipts or turnover from the business or profession carried on by him does not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid.

responsible for paying to a resident any **income by way of rent** to deduct tax at source **@2% on the entire amount if** the amount of **rent exceeds ₹ 50,000 for a month or part of a month**.

The tax deduction is to be made at the time of credit of rent to the account of the payee or at the time of payment, whichever is earlier, for the last month of the tax year or the last month of tenancy.

Tax has to be deducted under this Sl. No. on payment of **rent for the use of any land or building (including factory building) or land appurtenant to a building (including factory building)**.

ILLUSTRATION 2

Mr. X, a salaried individual, pays rent of ₹ 55,000 per month to Mr. Y from June, 2026. Is he required to deduct tax at source? If so, when is he required to deduct tax? Also, compute the amount of tax to be deducted at source.

Would your answer change if Mr. X vacated the premises on 31st December, 2026?

Also, what would be your answer if Mr. Y does not provide his PAN to Mr. X?

SOLUTION

Since Mr. X pays rent of ₹ 50,000 or more per month in the T.Y. 2026-27, he is liable to deduct tax at source @2%. The tax is to be deducted in the last month of the T.Y. 2026-27 i.e., March 2027 or in the last month of tenancy, if the property is vacated during the year. Since property is not vacated during the year, ₹ 11,000 [(₹ 55,000 x 2% x 10)] has to be deducted from rent payable for March, 2027.

If Mr. X vacated the premises in December, 2026, then tax of ₹ 7,700 [(₹ 55,000 x 2% x 7)] has to be deducted from rent payable for December, 2026.

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In case Mr. Y does not provide his PAN to Mr. X, tax would be deductible@20%, instead of 2%.

In case 1 above, this would amount to ₹ 1,10,000 [₹ 55,000 x 20% x 10], but the same has to be restricted to ₹ 55,000, being rent for March, 2027.

In case 2 above, this would amount to ₹ 77,000 [₹ 55,000 x 20% x 7], but the same has to be restricted to ₹ 55,000, being rent for December, 2026.

Rent [Section 393(1) {Table Sl. No. 2(ii)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
2(ii)	Any income by way of rent	Specified person	- 2%, for the use of any machinery or plant or equipment - 10%, for the use of any land, or building (including factory building), or land appurtenant to a building (including factory building), or furniture, or fittings.	₹ 50,000 for a month or part of a month

Meaning of certain terms

Term	Meaning
Rent	Rent means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any - (a) land; or (b) building (including factory building); or (c) land appurtenant to a building (including factory building); or (d) machinery; or (e) plant; or (f) equipment; or

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	(g) furniture; or (h) fittings, whether or not any or all of the above are owned by the payee.
Specified person	Specified person means – (a) any person, not being an individual or HUF; or (b) an individual or a HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid.

Analysis

Section 393(1) [Table: Sl. No. 2(ii)] casts responsibility **on specified person** responsible for paying to a resident any **income by way of rent** to deduct tax at source

- **@ 2% for the use of any machinery or plant or equipment and**
- **@10%, for the use of any land, or building (including factory building), or land appurtenant to a building (including factory building), or furniture, or fittings.**

on the entire amount if the amount of **rent exceeds ₹ 50,000 for a month or part of a month**.

Tax has to be deducted under this Sl. No. on payment of **rent for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or machinery, plant, equipment, furniture, fittings**.

Circulars and Notifications		
Applicability/ non-applicability of TDS under section 393(1) [Table: Sl. No. 2(ii)] on certain payments		
Nature of Payment	**Analysis**	**Conclusion**
Payments made by the customers on account of cooling charges to the cold storage owners.	The main function of cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidental in nature. **The customer is also not given any right to use any demarcated**	No tax is to be deducted under section 393(1) [Table: Sl. No. 2(ii)]. However, tax is

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[Circular No.1/2008 dated 10.1.2008]	**space/place or the machinery of the cold store and thus does not become a tenant.** Therefore, the provisions of section 393(1) [Table: Sl. No. 2(ii)] are not applicable to the cooling charges paid by the customers of the cold storage. However, **since the arrangement between the customers and cold storage owners is basically contractual in nature**, the provision of section 393(1) [Table: Sl. No. 6(i)] will be applicable to the amounts paid as cooling charges by the customers of the cold storage.	to be deducted under section 393(1) [Table: Sl. No. 6(i)]
Lumpsum lease premium paid for acquisition of long-term lease [Circular No.35/2016, dated 13.10.2016]	The CBDT has clarified that lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for the acquisition of long-term leasehold rights over land or any other property are **not payments in the nature of rent.**	Not liable for TDS under section 393(1) [Table: Sl. No. 2(ii)].
Remittance of Passenger Service Fees (PSF) by an Airline to an Airport Operator [Circular No. 21/2017, dated 12.06.2017]	The primary requirement for any payment to qualify as rent is that the payment must be for the use of land and building and mere incidental/minor/insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 393(1) [Table: Sl. No. 2(ii)]. Accordingly, the CBDT has, vide this circular, clarified that the provisions of section 393(1) [Table: Sl. No. 2(ii)] shall not be applicable on payment of PSF by an airline to Airport Operator.	The provisions of section 393(1) [Table: Sl. No. 2(ii)] shall not be applicable.

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TDS on service tax component of rental income [Circular No.4/2008 dated 15.4.2008]	Service tax paid by the tenant doesn't partake the nature of income of the landlord. The landlord only acts as a collecting agency for the Government for collection of service tax. Therefore, tax deduction at source under section 393(1) [Table: Sl. No. 2(ii)] would be required to be made on the amount of rent paid/payable without including the service tax. **Note -** It is possible to take a view that the clarification given in Circular No. 4/2008 would apply in the GST regime also.	TDS to be deducted only on the amount of rent excluding GST.

ILLUSTRATION 3

XYZ Ltd. entered into a lease agreement to take a building on rent from Mr. Kishore on 1st May 2025, for a monthly rent of ₹ 46,000, with a 10% escalation in rent applicable from the second year. Discuss the applicability of TDS provisions under section 393(1) [Table: Sl. No. 2(ii)] for the T.Y. 2026-27.

SOLUTION

Section 393(1) [Table: Sl. No. 2(ii)], which governs the deduction of tax at source on payment of rent exceeding ₹ 50,000 per month or part of the month, is applicable to a company.

For April 2026, the rent is ₹ 46,000. However, as per the agreement, the rent from May 2026 onwards is ₹ 50,600 per month (₹ 46,000 x 110%).

Since the rent paid by XYZ Ltd. to Mr. Kishore exceeds ₹ 50,000 per month from 1st May 2026 to 31st March, 2027, the provisions of section 393(1) [Table: Sl. No. 2(ii)] for deduction of tax at source attracted. However, tax is not required to be deducted for the rent paid for April 2026.

The rate applicable for deduction at source under section 393(1) [Table: Sl. No. 2(ii)] on rent paid is 10%, assuming that Mr. Kishore had furnished his PAN to XYZ Ltd.

Therefore, the amount of tax to be deducted at source

= ₹ 50,600 x 10% x 11 months = ₹ 55,660

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Payment on transfer of immovable property other than agricultural land

Consideration for transfer of immovable property (other than agricultural land [Section 393(1) {Table Sl. No. 3(i)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
3(i)	Any consideration for transfer of any immovable property (other than agricultural land)	Person [other than the person who are required to deduct tax under serial number 3(iii) i.e., for compulsory acquisition of immovable property].	1% of -consideration for transfer of the immovable property; or - stamp duty value of such property, whichever is higher	₹ 50,00,000 [See Note below]

Notes

(i) For the purpose of threshold limit of ₹ 50 lakhs, consideration for transfer of any immovable property shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property.

(ii) Tax shall be deducted where consideration for transfer of any immovable property or the stamp duty value of such land ≥ ₹ 50 lakhs.

Meaning of certain terms

Term	Meaning
Agricultural land	Agricultural land in India, not being a land situated in any area referred to in section 2(22)(iii) i.e., Rural agricultural land
Consideration for transfer of any immovable property	Consideration for transfer of any immovable property includes all charges of the nature of – (a) club membership fee; or (b) car parking fee; or (c) electricity or water facility fee; or

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	(d) maintenance fee; or (e) advance fee; or (f) any other charges of similar nature, which are incidental to transfer of the immovable property.
Immovable property	Any land (other than agricultural land) or any building or part of a building

No requirement to obtain TAN

The payer is not required to obtain Tax Deduction and Collection Account Number (TAN) [Section 397(1)(c)].

Analysis

Section 393(1) [Table: Sl. No. 3(i)] casts responsibility **on person (other than person who** are required to deduct tax at source **for compulsory acquisition of immovable property)** responsible for paying to a resident any consideration for transfer of **any immovable property (other than rural agricultural land)** to deduct tax at source **@1% of**

- Such **consideration or**
- **Stamp duty value** of such property

whichever is higher, on the entire amount if the consideration or stamp duty value of such property is ₹ 50,00,000 or more.

ILLUSTRATION 4

Mr. X sold his house property in Bangalore as well as his rural agricultural land for a consideration of ₹ 60 lakhs and ₹ 15 lakhs, respectively, to Mr. Y on 1.8.2026. He has purchased the house property and the land in the year 2025 for ₹ 40 lakhs and ₹ 10 lakhs, respectively. The stamp duty value on the date of transfer, i.e., 1.8.2026, is ₹ 85 lakhs and ₹ 20 lakhs for the house property and rural agricultural land, respectively. Examine the tax implications in the hands of Mr. X and Mr. Y and the TDS implications, if any, in the hands of Mr. Y, assuming that both Mr. X and Mr. Y are resident Indians.

SOLUTION

(i)	**Tax implications in the hands of Mr. X**
	As per section 78, the stamp duty value of house property (i.e. ₹ 85 lakhs) would be deemed to be the full value of consideration arising on transfer of property, since the stamp duty value exceeds 110% of the consideration

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	received. Therefore, ₹ 45 lakhs (i.e., ₹ 85 lakhs – ₹ 40 lakhs, being the purchase price) would be taxable as short-term capital gains in the T.Y.2026-27. Since rural agricultural land is not a capital asset, the gains arising on sale of such land is not taxable in the hands of Mr. X.
(ii)	**Tax implications in the hands of Mr. Y**
	In case immovable property is received for inadequate consideration, the excess of stamp duty value over actual consideration would be taxable under section 92(2)(m), if such difference is more than the higher of ₹ 50,000 or 10% of the consideration. Therefore, in this case ₹ 25 lakhs (₹ 85 lakhs – ₹ 60 lakhs) would be taxable in the hands of Mr. Y under section 92(2)(m). Since agricultural land is not a capital asset, the provisions of section 92(2)(m) are not attracted in respect of receipt of agricultural land for inadequate consideration, since the definition of "property" under section 92(5) includes only capital assets specified thereunder.
(iii)	**TDS implications in the hands of Mr. Y**
	Since the consideration for transfer of house property or the stamp duty value of house property is ₹ 50 lakhs or more, Mr. Y is required to deduct tax at source under section 393(1) [Table: Sl. No. 3(i)]. The tax to be deducted under section 393(1) [Table: Sl. No. 3(i)] would be ₹ 85,000, being 1% of ₹ 85 lakhs (higher of ₹ 60 lakhs or ₹ 85 lakhs). TDS provisions under section 393(1) [Table: Sl. No. 3(i)] are not attracted in respect of transfer of rural agricultural land.

Consideration for transfer of immovable property (other than agricultural land) on compulsory acquisition [Section 393(1) {Table Sl. No. 3(iii)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
3(iii)	Any sum, being in the nature of – (a) compensation or enhanced compensation; or (b) consideration or enhanced consideration,	Any person	10%	₹ 5,00,000

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	on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land).			

Meaning of certain terms

S. No.	Term	Meaning
1.	Agricultural land	Agricultural land in India, including a land situated in any area referred to in section 2(22)(iii) i.e., agricultural land whether rural or urban.
2.	Immovable property	Any land (other than agricultural land) or any building or part of a building

Section 393(1) [Table: Sl. No. 3(iii)] casts responsibility **on any person** responsible for paying to a resident any



- **Compensation or the enhanced compensation or**
- **Consideration or enhanced consideration,**

on account of **compulsory acquisition of any immovable property (other than urban or rural agricultural land)** to deduct tax at source **@10% on the entire amount if such sum exceeds ₹ 5,00,000.**

Non applicability of TDS [Section 393(4) (Table Sl. No. 3)]

No tax is required to be deducted on income by way of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Income from capital market

Income in respect of units [Section 393(1) {Table Sl. No. 4(i)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
4(i)	Any income in respect of – (a) units of a Mutual Fund; or	Any person	10%	₹ 10,000

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	(b) units from the administrator of the specified undertaking; or (c) units from the specified company			

Section 393(1) [Table: Sl. No. 4(i)] casts responsibility **on any person** responsible for paying to a resident any **sum in respect of units of**

Analysis

- **a mutual fund,**
- **administrator of the specified undertaking or**
- **specified company**

to deduct tax at source **@10% on the entire amount if the amount or aggregate of amounts of such income exceeds ₹ 10,000.**

Non applicability of TDS

No tax is required to be deducted if the income is of the nature of capital gains.

Interest income

Income on securities [Section 393(1) {Table Sl. No. 5(i)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
5(i)	Any income by way of interest on securities	Any person	Rates in force i.e., 10%	₹ 10,000

Meaning of interest on securities [Section 2(60)]

Interest on securities means -

(i) interest on any security of the Central Government or a State Government;

(ii) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act.

Section 393(1) [Table: Sl. No. 5(i)] casts responsibility **on any person** responsible for paying to a resident **any income by way of interest on securities** to

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deduct tax at source **@10%, on the entire amount if the amount or aggregate of amounts of such income exceeds ₹ 10,000.**

Non applicability of TDS

No tax deduction is to be made from any interest payable on –

(i) National Development Bonds;

(ii) such debentures, issued by notified institution or authority or any other person;

Accordingly, the Central Government has, vide Notification No. 27 & 28/2018, dated 18-06-2018, notified-

(i) "Power Finance Corporation Limited 54EC[5] Capital Gains Bond" issued by Power Finance Corporation Limited {PFCL} and

(ii) "Indian Railway Finance Corporation Limited 54EC[6] Capital Gains Bond" issued by Indian Railway Finance Corporation Limited {IRFCL}

Thus, no tax is required to be deducted at source on interest payable on "Power Finance Corporation Limited 85 Capital Gains Bond" and "Indian Railway Finance Corporation Limited 85 Capital Gains Bond".

(iii) any security of the Central Government or a State Government, **other than** –

(A) 8% Savings (Taxable) Bonds, 2003; or

(B) 7.75% Savings (Taxable) Bonds, 2018; or

(C) Floating Rate Savings Bonds, 2020 (Taxable); or

(D) any other notified security of the Central Government or State Government.

No tax deduction is to be made from any interest payable to –

- Life Insurance Corporation of India;
- General Insurance Corporation of India
- Any other insurer

[5] Now section 54EC is section 85
[6] Now section 54EC is section 85

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- in respect of any securities owned by LIC, GIC or such companies or any other insurer or in which LIC, GIC or such companies or any other insurer has a full beneficial interest.

Interest other than interest on securities [Section 393(1) {Table Sl. No. 5(ii) & 5(iii)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
5(ii)	Interest other than interest on securities	(a) A banking company; or (b) a co-operative society carrying on the business of banking; or (c) a post office for a deposit made under a scheme notified by the Central Government[7]	Rates in force i.e., 10%	(a) ₹ 1,00,000 in the case of a senior citizen; (b) ₹ 50,000 in case of person other than senior citizen.
5(iii)		Specified person [other than person referred to in 5 (ii)]		₹ 10,000

Meaning of certain terms

Term	Meaning
Specified person	Specified person means – (a) any person, not being an individual or HUF; or (b) an individual or a HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid.
Time deposits	Time deposits mean deposits (including recurring deposits) repayable on the expiry of fixed periods.

[7] "Senior Citizens Saving Scheme, 2019" and "Mahila Samman Savings Certificate, 2023" have been notified by the Central Government for this purpose.

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Interest	Interest means interest payable in any manner for moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes service fee or any other charges for the moneys borrowed or debt incurred or for any credit facility that has not been utilized.

Adjustment in the amount of tax deduction at source

The payer, may at the time of making any deduction, increase or reduce the amount to be deducted for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the tax year.

Deduction of tax at source on payment of interest on time deposits if the banks, co-operative society or public company not adopted core banking solutions

Where the interest income credited or paid is in respect of -

(a) time deposits with a banking company; or

(b) time deposits with a co-operative society engaged in carrying on the business of banking; or

(c) deposits with a public company formed and registered in India with the main object of carrying on business of long-term finance for construction or purchase of houses in India for residential purposes and is eligible for deduction under section 32(e),

and the payer has not adopted core banking solutions (CBS), the threshold limit shall be computed with reference to the income credited or paid by a branch of such payer.



Section 393(1) [Table: Sl. No. 5(ii)] casts responsibility **on banking company, co-operative society carrying on banking business or post office for a notified deposit** responsible for paying to a resident **any income by way of interest other than interest on securities** to deduct tax at source **@10% on the entire amount** if the amount or aggregate of amounts of such income **exceeds**

- **₹ 1,00,000 in case of payee, being a senior citizen or**
- **₹ 50,000 in any other case.**

Section 393(1) [Table: Sl. No. 5(iii)] casts responsibility **on specified person (other than banking company, co-operative society carrying on banking business or post office for a notified deposit) being -**

- any person not being an individual or HUF; or

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- an individual and HUF whose total sales, gross receipts or turnover exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of the profession during the tax year immediately preceding the tax year in which the income or sum is credited or paid.

responsible for paying to a resident **any income by way of interest other than interest on securities** to deduct tax at source **@10% on the entire amount if the amount or aggregate of amounts of such income exceeds ₹ 10,000.**

Non applicability of TDS

No tax deduction is to be made from any interest income credited or paid to –

(i) any banking company or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank)]; or

(ii) any financial corporation established by or under a Central Act or State Act or Provincial Act; or

(iii) the LIC; or

(iv) the Unit Trust of India; or

(v) any company or co-operative society carrying on the business of insurance; or

(vi) notified institution, association or body or class of institutions, associations or bodies (National Skill Development Fund and Housing and Urban Development Corporation Ltd. (HUDCO), New Delhi have been notified by the Central Government for this purpose).

No tax deduction is to be made from any interest income credited or paid –

(i) by a co-operative society other than a co-operative bank, to a member thereof; or

(ii) by a co-operative society to any other co-operative society; or

(iii) in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank; or

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(iv) in respect of deposits (other than time deposits) with a co-operative society, other than a co-operative society or bank referred to in (iii), engaged in the business of banking,

except when, -

(A) the total sales, gross receipts or turnover of the co-operative society exceed ₹ 50 crores during the tax year immediately preceding the tax year in which such interest is credited or paid; and

(B) the amount or aggregate of amounts of interest credited or paid exceeds ₹ 1,00,000 in the case of a senior citizen and ₹ 50,000 in case of person other than senior citizen.

Therefore, co-operative society fulfilling the conditions specified in (A) and (B) is required to deduct tax on interest credited or paid by it –

(a) to its member or to any other co-operative society; or

(b) in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank or

(c) in respect of deposits with a co-operative society other than a co-operative society or bank engaged in carrying on the business of banking.

No tax deduction is to be made from any interest income credited or paid –

(i) by the Central Government under any provision of the Act;

(ii) in respect of notified deposits under any scheme framed by the Central Government;

(iii) in respect of deposits (other than time deposits made) with a banking company;

(iv) on the compensation amount awarded by a Motor Accidents Claims Tribunal –

(A) to an individual; or

(B) to a person other than an individual, where the aggregate interest on such compensation does not exceed ₹ 50,000 during the tax year;

(v) payable by an infrastructure capital company; or infrastructure capital fund; or infrastructure debt fund; or a public sector company; or scheduled bank in

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relation to a zero coupon bond issued on or after 1st June, 2005 by such company or fund or public sector company or scheduled bank;

(vi) by a firm to a partner of the firm.

Clarification regarding deduction of tax at source on interest where such interest is credited by the banks to the provisioning account on a daily/monthly basis for the purpose of macro monitoring only by the use of CBS software under section 393(1) [Table: Sl. No. 5(ii)]

As per section 393(11), the credit of any income or sum to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income or sum, shall be deemed to be the credit of such income or sum to the account of the payee and tax has to be deducted at source accordingly.

The CBDT has, vide *Circular No.3/2010 dated 2.3.2010*, clarified that section 393(11) is not meant to apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software. It has been further clarified that since no constructive credit to the depositor's/payee's account takes place while calculating interest on time deposits on daily or monthly basis in the CBS software used by banks, tax need not be deducted at source on such provisioning of interest by banks for the purposes of macro monitoring only.

In such cases, tax shall be deducted at source on accrual of interest at the end of financial year or at periodic intervals as per practice of the bank or as per the depositor's/ payee's requirement or on maturity or on encashment of time deposits, whichever event takes place earlier, whenever the aggregate of amounts of interest income credited or paid or likely to be credited or paid during the tax year by the banks exceeds the limits specified in section 393(1) [Table: Sl. No. 5(ii)].

Note - *The time for making the payment of tax deducted at source would reckon from the date of credit of interest made constructively to the account of the payee.*

ILLUSTRATION 5

Examine the TDS implications under section 393(1) [Table: Sl. No. 5] in the cases mentioned hereunder–

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(i) On 1.10.2026, Mr. Harish made a six-month fixed deposit of ₹ 15 lakhs@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2027.

(ii) On 1.6.2026, Mr. Ganesh made three nine months fixed deposits of ₹ 3 lakhs each, carrying interest@9% p.a. with Dwarka Branch, Janakpuri Branch and Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2027.

(iii) On 1.10.2026, Mr. Rajesh started a six months recurring deposit of ₹ 2,00,000 per month@8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2027.

SOLUTION

(i) ABC Co-operative Bank has to deduct tax at source@10% on the interest of ₹ 67,500 (9% × ₹ 15 lakh × ½) under section 393(1) [Table: Sl. No. 5(ii)]. The tax deductible at source under section 393(1) [Table: Sl. No. 5(ii)] from such interest is, therefore, ₹ 6,750.

(ii) XYZ Bank has to deduct tax at source@10% u/s 393(1) [Table: Sl. No. 5(ii)], since the aggregate interest on fixed deposit with the three branches of the bank is ₹ 60,750 [₹ 3,00,000 × 3 × 9% × 9/12], which exceeds the threshold limit of ₹ 50,000. Since the aggregate interest of ₹ 60,750 exceeds the threshold limit of ₹ 50,000, tax has to be deducted@10% u/s 393(1) [Table: Sl. No. 5(ii)].

(iii) No tax has to be deducted under section 393(1) [Table: Sl. No. 5(ii)] by PQR Bank on the interest of ₹ 28,000 falling due on recurring deposit on 31.3.2027 to Mr. Rajesh, since such interest does not exceed the threshold limit of ₹ 50,000.

Payment to contractors, fees for professional and technical services etc.

Payment to contractors [Section 393(1) {Table Sl. No. 6(i)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
6(i)	Any sum for carrying out any work (including	Any designated person	- 1%, if contractor is	- ₹ 30,000 for any such sum; and

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	supply of labour for carrying out any work) in pursuance of a contract (including sub-contract) between the contractor and a designated person		individual or HUF - 2%, if contractor is a person other than individual or HUF	- ₹ 1,00,000 in case of aggregate of such sums.

Meaning of certain terms

Term	Meaning
Designated person	Designated person means – (a) the Central Government or any State Government; or (b) any local authority; or (c) any corporation established by or under a Central Act or State Act or Provincial Act; or (d) any company; or (e) any co-operative society; or (f) any authority, constituted in India by or under any law, engaged either 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 and villages, or for both; or (g) any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or (h) any trust; or (i) any University established or incorporated by or under a Central Act or State Act or Provincial Act and an institution declared to be a university under the UGC Act, 1956; or (j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or (k) any firm; or (l) any person, being an individual or a HUF or an AOPs or a BOIs, if such person, - (i) does not fall under any of the above category; and

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	(ii) has total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the tax year in which such sum is credited or paid to the account of the contractor.
Work	Work" shall include – (a) advertising; (b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting; (c) carriage of goods or passengers by any mode of transport other than by railways; (d) catering; (e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from - (i) such customer; or (ii) its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in section 36(3). (f) supply of manpower to a person to work under his supervision, control or direction. However, work does not include – (A) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer; or (B) any sum referred to in section 393(1) [Table: Sl. No. 6(iii)] i.e., fees for professional services, technical services, royalty etc.
Contract	Contract shall include sub-contract.

Notes

If any sum is paid or credited for manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate, tax shall be deducted at source on the

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invoice value excluding the value of material purchased from such customer or its associate, if such value is specified separately in the invoice.

If the value of material is not specified separately in the invoice, tax shall be deducted on the whole of the invoice value.



Section 393(1) [Table: Sl. No. 6(i)] casts responsibility **on any designated person** responsible for paying to a resident **contractor and sub-contractors for carrying out any work (including supply of labour for carrying out any work)** in pursuance of a contract between designated person and contractor to deduct tax at source

- @ **1% if the contractor is an individual or HUF or**
- @ **2% if the contractor is another person**

on the entire amount if the amount of such sum exceeds ₹ 30,000 or if the aggregate of such sum exceeds ₹ 1,00,000.

If a single payment to a contractor does not exceed **₹ 30,000**, TDS provisions would be attracted if the aggregate of the amounts of such sums exceeds **₹ 1,00,000**.

The deduction of tax will be made from sums paid for carrying out any work or for supplying labour for carrying out any work.

In other words, the TDS under this Sl. No. will apply only in relation to 'works contracts' and 'labour contracts' and will not cover contracts for sale of goods.

However, **an individual or HUF** is **not** required to deduct tax at source where the sum is credited or paid by individual or HUF **exclusively for their personal purposes.**

Non-applicability of TDS

(i) **No deduction** is required to be made where –

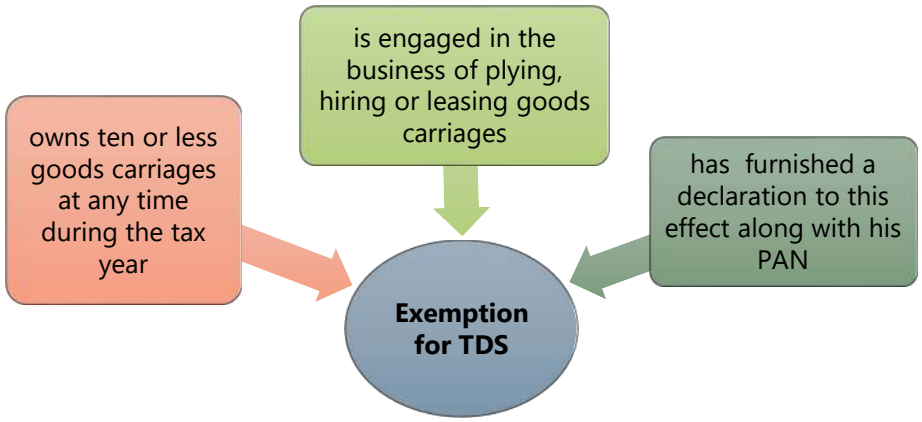
(a) any sum credited or paid or likely to be credited or paid during the tax year to the account of a **contractor during the course of business of plying, hiring or leasing goods carriages**; and

(b) that contractor **owns 10 or less goods** carriages at any time during the tax year; and

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(c) **furnishes a declaration** to that effect along with his PAN to the person paying or crediting the sum; and

(d) the person responsible for paying to the contractor furnishes to the prescribed income-tax authority the particulars in such form and within such time as may be prescribed.



Summary of applicable rates of TDS Section 393(1) [Table: Sl. No. 6(i)]

Payee	TDS rate
Individual/HUF contractor/sub-contractor	1%
Other than individual/HUF contractor/ sub-contractor	2%
Contractor in transport business (if PAN is furnished and conditions are satisfied)	Nil
Sub-contractor in transport business (if PAN is furnished and conditions are satisfied)	Nil

Applicability of TDS provisions on payments by television channels and publishing houses to advertisement companies for procuring or canvassing for advertisements [Circular No. 05/2016, dated 29-2-2016]

There are two types of payments involved in the advertising business:

(i) Payment by client to the advertising agency for preparing advertisement content, designing advertisements, planning media strategy, booking advertisement slots/space or coordinating with TV channels/ newspapers, and

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(ii) Payment by advertising agency to the television channel/newspaper company for purchasing advertising space/time.

Apart from these payments, it is also possible that payment is directly made to television channel/newspaper for advertisement.

The applicability of TDS on these payments is dealt with in Circular No. 715 dated 8-8-1995, in the following question:

Question 1: What would be the scope of an advertising contract for the purpose of section 393(1) [Table: Sl. No. 6(i)] of the Act?

Answer: The term 'advertising' has not been defined in the Act. Provisions of tax deduction at source under section 393(1) [Table: Sl. No. 6(i)] would apply when a client makes payment to an advertising agency and not when advertising agency makes payment to the media, which includes both print and electronic media. It was further clarified that when an advertising agency makes payments to their models, artists, photographers, etc., the tax shall be deducted at the rate applicable to fees for professional and technical services under section 393(1) [Table: Sl. No. 6(iii)].

Question 2: Whether the advertising agency would deduct tax at source out of payments made to the media?

Answer: No. The position has been clarified in the answer to question No. 1 above.

Question 4: Where the tax is required to be deducted at source on payments made directly to the print media/Doordarshan for release of advertisements?

Answer: The payments made directly to print and electronic media would be covered under section 393(1) [Table: Sl. No. 6(i)] as these are in the nature of payments for purposes of advertising. It may, however, be clarified that the payments made directly to Doordarshan may not be subjected to TDS as Doordarshan, being a Government agency, is not liable to income-tax.

Question 5: Whether a contract for putting up a hoarding would be covered under section 393(1) [Table: Sl. No. 6(i)] or [Table: Sl. No. 2(ii)] of the Act?

Answer: The contract for putting up a hoarding is in the nature of advertising contract and provisions of section 393(1) [Table: Sl. No. 6(i)] would be applicable. It may, however, be clarified that if a person has taken a particular space on rent and thereafter sublets the same fully or in part for putting up a hoarding, he would be liable to TDS under section 393(1) [Table: Sl. No. 2(ii)] and not under section 393(1) [Table: Sl. No. 6(i)].

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Applicability of TDS provisions on payments by broadcasters or Television Channels to production houses for production of content or programme for telecasting [Circular No. 04/2016, dated 29-2-2016]

The issue under consideration is whether payments made by the broadcaster/telecaster to production houses for production of content/programme are payments under a 'work contract' liable for tax deduction at source under section 393(1) [Table: Sl. No. 6(i)] or a contract for 'professional or technical services' liable for tax deduction at source under section 393(1) [Table: Sl. No. 6(iii)].

In this regard, the CBDT has clarified that while applying the relevant provisions of TDS on a contract for content production, a distinction is required to be made between:

(i) a payment for production of content/programme as per the specifications of the broadcaster/telecaster; and

(ii) a payment for acquisition of broadcasting/ telecasting rights of the content already produced by the production house.

In the first situation where the content is produced as per the specifications provided by the broadcaster/ telecaster and the copyright of the content/programme also gets transferred to the telecaster/ broadcaster, such contract is covered by the definition of the term 'work' in section 393(1) [Table: Sl. No. 6(i)] and, therefore, subject to TDS under that section.

However, in a case where the telecaster/broadcaster acquires only the telecasting/ broadcasting rights of the content already produced by the production house, there is no contract for ''carrying out any work", as required in section 393(1) [Table: Sl. No. 6(i)].

Therefore, such payments are not liable for TDS. However, payments of this nature may be liable for TDS under other sections of 393(1).

ILLUSTRATION 6

Moon TV, a television channel, made payment of ₹ 50 lakhs to a production house for production of programme for telecasting as per the specifications given by the channel. The copyright of the programme is also transferred to Moon TV. Would such payment be liable for tax deduction at source under section 393(1) Table: Sl. No. 6(i)? Discuss.

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Also, examine whether the provisions of tax deduction at source under section 393(1) Table: Sl. No. 6(i) would be attracted if the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house.

SOLUTION

In this case, since the programme is produced by the production house as per the specifications given by Moon TV, a television channel, and the copyright is also transferred to the television channel, the same falls within the scope of definition of the term 'work' under section 393(1) [Table: Sl. No. 6(i)]. Therefore, the payment of ₹ 50 lakhs made by Moon TV to the production house would be subject to tax deduction at source under section 393(1) [Table: Sl. No. 6(i)].

If, however, the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house, there is no contract for ''carrying out any work", as required in section 393(1) [Table: Sl. No. 6(i)]. Therefore, such payment would not be liable for tax deduction at source under section 393(1) [Table: Sl. No. 6(i)].

ILLUSTRATION 7

ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during the T.Y.2026-27 –

₹ 20,000 on 1.5.2026

₹ 25,000 on 1.8.2026

₹ 28,000 on 1.12.2026

On 1.3.2027, a payment of ₹ 30,000 is due to Mr. X on account of a contract work.

Discuss whether ABC Ltd. is liable to deduct tax at source from payments made to Mr. X.

SOLUTION

In this case, the individual contract payments made to Mr. X does not exceed ₹ 30,000. However, since the aggregate amount paid to Mr. X during the T.Y. 2026-27 exceeds ₹ 1,00,000 (on account of the last payment of ₹ 30,000, due on 1.3.2027, taking the total from ₹ 73,000 to ₹ 1,03,000), the TDS provisions under section 393(1) [Table: Sl. No. 6(i)] would get attracted. Tax has to be deducted@1% on the entire amount of ₹ 1,03,000 from the last payment of ₹ 30,000 and the balance of ₹ 28,970 (i.e., ₹ 30,000 – ₹ 1,030) has to be paid to Mr. X.

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ILLUSTRATION 8

Certain concessions are granted to transport operators in the context of cash payments u/s 36(4) and deduction of tax at source u/s 393(1) [Table: Sl. No. 6(i)]. Elucidate.

SOLUTION

Section 36(4) provides for disallowance of expenditure incurred by the assessee in respect of which payment or aggregate of payments made in a day to a person exceeds ₹ 10,000 and such payment is not made through specified banking or online mode.

However, in case the payment is made to transport operators for plying, hiring or leasing of goods carriages, the disallowance will be attracted only if the payment made in a day to a person exceeds ₹ 35,000. Therefore, payment or aggregate of payments up to ₹ 35,000 in a day can be made to a transport operator otherwise through specified banking or online mode, without attracting disallowance u/s 36(4).

Under section 393(1) [Table: Sl. No. 6(i)], tax had to be deducted in respect of payments made to contractors at the rate of 1%, if the contractor is individual or HUF or at the rate of 2%, if the contractor is another person.

However, section 393(4) [Table: Sl. No. 8] provides for no deduction of tax where –

(a) any sum is credited or paid or likely to be credited or paid during the tax year to the account of a contractor during the course of the business of plying, hiring or leasing goods carriages; and

(b) that contractor owns ten or less goods carriages at any time during the tax year; and

(c) furnishes a declaration to this effect along with his PAN; and

(d) the person responsible for paying to the contractor furnishes to the prescribed authority the particulars in prescribed form and manner.

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Payment to contractors, fees for professional services and commission by certain individual or HUF [Section 393(1) {Table Sl. No. 6(ii)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
6(ii)	Any sum – (a) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or (b) by way of fees for professional services; or (c) by way of commission [not being insurance commission or brokerage.	Any person, being an individual or HUF [other than those required to deduct tax as per Sl. No. 6(i) and (iii) or Sl. No. 1(ii)]	2%	₹ 50,00,000
No requirement to obtain TAN The payer is not required to obtain Tax Deduction and Collection Account Number (TAN) [Section 397(1)(c)].				



Section 393(1) [Table: Sl. No. 6(ii)] casts responsibility **on individual and HUF (other than those who are required to deduct tax as per the provisions of Sl. No. 6(i), 6(iii) or 1(ii))** responsible for paying to a resident **any sum for**

- **work contract or**
- **by way of fees for professional services or**
- **by way of commission (not being insurance commission) or brokerage**

to deduct tax at source on the entire amount @2% **if the amount or aggregate of amounts exceeds ₹ 50,00,000**.

In other words, an individual or a HUF **is not liable to deduct tax at source under section 393(1)[Table: Sl. No. 6(ii)],** whose total sales, gross receipts or turnover from business or profession carried on by him exceeds ₹ 1 crore in case of business

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or ₹ 50 lakhs in case of profession during the tax year immediately preceding the tax year in which –

(i) the sum for **carrying out any work contract** is credited or paid to the contractor and such amount **is not exclusively for personal purposes** of such individual or HUF.

(ii) **fees for professional services** is credited or paid and such amount **is not exclusively for personal purposes** of such individual or HUF.

(iii) the **commission (other than insurance commission)** or brokerage is credited or paid.

ILLUSTRATION 9

Examine whether TDS provisions would be attracted in the following cases, and if so, under which section. Also specify the rate of TDS applicable in each case. Assume that all payments are made to residents.

Sl. No.	***Particulars of the payer***	***Nature of payment***	***Aggregate of payments made in the T.Y.2026-27***
1.	*Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the T.Y.2025-26*	*Contract Payment for repair of residential house*	*₹ 5 lakhs*
		Payment of commission to Mr. Vallish for business purposes	*₹ 80,000 in November 2026*
2.	*Mr. Rajesh, a wholesale trader whose turnover was ₹ 95 lakhs in T.Y. 2025-26.*	*Contract Payment for reconstruction of residential house (made during the period January-March, 2027)*	*₹ 20 lakhs in January, 2027, ₹ 15 lakhs in Feb 2027 and ₹ 20 lakhs in March 2027.*
3.	*Mr. Satish, a salaried individual*	*Payment of brokerage for buying a residential house in March, 2027*	*₹ 51 lakhs*
4.	*Mr. Dheeraj, a pensioner*	*Contract payment made during October-November 2026 for reconstruction of residential house*	*₹ 48 lakhs*

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SOLUTION

	Particulars of the payer	Nature of payment	Aggregate of payments in the T.Y. 2026-27	Whether TDS provisions are attracted?
1.	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the T.Y.2025-26	Contract Payment for repair of residential house	₹ 5 lakhs	No; TDS under section 393(1) [Table: Sl. No. 6(i)] is not attracted since the payment is for personal purpose. TDS under section 393(1) [Table: Sl. No. 6(ii)] is not attracted as aggregate of contract payment to the payee in the T.Y.2026-27 does not exceed ₹ 50 lakhs.
		Payment of commission to Mr. Vallish for business purposes	₹ 80,000	Yes, TDS under section 393(1) [Table: Sl. No. 1(ii)] @2% is attracted, since the payment exceeds ₹ 20,000 and Mr. Ganesh's turnover exceeds ₹ 1 crore in the T.Y.2025-26.
2.	Mr. Rajesh, a wholesale trader whose turnover was ₹ 95 lakhs in T.Y. 2025-26	Contract Payment for reconstruction of residential house	₹ 55 lakhs	Yes, TDS under section 393(1) [Table: Sl. No. 6(ii)] @2% is attracted, since the aggregate of payments (i.e., ₹ 55 lakhs) exceed ₹ 50 lakhs. Since, his turnover does not exceed 1 crore in the T.Y.2025-26, TDS provisions under section TDS under section 393(1) [Table: Sl. No. 6(i)] are not attracted in respect of payments made in the T.Y. 2026-27.

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3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house	₹ 51 lakhs	Yes, TDS under section 393(1) [Table: Sl. No. 6(ii)] @2% is attracted, since the payment of ₹ 51 lakhs made in March 2027 exceeds the threshold of ₹ 50 lakhs. Since Mr. Satish is a salaried individual, the provisions of section 393(1) [Table: Sl. No. 1(ii)] are not applicable in this case.
4.	Mr. Dheeraj, a pensioner	Contract payment for reconstruction of residential house	₹ 48 lakhs	TDS provisions under section 393(1) [Table: Sl. No. 6(i)] are not attracted since Mr. Dheeraj is a pensioner. TDS provisions under section 393(1) [Table: Sl. No. 6(ii)] are also not applicable in this case, since the payment of ₹ 48 lakhs does not exceed the threshold of ₹ 50 lakhs.

Fees for professional or technical services, remuneration etc. to director, royalty and non-compete fees [Section 393(1) {Table Sl. No. 6(iii)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
6(iii)	Any sum by way of – (a) fees for professional services; or (b) fees for technical services; or	Specified person	- 2% in case of (i) fees for technical services (not being professional services) or	- ₹ 50,000 each for (i) fees for professional services (ii) fees for technical services (iii) royalty

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	(c) remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 392, to a director of a company; or (d) royalty; or (e) any sum referred to in section 26(2)(h) i.e., non-compete fees		(ii) royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films or (iii) payee, engaged only in the business of operation of call centre -10% in other cases	(iv) non-compete fees - Nil for remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 392, to a director of a company

Meaning of certain terms

Term	Meaning
Fees for technical services	Fees for technical services means any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel). Fees for technical services does not include following types of consideration: (i) Consideration for any construction, assembly, mining or like project undertaken by the recipient; or (ii) Consideration which would be income of the recipient chargeable under the head 'Salaries'.
Professional services	Professional services means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the CBDT for this purpose or of section 62.

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	Other professions notified for the purposes of section 62 are as follows: (a) Profession of "authorised representatives"; (b) Profession of "film artist"; (c) Profession of "company secretary"; (d) Profession of "information technology". The CBDT has notified the services rendered by following persons in relation to the sports activities as Professional Services for the purpose of TDS under this section: (a) Sports Persons, (b) Umpires and Referees, (c) Coaches and Trainers, (d) Team Physicians and Physiotherapists, (e) Event Managers, (f) Commentators, (g) Anchors and (h) Sports Columnists. Accordingly, the requirement of TDS as per section 393(1) [Table: Sl. No. 6(iii)] would apply to all the aforesaid professions. The term "profession", as such, is of a very wide import. However, the term has been defined in this section exhaustively. For the purposes of TDS, therefore, all other professions would be outside the scope of section 393(1) [Table: Sl. No. 6(iii)]. For example, this section will not apply to professions of teaching, sculpture, painting etc. unless they are notified.
Specified person	Specified person means – (a) any person, not being an individual or HUF; or (b) an individual or a HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid.

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Analysis

Section 393(1) [Table: Sl. No. 6(iii)] casts responsibility **on specified person** responsible for paying to a resident any sum by way of **fees for professional services or FTS or any remuneration or fees or commission, other than those on which tax is deductible under section 392, to a director of a company or royalty or non-compete fees** to deduct tax at source on the entire amount if exceed the specified threshold limit @ 2% in case of –

- **FTS (not being professional services) or**
- **royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films or**
- **payee engaged only in the business of operation of call centre.**

and @10% in other case.

The limit of ₹ 50,000 under section 393(1) [Table: Sl. No. 6(iii)] **is applicable separately** for fees for professional services, fees for technical services, royalty and non-compete fees. It implies that if the payment to a person towards each of the above is ₹ 50,000 or less, no tax is required to be deducted at source, even though the aggregate payment or credit exceeds ₹ 50,000.

However, there is **no threshold limit** in case of **remuneration or fees or commission, other than those on which tax is deductible under section 392, payable to director of a company.**

Non-applicability of TDS

No tax is required to be deducted at source where fees for professional or technical services are credited or paid by individual or HUF exclusively for their personal purposes.

Summary of rates and threshold limit under section 393(1) [Table: Sl. No. 6(iii)] for deduction of tax at source

Nature of payment	TDS rate	Separate Limit
Fees for technical services (not being professional services)	2%	₹ 50,000
Fees for professional services	10%	₹ 50,000

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Royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films	2%	₹ 50,000
Other royalty	10%	
Any remuneration or fees or commission, by whatever name called, other than those on which tax is deductible under section 392, to a director of a company	10%	Nil
Non-compete fees	10%	₹ 50,000

In case of a payee, engaged only in the business of operation of call centre, the tax shall be deducted at source **@2%**

Clarification regarding TDS on Goods and Services Tax (GST) component comprised in payments made to residents [Circular No. 23/2017 dated 19.07.2017]

The CBDT has, vide this circular, clarified that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid or payable without including such 'GST on services' component.

GST shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax.

Further, for the purposes of this Circular, any reference to "service tax" in an existing agreement or contract which was entered into prior to 01.07.2017 shall be treated as "GST on services" with respect to the period from 01.07.2017 onward till the expiry of such agreement or contract.

TPAs liable to deduct tax under section 393(1) [Table: Sl. No. 6(iii)] on payment to hospitals on behalf of insurance companies

The CBDT has, through *Circular No.8/2009 dated 24.11.2009*, clarified that TPAs (Third Party Administrator's) who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including cashless schemes are liable to deduct tax at source under section 393(1) [Table: Sl. No. 6(iii)] on all such payments to hospitals etc. This is because the services rendered by hospitals to various patients are primarily medical services and, therefore, the provisions of section 393(1) [Table: Sl. No. 6(iii)] are applicable to payments made by TPAs to hospitals etc.

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Consideration for use or right to use of computer software is royalty within the meaning of section 9(6)(b)

As per section 9(6)(b), the term "royalty" means consideration for transfer of all or any right in respect of certain rights, property or information.

As per section 9(6)(b), the consideration for use or right to use of computer software would be royalty. This section clarifies that transfer of all or any rights in respect of any right, property or information includes transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which that right is transferred.

Consequently, the provisions of tax deduction at source under section 393(1) [Table: Sl. No. 6(iii)] would be attracted in respect of consideration for use or right to use computer software since the same falls within the definition of royalty as per the provisions of the Income-tax Act, 2025.

Exemption from the applicability of tax deduction at source in respect of certain software payments

The Central Government has, vide Notification No.21/2012 dated 13.6.2012, effective from 1st July, 2012, exempted certain software payments from the applicability of tax deduction under section 393(1) [Table: Sl. No. 6(iii)]. Accordingly, where payment is made by the transferee for acquisition of software from a resident-transferor, the provisions of section 393(1) [Table: Sl. No. 6(iii)] would not be attracted if-

(1) the software is acquired in a subsequent transfer without any modification by the transferor;

(2) tax has been deducted under section 393(1) [Table: Sl. No. 6(iii)] on payment for any previous transfer of such software; and

(3) the transferee obtains a declaration from the transferor that tax has been so deducted along with the PAN of the transferor.

ILLUSTRATION 10

XYZ Ltd. makes a payment of ₹ 28,000 to Mr. Ganesh on 2.8.2026 towards fees for professional services and another payment of ₹ 25,000 to him on the same date towards fees for technical services. Discuss whether TDS provisions under section 393(1) [Table: Sl. No. 6(iii)] are attracted.

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SOLUTION

TDS provisions under section 393(1) [Table: Sl. No. 6(iii)] would not get attracted, since the limit of ₹ 50,000 is applicable for fees for professional services and fees for technical services, separately. It is assumed that there is no other payment to Mr. Ganesh towards fees for professional services and fees for technical services during the T.Y.2026-27.

Dividend [Section 393(1) {Table Sl. No. 7}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
7	Any dividend (including dividend on preference shares) declared.	Any domestic company	10%	Nil
Time of Deduction of TDS The tax shall be deducted at source before making any distribution or payment of dividend.				

Analysis

Section 393(1) [Table: Sl. No. 7] casts responsibility **on domestic company** responsible for paying to a resident

- **any dividend including dividend on preference shares**
- to deduct tax at source **@10% on the entire amount**
- **if the amount or aggregate of amounts of dividend** distributed or paid **to individual** by any mode other than cash **exceeds ₹ 10,000.**

For shareholders other than individuals, there is no threshold. Likewise, if dividend is paid in cash, there is no threshold even if the shareholder is an individual.

Non applicability of TDS

No tax is required to be deducted on dividend income credited or paid to –

- LIC, GIC, subsidiaries of GIC or any other insurer provided the shares are owned by them, or they have full beneficial interest in such shares
- any other person notified by the Central Government; or
- a shareholder, being an individual, if –

  (I) the dividend is paid by the company by any mode other than cash; and

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(II) amount or aggregate of amounts of such dividend distributed or paid or likely to be distributed or paid during the tax year does not exceed ₹ 10,000.

Other cases

Payment in respect of LIC [Section 393(1) {Table Sl. No. 8}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
8(i)	Any sum under a LIC, including the sum allocated as bonus on such policy, other than the amount not includible in the total income under Schedule II (Table: Sl. No. 2)	Any person	2% on income comprised in such sum	₹ 1,00,000

Analysis

Section 393(1) [Table: Sl. No. 8(i)] casts responsibility **on any person** responsible for paying to a resident

- **any sum under a LIC, including the sum allocated as bonus on such policy,**
- **which are not exempt under Schedule II (Table: Sl. No. 2)**
- to deduct tax at source **@2% on income comprised in such sum if the amount or aggregate of amounts exceeds ₹ 1,00,000.**

ILLUSTRATION 11

Examine the applicability of the provisions for tax deduction at source under section 393(1) [Table: Sl. No. 8(i)] in the following cases -

(i) Mr. X, a resident, is due to receive ₹ 4.50 lakhs on 30.6.2026, towards maturity proceeds of LIC policy taken on 1.7.2023, for which the sum assured is ₹ 4 lakhs and the annual premium is ₹ 1,25,000.

(ii) Mr. Y, a resident, is due to receive ₹ 3.95 lakhs on 31.12.2026 on LIC policy taken on 1.1.2012, for which the sum assured is ₹ 3.50 lakhs and the annual premium is ₹ 26,100.

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(iii) Mr. Z, a resident, is due to receive ₹ 95,000 on 1.8.2026 towards maturity proceeds of LIC policy taken on 31.7.2018 for which the sum assured is ₹ 90,000 and the annual premium was ₹ 10,000.

SOLUTION

(i) Since the premium to sum assured exceeds 10% in respect of a policy taken after 31.3.2012, the maturity proceeds of ₹ 4.50 lakhs due on 30.6.2026 are not exempt under schedule II (Table: Sl. No. 2) in the hands of Mr. X. Therefore, tax is required to be deducted@2% under section 393(1) [Table: Sl. No. 8(i)] on the amount of income comprised therein i.e., on ₹ 75,000 (₹ 4,50,000, being maturity proceeds - ₹ 3,75,000, being the aggregate amount of insurance premium paid).

(ii) Since the premium to sum assured is less than 20% in respect of a policy taken before 1.4.2012, the sum of ₹ 3.95 lakhs due to Mr. Y would be exempt under schedule II (Table: Sl. No. 2) in his hands. Hence, no tax is required to be deducted at source under section 393(1) [Table: Sl. No. 8(i)] on such sum payable to Mr. Y.

(iii) Even though the premium to sum assured exceeds 10% in respect of a policy taken after 31.3.2012, and consequently, the maturity proceeds of ₹ 95,000 due on 1.8.2026 would not be exempt under schedule II (Table: Sl. No. 2) in the hands of Mr. Z, the tax deduction provisions under section 393(1) [Table: Sl. No. 8(i)] are not attracted since the maturity proceeds does not exceed ₹ 1 lakh.

Purchase of goods [Section 393(1) {Table Sl. No. 8 (ii)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
8(ii)	Any sum exceeding fifty lakh rupees for purchase of any goods	Any person, being a buyer	0.1%	On sum exceeding ₹ 50 lakhs

- The tax has to be deducted on the sum exceeding ₹ 50 lakhs.
- Tax is **not** required to be deducted under this Sl. No. to a transaction on which tax is deductible or collectible under any of the provisions of the Act.

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Meaning of buyer

Buyer means a person whose total sales, gross receipts or turnover from the business carried on by him exceeds ₹ 10 crores during the tax year immediately preceding the tax year in which the purchase of goods is carried out.

However, the buyer does not include a person as notified by the Central Government for this purpose, subject to fulfillment of the stipulated conditions.

Analysis

Section 393(1) [Table: Sl. No. 8(ii)] casts responsibility **on a buyer whose total sales, gross receipts or turnover from the business carried on by him**

- **exceeds ₹ 10 crores** during the tax year immediately preceding the tax year in which the purchase of goods is carried out
- who is responsible for paying to a resident
- **any sum exceeding ₹ 50 lakhs for purchase of goods**
- to deduct tax at source **@0.1% on the sum exceeding ₹ 50 lakhs.**

Deduction of tax at higher rate where PAN is not furnished by the seller [Section 397(2)(b)(i)]

In case **PAN is not furnished by the seller** to the buyer, tax shall be deducted at the higher of the following rates:

- At the rate specified in the relevant provisions of the Act
- At the rate or rates in force
- At the rate of 5%

ILLUSTRATION 12

Mr. Gupta, a resident Indian, is in retail business and his turnover for T.Y.2025-26 was ₹ 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the T.Y.2026-27 was ₹ 95 lakh (₹ 20 lakh on 1.6.2026, ₹ 25 lakh on 12.8.2026, ₹ 22 lakh on 23.11.2026 and ₹ 28 lakh on 25.3.2027). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date.

(1) Based on the above facts, examine the TDS implications, if any, under the Income-tax Act, 2025.

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(2) Would your answer be different if Mr. Gupta's turnover for T.Y.2025-26 was ₹ 8 crores, all other facts remaining the same?

(3) Would your answer to (1), if PAN has not been furnished by the seller, as required?

SOLUTION

(1) Since Mr. Gupta's turnover for T.Y.2025-26 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the T.Y.2026-27, he is liable to deduct tax@0.1% of ₹ 45 lakhs (being the sum exceeding ₹ 50 lakhs) in the following manner –

No tax is to be deducted u/s 393(1) [Table: Sl. No. 8(ii)] on the payments made on 1.6.2026 and 12.8.2026, since the aggregate payments till that date i.e., 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be deducted u/s 393(1) [Table: Sl. No. 8(ii)] from the payment/ credit of ₹ 22 lakh on 23.11.2026 [₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit].

Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be deducted u/s 393(1) [Table: Sl. No. 8(ii)] from the payment/ credit of ₹ 28 lakhs on 25.3.2027.

(2) If Mr. Gupta's turnover for the T.Y.2025-26 was only ₹ 8 crores, TDS provisions under section 393(1) [Table: Sl. No. 8(ii)] would not be attracted.

(3) In case (1), if PAN is not furnished by Mr. Agarwal to Mr. Gupta, then, Mr. Gupta has to deduct tax@5%, instead of 0.1%. Accordingly, tax of ₹ 85,000 (i.e., 5% of ₹ 17 lakhs) and ₹ 1,40,000 (5% of ₹ 28 lakhs) has to be deducted by Mr. Gupta u/s 393(1) [Table: Sl. No. 8(ii)] on 23.11.2026 and 25.3.2027, respectively.

Total income of a specified senior citizen [Section 393(1) {Table Sl. No. 8 (iii)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
8(iii)	Total income of a specified senior citizen after giving effect to deduction allowable	Specified bank	Rates in force	Basic exemption limit as applicable

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	under Chapter VIII and rebate allowable under section 156			

Meaning of specified senior citizen

Specified senior citizen means an individual, being a resident in India, who –

(a) is of the age of 75 years or more at any time during the tax year;

(b) is having pension income and no other income except the interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and

(c) has furnished a declaration to the specified bank containing particulars, in prescribed form and verified in prescribed manner.

Meaning of "Specified Bank"

Specified bank means a banking company as the Central Government may, by notification, specify.

The provisions of this Sl. No. will override any other provisions of this Chapter and tax has to be deducted according to provision under this Sl. No.

Analysis

Section 393(1) [Table: Sl. No. 8(iii)] casts responsibility **on a specified bank, being a notified banking company**

- to deduct tax at source **at the rates in force on the total income of a specified senior citizen**
- after giving effect to deduction allowable under Chapter VIII and
- rebate allowable under section 156
- where the deductee exercises the option under section 202(4) to shift out of the default tax regime.

Where the deductee does not exercise the option to shift out of the default tax regime, tax is required to be deducted **as per the rates provided under section 202(1)** subject to certain conditions, including the condition that the specified senior citizen does not avail of specified exemptions and deductions.

The threshold limit for deduction of tax at source is basic exemption limit i.e., ₹ 4,00,000, in case the specified senior citizen pays tax under the default tax regime u/s 202 and ₹ 3,00,000 / ₹ 5,00,000, as the case may be, if the specified senior citizen has exercised the option of shifting out of the default tax regime.

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Exemption from filing return of income [Section 263(8)(b)]

The specified senior citizen is not required to furnish his return of income for the relevant tax year in which the tax has been deducted under this Sl. No.

ILLUSTRATION 13

Mr. Sharma, a resident Indian aged 77 years, gets pension of ₹82,000 per month from the UP State Government. The same is credited to his savings account in SBI, Lucknow Branch. In addition, he gets interest@8% p.a. on fixed deposit of ₹40 lakh with the said bank. Out of the deposit of ₹40 lakhs, ₹2 lakhs represents five year term deposit made by him on 1.4.2026. Interest on savings bank credited to his SBI savings account for the T.Y.2026-27 is ₹9,500.

(1) From the above facts, compute the total income and tax liability of Mr. Sharma for the T.Y. 2026-27, assuming that he has exercised the option of shifting out of the default tax regime.

(2) What would be the amount of tax deductible at source by SBI, assuming that the same is a specified bank? Is Mr. Sharma required to file his return of income for T.Y.2026-27, if tax deductible at source has been fully deducted? Examine.

(3) Is Mr. Sharma required to file his return of income for T.Y. 2026-27, if the fixed deposit of ₹40 lakh was with Canara Bank instead of SBI, other facts remaining the same?

SOLUTION

(1) Computation of total income of Mr. Sharma for T.Y.2026-27

Particulars		₹	₹
I	**Salaries**		
	Pension (₹ 82,000 x 12)	9,84,000	
	Less: Standard deduction u/s 19(1) (Table: Sl. No. 2)	50,000	
			9,34,000
II	**Income from Other Sources**		
	Interest on fixed deposit (₹ 40 lakhs x 8%)	3,20,000	
	Interest on savings account	9,500	3,29,500

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Gross total income		**12,63,500**
Less: **Deductions under Chapter VIII**		
Under section 123		
Five year term deposit (₹ 2 lakh, restricted to ₹ 1.5 lakh)	1,50,000	
Under section 153		
Interest on fixed deposit and savings account, restricted to 50,000, since Mr. Sharma is a senior citizen	50,000	2,00,000
Total Income		**10,63,500**

Computation of tax liability for T.Y.2026-27

Particulars	₹
Tax payable [₹ 63,500 x 30% + ₹ 1,10,000]	1,29,050
Add: Health and Education Cess@4%	5,162
Tax liability	**1,34,212**
Tax liability (rounded off)	**1,34,210**

(2) SBI, being a specified bank, is required to deduct tax at source u/s 393(1) [Table: Sl. No. 8(iii)] and remit the same to the Central Government. In such a case, Mr. Sharma would not be required to file his return of income u/s 263.

(3) If the fixed deposit of ₹ 40 lakh is with a bank other than SBI, which is the bank where his pension is credited, then, Mr. Sharma would not qualify as a "specified senior citizen". In this case, Mr. Sharma would have to file his return of income u/s 263(1), since his total income (without giving effect to deduction under Chapter VIII) exceeds the basic exemption limit.

Benefit or perquisite from business or profession [Section 393(1) {Table Sl. No. 8(iv)}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
8(iii)	Any benefit or perquisite, whether convertible into money or not, arising from	Specified person	10% of value or aggregate of values of	₹ 20,000

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	business or the exercise of a profession of any resident		such benefit or perquisite	

Meaning of specified person

Specified person means –

(a) any person, not being an individual or HUF; or

(b) an individual or a HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the tax year in which such income or sum is credited or paid.

Where benefit or perquisite is wholly in kind or partly in kind and partly in cash

The provisions of this Sl. No. would apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind, provided to a resident and before providing such benefit or perquisite, as the case may be, the person responsible for providing such benefit or perquisite has to ensure that tax has been deducted.

Where the benefit or perquisite provided is wholly in kind or is partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite has to ensure that tax required to be deducted has been paid, before providing such benefit or perquisite.

"Person responsible for providing"

Person responsible for providing means the person providing such benefit or perquisite. In case of a company, it means the company itself, including the principal officer thereof.

Analysis

Section 393(1) [Table: Sl. No. 8(iv)] casts responsibility **on specified person** responsible for providing to a resident **any benefit or perquisite arising from business or the exercise of a profession, by such resident** to deduct tax at source **@10% of value or aggregate of values of such benefit or perquisite if the amount or aggregate of benefit or perquisite exceeds ₹ 20,000.**

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(2) TDS on payment to any person [Section 393(3)]

Table to section 393(3) contains certain payments made to any person (resident or non-resident) listed from Sl. No. 1 to 7, along with the details of the payer, being the person responsible for making payment of such income or sum, the rate of TDS and the threshold limit.

For ease of understanding, the discussion to section 393(3) has been arranged transaction-wise with reference to each Serial Number. While discussing each transaction, the relevant conditions and exemptions specified in the Table referred to in section 393(4), along with the interpretation of certain terms referred to in section 402, have also been incorporated so as to enable students to understand the complete implications of the transaction in one comprehensive reading. Now let's begin with the discussion:

As per section 393(3), where any income or sum of the nature specified in in Table to section 393(3), is credited or paid by the person specified in in said table during the tax year, **to any person**, the person responsible for paying such income or sum shall deduct income-tax -

(a) **on the entire amount of such income** or sum, where the amount or aggregate of amounts exceeds the specified threshold limit or on the net winnings as specified thereunder;

(b) at the rate specified in the Table; and

(c) at the time of payment in cash or by way of a cheque or a draft or by any other mode, **unless otherwise mentioned**.

Winnings from lottery, crossword puzzle etc [Section 393(3) {Table Sl. No. 1}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
1	Any income by way of winnings (other than winnings from online games) from – (a) any lottery; or (b) crossword puzzle; or (c) card game and other game of any sort; or	Any person	Rate in force i.e., 30%	₹ 10,000 in case of a single transaction

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	(d) gambling or betting of any form or nature whatsoever			

Where the winnings is wholly in kind or partly in kind and partly in cash

Where the winnings

- is wholly in kind or
- is partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of the whole of such winnings,

then, the person responsible for paying has to ensure that tax required to be deducted has been paid, before releasing the winnings.

Analysis

Section 393(3) [Table: Sl. No. 1] casts responsibility **on any person** responsible for paying to **any person any income by way of**

- winnings from **any lottery or**
- **crossword puzzle or**
- **card game and other game of any sort or**
- **gambling or betting of any form or nature whatsoever**,

to deduct tax at source **@30%**, **on the entire amount** if the amount of **payment in respect of a single transaction exceeds ₹ 10,000.**

Winnings from online games [Section 393(3) {Table Sl. No. 2}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
2	Any income by way of winnings from online game	Any person	Rate in force i.e., 30%	-

Notes:

(1) Tax shall be deducted –

- **on the net winnings** in the user's account **at the end of the tax year**;
- **where there is any withdrawal from user account during the tax year**, tax would be deducted

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- at the time of such withdrawal on the net winnings comprised in such withdrawal

as well as

- on the remaining amount of net winnings in user account at the end of the tax year as computed in prescribed manner.

(2) Where the net winnings is wholly in kind or partly in kind and partly in cash: Where the net winnings

- is wholly in kind or
- is partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of the whole of such winnings,

then, the person responsible for paying has to ensure that tax required to be deducted has been paid, before releasing the winnings.

Meaning of certain terms

Term	Meaning
Online gaming intermediary	An intermediary who offers one or more online games.
User	Any person who accesses or avails any computer resource of an online gaming intermediary.
User account	Account of a user registered with an online gaming intermediary.



Section 393(3) [Table: Sl. No. 2] casts responsibility **on any person** responsible for paying to **any person any income by way of winnings from online games** to deduct tax at source **@30%** on the

- net winnings in the user's account at the end of the tax year
- in case of withdrawals, on the amount withdrawn and remaining amount in the account at the end of the year.

Power of the CBDT to issue guidelines [Section 400(2)]

Section 400(2) empowers the CBDT to issue guidelines, with the previous approval of the Central Government, to remove any difficulty arising in giving effect to the provisions of this Chapter. Such guidelines shall be –

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(a) binding on the income-tax authorities and on the person liable to deduct or collect tax and

(b) laid before each House or Parliament

Accordingly, the CBDT has, vide circular No. 5/2023 dated 22.5.2023, issued the following guidelines:

Question 1: There are a large number of gamers who play with very insignificant amount and withdraw also very small amount. Deducting tax at source under section 393(3) [Table: Sl. No. 2] for each insignificant withdrawal would increase compliance for tax deductor. Can there be relaxation to ease compliance?

Answer: Tax may not be deducted on withdrawal on satisfaction of all of the following conditions, namely:-

(i) net winnings comprised in the amount withdrawn does not exceed ₹ 100 in a month;

(ii) tax not deducted on account of this concession is deducted at a time when the net winnings comprised in withdrawal exceeds ₹ 100 in the same month or subsequent month or if there is no such withdrawal, at the end of the tax year; and

(iii) the deductor undertakes responsibility of paying the difference if the balance in the user account at the time of tax deduction under section 393(3) [Table: Sl. No. 2] is not sufficient to discharge the tax deduction liability.

Question 2: When the net winnings is in kind how will tax deduction under section 393(3) [Table: Sl. No. 2] operate?

Answer: At the outset, it may be clarified that where money in user account is used to buy an item in kind and given to user then it is net winnings in cash only and the deductor is required to deduct tax at source under section 393(3) [Table: Sl. No. 2] accordingly.

However, there could be a situation where the winning of the game is a prize in kind. In that situation provision of Note 2 below section 393(3) [Table: Sl. No. 2] will operate.

According to this, where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction

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of tax in respect of whole of the net winnings. In these situations, the person responsible for paying shall ensure that tax has been paid in respect of the net winnings before releasing the winnings.

In the above situation, the deductor will release the net winnings in kind after the deductee provides proof of payment of such tax (e.g., Challan details etc.).

In the alternative, as an option to remove difficulty if any, the deductor may deduct the tax under section 393(3) [Table: Sl. No. 2] and pay to the Government.

Question 3: How will the valuation of winnings in kind required to be carried out?

Answer: The valuation would be based on fair market value of the winnings in kind except in following cases:-

(i) The online game intermediary has purchased the winnings before providing it to the user. In that case the purchase price shall be the value for winnings.

(ii) The online game intermediary manufactures such items given as winnings. In that case, the price that it charges to its customers for such items shall be the value for such winnings.

It is further clarified that **GST will not be included for the purposes of valuation** of winnings for TDS under section 393(3) [Table: Sl. No. 2].

Winnings from horse race [Section 393(3) {Table Sl. No. 3}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
3	Any income by way of winnings from any horse race	Any person, being ♦ a bookmaker or ♦ a person to whom a licence has been granted by the Government under any law for the time being in force ♦ for horse racing in any race course or	Rate in force i.e., 30%	₹ 10,000 in case of a single transaction

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		♦ for arranging for wagering or betting in any race course		

Meaning of "horse race" [Section 94(6)]

Horse race means a horse race upon which wagering or betting may be lawfully made.

Section 393(3) [Table: Sl. No. 3] casts responsibility

Analysis

- **on bookmaker or a person holding licence** for horse racing or for arranging for wagering or betting in any race course
- responsible for paying to **any person any income by way of winnings from horse race**

to deduct tax at source **@30% on the entire amount** if the amount of payment in respect of a **single transaction exceeds ₹ 10,000.**

Commission etc. on sale of lottery tickets [Section 393(3) {Table Sl. No. 4}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
4	Any income, credited or paid to a person, who is or has been stocking, distributing, purchasing or selling lottery tickets, by way of commission, remuneration or prize (by whatever name called) on such tickets	Any person	2%	₹ 20,000

Time of Deduction

The person responsible for making the payment shall deduct tax

- at the time of **credit** of such sum or
- at the time of **payment** of such sum in cash or by issue of a cheque or a draft or by any other mode

whichever is earlier.

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Analysis

Section 393(3) [Table: Sl. No. 4] casts responsibility **on any person responsible for paying any income by way of**

- **commission, remuneration or prize (by whatever name called)**
- **on lottery tickets**
- to **any person who is stocking, distributing, purchasing or selling lottery tickets**

to deduct tax at source **@2% on the entire amount** if the amount or aggregate of amounts **exceeds ₹ 20,000**

Cash withdrawals [Section 393(3) {Table Sl. No. 5}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
5	Any sum, paid in cash, from one or more accounts maintained by any person i.e., recipient	Any person, being, - (a) a banking company, (b) a co-operative society engaged in carrying on the business of banking, or (c) a post office	2%	- ₹ 3 crore in case of recipient being a cooperative society - ₹ 1 crore in case of other recipient

Analysis

Section 393(3) [Table: Sl. No. 5)] casts responsibility **on**

- **a banking company,**
- **a co-operative society engaged in the business of banking or**
- **a post office** to deduct tax at source **@2%**

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from any sum paid in cash from one or more accounts maintained by the recipient, where the amount or aggregate of amounts withdrawn **exceed** –

- **₹ 3 crore**, if the recipient is a **co-operative society**.
- **₹ 1 crore**, if the recipient is a person **other than a co-operative society**.

Non-applicability of TDS

Liability to deduct tax at source under this Sl. No. shall not be applicable to any payment made to –

(i) the Government

(ii) any banking company or co-operative society engaged in carrying on the business of banking or a post-office

(iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, as per the RBI guidelines

(iv) any white label ATM operator of a banking company or co-operative society engaged in carrying on the business of banking, as per the authorisation issued by the RBI under the Payment and Settlement Systems Act, 2007.

Sum paid to partner [Section 393(3) {Table Sl. No. 7}]

S. No.	Nature of income or sum	Payer	Rate	Threshold limit
7	Any sum in the nature of salary, remuneration, commission, bonus or interest paid to a partner of the firm or credited to his account (including capital account)	Any person, being a firm	10%	₹ 20,000

Analysis

Section 393(3) [Table: Sl. No. 7] casts responsibility **on any person, being a firm** responsible for **paying any sum** in the nature of

- salary,
- remuneration,
- commission, bonus or interest

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paid to its partner or credited to his account (including capital account to deduct tax at source **@10% on the entire amount** if the amount or aggregate of amounts of such income **exceeds ₹ 20,000**.

No deduction of tax on sums payable to Government, RBI or certain corporations [Section 393(5)]

Irrespective of anything contained in this Chapter, no deduction of tax shall be made by any person from any amount payable to –

(i) the Government; or

(ii) the Reserve Bank of India; or

(iii) a corporation established by or under a Central Act, which is, under any law in force, exempt from income-tax on its income; or

(iv) a Mutual Fund[8], where such amount is payable to it by way of:

(a) interest or

(b) dividend in respect of any securities or shares owned by the above entities or in which they have full beneficial interest or

(c) any other income accruing or arising to them.



1.	*Mr. Raj, an individual having turnover from business of ₹ 90 lakhs during T.Y. 2026-27, pays professional fees of ₹ 80,000 to a consultant on 20.8.2026. Whether he is required to deduct tax at source on such payment?*	
	(a)	*Yes, @ 10%*
	(b)	*Yes, @ 2%*
	(c)	*No, since payment does not exceed ₹ 1,00,000*
	(d)	*No, since neither his turnover from business exceeds 1 crore during T.Y. 2026-27 nor fee for professional services exceed ₹ 50 lakhs*

[8] Specified at Schedule VII (Table: Sl. No. 20 or 21)

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2.	*Mr. Aman purchased a residential property for ₹ 49 lakhs from Mr. Bharat on 15.10.2026. Stamp duty value of the property on that date was ₹ 52 lakhs. Determine the amount of tax to be deducted on such transaction?*	
	(a)	*₹ 4.9 lakhs*
	(b)	*₹ 5.2 lakhs*
	(c)	*Nil*
	(d)	*₹ 5 lakhs*
3.	*A bank pays interest of ₹ 65,000 on fixed deposit to Mr. Raja, a resident senior citizen, during T.Y. 2026-27. Mr. Raja furnished his PAN to the bank. How much TDS is deductible by bank on such interest?*	
	(a)	*Nil*
	(b)	*₹ 1,500*
	(c)	*₹ 6,500*
	(d)	*₹ 13,000*
4.	*P Ltd. hired machinery from a resident and paid rent of ₹ 60,000 per month during the tax year 2026-27. What is the amount of TDS deductible under section 393(1) [Table: Sl. No. 2(ii)]?*	
	(a)	*₹ 6,000 per month*
	(b)	*₹ 1,200 per month*
	(c)	*₹ 200 per month*
	(d)	*Nil*
5.	*PQR Ltd. paid dividend of ₹ 4,500 to a resident shareholder through account payee cheque. Whether tax is required to be deducted on dividend and how much?*	
	(a)	*Yes, @10%*
	(b)	*Yes, @20%*
	(c)	*No, since dividend does not exceed threshold limit*
	(d)	*No, because dividend is exempt in the hands of shareholder*

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No Deduction of tax in certain cases [Section 393(6), (7) & (10)]

(1) Enabling provision for furnishing of declaration for receipt of income or sum without deduction of tax

No deduction of tax shall be made under the provisions specified in column (C) of the table below,

- if the person (i.e. deductee or recipient) furnishes
- to the person responsible for paying such income or sum referred to in such provisions,
- a **written declaration in duplicate**, in the prescribed form and manner,
- to the effect that the **tax on his estimated total income** of the tax year in which such income or sum is to be included shall be **Nil.**

TABLE - DECLARATION FOR NO DEDUCTION AT SOURCE

S. No.	Person	Nature of income or sum
A	B	C
1.	An individual, being a resident	(a) payment of accumulated balance due to an employee [Section 392(7)] (b) insurance commission [Section 393(1) [Table: Sl. No. 1(i)] (c) rent [Section 393(1) [Table: Sl. No. 2(ii)] (d) income from units [Section 393(1) [Table: Sl. No. 4(i)] (e) interest [Section 393(1) [Table: Sl. No. 5(i), (ii) and (iii)] (f) payment in respect of life insurance policy [Section 393(1) [Table: Sl. No. 8(i)] (g) Dividend [Section 393(1) [Table: Sl. No. 7]
2.	Any person, other than a company or a firm or mentioned in 1 above	All specified income mentioned above **except dividend mentioned in (g)**

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(2) Furnishing declaration not permissible if income/aggregate of incomes exceed basic exemption limit

A person (other than a resident senior citizen) is allowed to furnish declaration under section 393(6) only where the aggregate amount of income or sum of the nature specified in the Table above, which is credited or paid or likely to be credited or paid during the relevant tax year, **does not exceed** the maximum amount not chargeable to tax.

Accordingly, such a person may furnish the prescribed declaration for non-deduction of tax **only if** the specified income/aggregate income for the tax year is within the basic exemption limit.

The restriction will not apply to an individual being a resident who is the age of 60 years or more at any time during the tax year. The declaration in the prescribed form may be furnished where the tax payable on the estimated total income for the relevant tax year **is Nil.**

(3) Option to furnish declaration to depository in certain cases

The above declaration may also be furnished electronically **to a depository** in accordance with the prescribed procedure and manner, where –

(a) the income is from units, interest on securities or dividends, as the case may be, as referred to in section 393(1) [Table: 4(i), 5(i) or 7];

(b) such units or securities are held with such depository; and

(c) such securities are listed on a recognised stock exchange.

(4) Time limit for delivery of declaration to prescribed authority

On receipt of the declaration from the person as specified in (1) above or the depository as specified in (3) above, the person responsible for paying the income or sum will be required to deliver or cause to be delivered such declaration to the prescribed authority **on or before the 7th of the month immediately following the end of each quarter in which declaration is furnished** to him.

(5) Net of TDS [Section 393(10)]

Where, under an agreement or other arrangement,

- **if the tax chargeable** on any income of the recipient referred to in the foregoing provisions of this Chapter

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- **is to be borne by the payer**, then, for the purposes of deduction of tax,
- the income shall be increased to such amount as would, after deduction of tax thereon, becomes equal to the net amount payable under such agreement or arrangement.

However, no grossing up is required in the case of tax is paid under section 392(2)(a) by an employer on the non-monetary perquisites provided to the employee.

Tax deducted is income received [Section 396]

All sums deducted in accordance with the foregoing provisions of this Chapter shall be deemed as income received for the purposes of computing the income of an assessee except tax paid by an employer under section 392(2)(a) on non-monetary perquisites provided to the employees and tax deducted as per section 393(3) [Table: Sl. No. 5)] on cash withdrawals.

Person responsible for paying [Section 402(27)]

"Person responsible for paying" means:

	Nature of income/payment	Person responsible for paying tax
(1)	Salary (other than payment of salaries by the Central or State Government)	(i) the employer himself; or (ii) if the employer is a company, the company itself, including the principal officer thereof.
(2)	Interest on securities (other than payments made by or on behalf of the Central or State Government)	the local authority, corporation or company, including the principal officer thereof.
(3)	Any sum payable to a non-resident Indian, representing consideration for the transfer by him of any foreign exchange asset, which is not a short term capital asset	the "Authorised Person" responsible for remitting such sum to the non-resident Indian or for crediting such sum to his Non-resident (External) Account maintained as per the provisions of the Foreign Exchange Management Act, 1999 and any rules made thereunder.

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(4)	furnishing of information relating to payment to a non-corporate non-resident, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act	(i) the payer himself; or (ii) if the payer is a company, the company itself including the principal officer thereof.
(5)	Credit/payment of any other sum chargeable under the provisions of the Act	(i) the payer himself; or (ii) if the payer is a company, the company itself including the principal officer thereof.
(6)	Credit/payment of any sum chargeable under the provisions of the Act made by or on behalf of the Central Government or the Government of a State	(i) the drawing and disbursing officer; or (ii) any other person, by whatever name called, responsible for crediting or paying such sum.
(7)	In case of a person not resident in India (irrespective of the nature of payment or income)	(i) the person himself; or (ii) any person authorized by such person; or (iii) the agent of such person in India including any person treated as an agent under section 306.

5. TAX COLLECTION AT SOURCE [SECTION 394]

Every person specified in section 394(1) shall collect tax -

(a) on the amount of receipts specified in the said Table;

(b) at the rate specified therein; and

(c) **at the time of debiting** the amount payable by the buyer, licensee or lessee to the account of such buyer, licensee or lessee, or **at the time of receipt** of such amount from the said buyer, licensee or lessee, whether in cash, by cheque, draft or by any other mode, **whichever is earlier**.

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Sale of Certain Goods or Use of Parking Lot, Toll Plaza or Mine or Quarry [Section 394(1) {Table Sl. No. 1 to 5 & 9}]

S. No.	Nature of receipt	Person (Collector)	Rate
1	Sale of alcoholic liquor for human consumption.	**Seller**	**2%**
2	Sale of tendu leaves		
3	Sale of timber, whether obtained under a forest lease or otherwise, or any other forest produce (not being timber or tendu leaves) obtained under a forest lease.		
4	Sale of scrap		
5	Sale of minerals, being **coal or lignite or iron ore.**		
9	Use of parking lot or toll plaza or a mine or a quarry for the purpose of business **excluding mining and quarrying of mineral oil (including petroleum and natural gas)**	**Licensor or Lessor**	

Non-applicability of TCS:

No collection of tax shall be made from **Table Sl. No. 1 to 5** in case of **a buyer, who is a resident in India,** if such buyer furnishes a **written declaration** in duplicate in form no. 127, to the person responsible for collecting tax, mentioning that **such goods are to be utilised** -

(a) for the purpose of **manufacturing**, processing or producing articles or things or for **generating power** and

(b) **not for trading purposes**.

Seller requires to submit such declaration to tax authorities:

Subsequently, where no collection of tax is to be made as per above provisions, the person responsible for collecting tax will be required to deliver or cause to be delivered, **one copy of the declaration** to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner **on or before the 7th of the month following the month of receipt of that declaration**.

Meaning of Certain Terms:

Term	Meaning
Buyer	A person who obtains in any sale, by way of auction, tender, or any other mode, goods of nature specified in Sl. No. 1 to 5 above or the right to receive any such goods.

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	However, the following **will not be** included in the buyer – (a) a public sector company, (b) the Central or a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State, (c) a club, or (d) a buyer in the retail sale of such goods purchased by him for personal consumption.
Seller	(i) The Central Government or (ii) a State Government or (iii) any local authority or corporation or authority established by or under a Central, State or Provincial Act or (iv) any **company or firm or co-operative society** or (v) **an individual or a HUF** whose total sales, gross receipts or turnover from the business or profession carried on by him **exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession** during the tax year immediately preceding the tax year in which the goods of the nature specified are sold.
Scrap	Waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons.
Forest produce	It shall have the same meaning as defined in any State Act for the time being in force, or in the Indian Forest Act, 1927.
Licensor or Lessor	Any person **who grants a lease or a licence** or enters into a contract or otherwise transfers any right or interest either in whole or in part **in any parking lot or toll plaza or mine or quarry, to another person**, **other than a public sector company** for the use of such parking lot or toll plaza or mine or quarry for the purposes of business.
Licensee or Lessee	Any person, **other than a public sector company**, who has been granted a lease or a licence or entered into a contract or otherwise received any right or interest either in whole or in part **in any parking lot or toll plaza or mine or quarry**, from the licensor or lessor for the use of parking lot or toll plaza or mine or quarry for the purposes of business.

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Section 394(1) [Table Sl. No. 1 to 5], cast responsibility on a seller to collect tax at source from sale of certain goods specified thereunder @2% on the entire amount of receipt at the time of debit to the account of the buyer or at the time receipt by any mode, whichever is earlier.

However, **no TCS** is to be collected where buyer who is a resident in India furnishes a written declaration to the seller that such goods will be utilized -

- for the purposes of manufacturing, processing, or producing articles or things or for generating power and
- not for trading purposes.

Section 394(1) [Table Sl. No. 9], cast responsibility on a licensor or lessor to collect tax at source on receipts **for**

- **use of parking lot or**
- **toll plaza or**
- **a mine or a quarry** excluding mining and quarrying of mineral oil (including petroleum and natural gas)

for the purpose of business @2% on the entire amount of receipt at the time of debit to the account of the licensee or lessee or at the time receipt by any mode, whichever is earlier.

Sale of motor vehicle or other notified goods [Section 394(1) {Table Sl. No. 6}]

Sl. No.	Nature of receipt	Person (Collector)	Rate
6	**Sale consideration exceeding ₹10 lakh** in case of - (a) a **motor vehicle**; or (b) any other goods, as may be **notified by the Central Government**.	Seller	1%

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Meaning of certain terms

Term	Meaning
Buyer [Section 402(6) Table Sl. No. 3]	A person who obtains in any sale, goods of nature specified in section 394(1) (Table Sl. No. 6). However, the following will not be included in the buyer – (a) the Central or a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State, (c) a local authority, or (d) a public sector company which is engaged in the business of carrying passengers.
Seller [Section 402(33)]	(i) The Central Government or (ii) a State Government or (iii) any local authority or corporation or authority established by or under a Central, State or Provincial Act or (iv) any company or firm or co-operative society or (v) an **individual or a HUF whose total sales**, gross receipts or turnover from the business or profession carried on by him **exceed ₹ 1 crore in case of business** and **₹ 50 lakhs in case of profession** during the tax year immediately preceding the tax year in which the goods of the nature specified are sold.

Analysis

Section 394(1) (Table Sl. No. 6) casts responsibility on every person, being a seller, to collect tax at source @1% from the buyer on receipts of sale consideration exceeding ₹ 10 lakhs in case of motor car or any other notified goods.

The tax is required to be collected at source at the time of debit to the account of buyer or at the time of receipt of such amount from the buyer, whichever is earlier.

It may be noted that threshold limit of ₹ 10 lakhs is applicable in respect of each good separately.

List of Notified Goods

The Central Government has, vide notification no. 36/2025 dated 22nd April 2025, notified following goods of the value exceeding ₹ 10 lakh for collection of tax at source:

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S. No	Nature of goods
1	Any wrist watch
2	Any art piece such as antiques, painting, sculpture
3	Any collectibles such as coin, stamp
4	Any yacht, rowing boat, canoe, helicopter
5	Any pair of sunglasses
6	Any bag such as handbag, purse
7	Any pair of shoes
8	Any sportswear and equipment such as golf kit, ski-wear
9	Any home theatre system
10	Any horse for horse racing in race clubs and horse for polo

Circular

The CBDT has, vide *Circular No. 22/2016 dated 8.6.2016,* clarified the following issues in "Question & Answer (Q&A)" format.

Q.1 Whether TCS@1% is on sale of motor vehicle at retail level or also on sale of motor vehicles by manufacturers to dealers/ distributors?

A. It covers all transactions of retail sales and **will <u>not</u> apply on sale of motor vehicles by manufacturers to dealers/distributors.**

Q.2 Whether TCS@1% is applicable in the case of sale to Government Departments, Embassies, Consulates and United Nation Institutions, of motor vehicle or any other goods or provision of services?

A. Government, institutions notified under United Nations (Privileges and Immunities) Act 1947, and Embassies, Consulates, High Commission, Legation, Commission and trade representation of a foreign State shall not be liable to levy of TCS@1% under section 394(1) [Table: Sl. No. 6].

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Q.3 Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sale during the year?

A. Tax is to be collected at source @1% on sale consideration of a motor vehicle exceeding ₹ 10 lakhs. It is applicable to each sale and not to the aggregate value of sale made during the year.

Q.4 How would the provisions of TCS on sale of motor vehicle be applicable in a case where part of the payment is made in cash and part is made by cheque?

A. The provisions of TCS on sale consideration exceeding ₹ 10 lakhs in case of motor car is not dependent on mode of payment. Any sale of motor vehicle exceeding ₹ 10 lakhs would attract TCS@1%.

Remittance under LRS and Sale of overseas tour package [Section 394(1) {Table Sl. No. 7 & 8}]

Sl. No.	Nature of receipt	Person (Collector)	Rate
7	Remittance under the Liberalised Remittance Scheme (LRS) of an amount or aggregate of the amounts exceeding ₹ 10,00,000	Authorised dealer	**2%** for purposes of **education or medical treatment** **20%** for purposes **other than education or medical treatment**.
As per section 394(4), No collection of tax shall be made by the authorised dealer - (a) on such amount on which tax has been collected by the seller in respect of receipt referred to in 394(1) (Table: Sl. No. 8) i.e., on sale of overseas tour programme package (b) if the amount being remitted out is a loan obtained from any financial institution as defined in section 129(3)(b), for the purpose of pursuing any education.			

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8	Sale of "overseas tour programme package" including expenses for travel or hotel stay or boarding or lodging or any such similar or related expenditure.	Seller	2%

As per section 394(5), no collection of tax shall be made by the authorised dealer or the seller of "overseas tour programme package", if the buyer is liable to deduct tax at source under any other provisions of the Act and he has deducted such tax.

Meaning of Certain Terms

Term	Meaning
Buyer	**For the purpose of 394(1) (Table Sl. No. 7) [Section 402(6)(Table Sl. No. 4)]** A person remitting amount under the Liberalised Remittance Scheme of RBI. However, the following will not be included in the buyer – (a) the Central or a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State, (b) a local authority, or (c) any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder.
	For the purpose of 394(1) (Table Sl. No. 8) [Section 402(6) (Table Sl. No. 5)] A person who purchases overseas tour programme package. However, the following will not be included in the buyer – (a) the Central or a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State,[9] (b) a local authority, or (c) any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder.
Person notified not included as buyer Accordingly, the Central Government has, vide notification no. 99/2022 dated 17.8.2022, notified that the provisions of Sl. No. 7 & 8 would not apply to a	

[9] *In section 402(6) (Table Sl. No. 4), reference with respect to person not to be included is given to Sl. No. 2.D(a) i.e., to a public sector company. However, considering the erstwhile Act, 1961, such reference is to be given to Sl. No. 2.D(b) i.e., "to the Central Government…. "as stated here.*

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person (being a buyer) **who is a non-resident in India** in terms of section 6 and **does not have a permanent establishment** in India.	
Overseas tour programme package [Section 402(26)]	Overseas tour programme package means any tour package which offers visit to any country or territory outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.
Authorised Dealer [Section 402(4)]	It means a person authorised by the RBI to deal in foreign exchange or foreign security.
Seller [Section 402(33)]	For the purpose of Sl. No. 8, it means a person who sells overseas tour program package.

Analysis

Section 394(1) (Table Sl. No. 7) cast responsibility on every person, being an authorized dealer, to collect tax at source on remittance under the LRS of an amount exceeding ₹ 10 lakhs at the rate -

- 2% if the amount remitted is for purposes of education or medical treatment and
- 20% if the amount remitted is for other purposes.

Section 394(1) (Table Sl. No. 8) cast responsibility on every person, being a seller of overseas tour program package, to collect tax at source @2% on sale of "overseas tour programme package" including expenses for travel or hotel stay or boarding or lodging or any such similar or related expenditure.

In both the cases, tax has to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier.

Power of the CBDT to issue guidelines

Section 400(2) empowers the CBDT to issue guidelines, with the previous approval of the Central Government, to remove any difficulty arising in giving effect to the provisions of this Chapter. Such guidelines shall be -

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(a) binding on the income-tax authorities and on the person liable to deduct or collect tax and

(b) laid before each House or Parliament

In exercise of the power to issue guidelines, the CBDT has, with the approval of Central Government, vide Circular no. 10/2023 dated 30.6.2023, issued the following guidelines for removing certain difficulties-

Question 1: Whether the threshold of ₹ 10 lakhs, for TCS to become applicable on LRS, applies separately for various purposes like education, health treatment and others? For example, if remittance of ₹ 10 lakhs under LRS is made in a tax year for education purpose and other remittances in the same tax year of ₹ 10 lakhs is made for medical treatment and ₹ 10 lakhs for other purposes, whether the exemption limit of ₹ 10 lakhs shall be given to each of the three separately?

Answer: It is clarified that the threshold of ₹ 10 lakhs for LRS is combined threshold for applicability of the TCS on LRS irrespective of the purpose of the remittance. Thus, in the given example, upto ₹ 10 lakhs remittance under LRS during a tax year shall not be liable for TCS. However, subsequent ₹ 20 lakhs remittance under LRS shall be liable for TCS in accordance with the TCS rates applicable for such remittance. TCS rates would be applicable as under:-

Remittances	Rate of TCS
First ₹ 10 lakhs remittance under LRS during the tax year 2026-27 for education purpose (or for that matter any purpose)	No TCS
Remittances beyond ₹ 10 lakhs under LRS during the tax year 2026-27	TCS will be 2% (if it is for education or medical treatment) and 20% (if it is for other purposes)

Question 2: Whether the threshold of ₹ 10 lakhs, for TCS to become applicable on LRS, applies separately for each remittance through different authorised dealers? If not, how will authorised dealer know about the earlier remittances by that remitter through some other authorised dealer?

Answer: It is clarified that the threshold of ₹ 10 lakhs for LRS is qua remitter and not qua authorised dealer.

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Since the facility to provide real time update of remittance under LRS by remitter is still under development by the RBI, it is clarified that the details of earlier remittances under LRS by the remitter during the tax year may be taken by the authorised dealer through an undertaking at the time of remittance.

If the authorised dealer correctly collects the tax at source based on information given in this undertaking, he will not be treated as "assessee in default". However, for any false information in the undertaking, appropriate action may be taken against the remitter under the Act.

It is further clarified that same methodology of taking undertaking from the buyer of overseas tour program package may be followed by the seller of such package.

Question 3: A resident individual spends ₹ 3 lakh for purchase of overseas tour program package from a foreign tour operator and remits money which is classified under LRS. There is no other remittance under LRS or purchase of overseas tour program during the tax year. Whether TCS is applicable?

Answer: In case of purchase of overseas tour program package which is classified under LRS, TCS provision for purchase of overseas tour program package shall apply and not TCS provisions for remittance under LRS.

Since for purchase of overseas tour program package, the threshold of ₹ 10 lakhs for applicability of TCS does not apply, TCS is applicable and tax is required to be collected by the seller. In this case the tax shall be required to be collected at 2%. The TCS should be made by the seller.

Question 4: There are different rates for remittance under LRS for medical treatment/education purposes and for other purposes. What is the scope of remittance under LRS for medical treatment/education purposes?

Answer: As per the clarification by the RBI, remittance for the purposes of **medical treatment** shall include,-

(i) remittance for purchase of tickets of the person to be treated medically overseas (and his attendant) for commuting between India and the overseas destination;

(ii) his medical expense; and

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(iii) other day to day expenses required for such purpose.

Education Remittance for purpose of education shall include -

(i) remittance for purchase of tickets of the person undertaking study overseas for commuting between India and the overseas destination;

(ii) the tuition and other fees to be paid to educational institute; and

(iii) other day to day expenses required for undertaking such study.

Question 5: Whether purchase of international travel ticket or hotel accommodation on standalone basis is purchase of overseas tour program package?

Answer: The term 'overseas tour program package' is defined as to mean any tour package which offers visit to a country or territory outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

It is clarified that purchase of only international travel ticket or purchase of only hotel accommodation, by in itself is not covered within the definition of 'overseas tour program package'. To qualify as 'overseas tour program package', the package should include at least two of the followings:

(i) international travel ticket,

(ii) hotel accommodation (with or without food)/boarding/lodging,

(iii) any other expenditure of similar nature or in relation thereto.



6.	*Pear Parking Plaza Ltd. has leased out one of its parking spaces to M/s Greater Park & Co., a partnership firm, for ₹ 50,000 per month on 01.05.2026 and received 6 months' lease rent in advance on the same date and rest on monthly basis from November, 2026 to March, 2027. Determine the amount of tax to be collected at source by Pear Parking Plaza Ltd.*	
	(a)	*₹ 12,000*

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	(b)	*₹ 11,000*
	(c)	*Nil*
	(d)	*₹ 1,000*
7.	*Ravi, an Indian resident, bought an overseas tour package from Kartik, also a resident Indian and a seller of overseas tour programmes, and paid ₹ 7 lakhs as cost. What shall be the amount of tax to be collected at sources from the payment made by Ravi?*	
	(a)	*₹ 35,000*
	(b)	*₹ 1,35,000*
	(c)	*Nil*
	(d)	*₹ 14,000*
8.	*Ravi, an Indian resident, remitted ₹ 12 lakhs to USA under Liberalised Remittance Scheme of RBI for the purpose of investment in USA share market via Jones, a resident authorized dealer. What shall be the amount of tax to be collected at sources from the remittances made by Ravi?*	
	(a)	*₹ 24,000*
	(b)	*₹ 2,40,000*
	(c)	*₹ 40,000*
	(d)	*₹ 4,000*

6. CERTIFICATE FOR DEDUCTION OR COLLECTION OF TAX AT A LOWER RATE [SECTION 395]

(1) Certificate for Lower / No Deduction of Tax at source [Section 395(1)]

Where tax is required to be deducted under this Chapter -

- The payee may apply to the Assessing Officer for the deduction of tax at a lower rate or for no deduction.

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- If satisfied that the total income justifies such lower or nil deduction, the Assessing Officer may issue an appropriate certificate.
- Upon issuance of such certificate, the payer shall deduct tax in accordance with the certificate till its validity.

(2) Electronic application for certificate of lower or nil deduction of tax

The application for lower or no deduction of tax may also be filed before the prescribed authority, subject to such prescribed conditions, and such authority on electronic verification of the contents of the application, may –

(a) either issue a certificate for deduction of tax at lower rate or no deduction of tax; or

(b) reject such application on account of non-fulfilment of the prescribed conditions or on account of the application being incomplete.

(3) Certificate for collection of tax at lower rate

Where tax is required to be collected on any amount –

(a) the buyer or licensee or lessee may make an application before the Assessing Officer for collection of tax at a lower rate,

(b) If satisfied that the total income of the buyer or licensee or lessee justifies collection of tax at a lower rate, the Assessing Officer shall issue to him a certificate as may be appropriate and

(c) when a certificate is issued, the person responsible for collecting tax shall collect it at the rates specified in such certificate till its validity.

(4) Cancellation of certificate

The Assessing Officer may cancel the certificate granted for lower deduction or no deduction of tax or lower collection at source after giving reasonable opportunity to the applicant.

(5) Issue of TDS/ TCS certificate

(a) Every person deducting or collecting tax at source have to, within such period, as may be prescribed, issue a certificate to the deductee or collectee, as the case may be, specifying -

(i) the amount of tax that has been deducted or collected

(ii) the rate at which tax has been deducted or collected and

(iii) any other particulars as may be prescribed.

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(b) Every person, being an employer referred to in section 392(2)(a) shall, within such period, as may be prescribed, issue a certificate to the employee, in respect of whose income payment of tax has been made by the employer, that the tax has been paid to the Central Government, and specify -

(i) the amount of tax so paid,

(ii) the rate at which the tax has been paid and

(iii) such other particulars as may be prescribed.

Prescribed Forms and due dates under section 395(4) [Rule 215]

Section under which tax deducted, paid or collected	Form No.	Due date
Section 392 [Other than 392(7)] and section 393(1) [Table: Sl. No. 8(iii)] TDS on salary and TDS on Total income of a specified senior citizen	130	By 15th June of the financial year immediately following the tax year in which the income was paid and tax deducted.
Section 392(7), section 393(1) [other than Table: Sl. No. (2)(i), (3)(i) and (6)(ii)] and section 393(3) TDS on accumulated balance due to an employee, TDS on other payments to residents except TDS on rent on immovable property by certain individual or HUF, TDS on consideration for transfer of immovable property (other than agricultural land), TDS on payment to contractors, fees for professional services and commission by certain individual or HUF, TDS on payments to any person	131	Within 15 days from the due date for furnishing statement of tax deducted at source under Rule 219.

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Section 393(1) [Table: Sl. No. (2)(i), (3)(i) and (6)(ii)] TDS on rent on immovable property by certain individual or HUF, TDS on consideration for transfer of immovable property (other than agricultural land) and TDS on payment to contractors, fees for professional services and commission by certain individual or HUF	132	Within 15 days from the due date for furnishing challan-*cum*-statement in Form No. 141.
Section 394(1) (TCS)	133	Within 15 days from the due date for furnishing statement of tax collected at source under Rule 219.

7. COMPLIANCE AND REPORTING [SECTION 397]

(1) Allotment and Quoting of Tax Deduction and Collection Account Number (TAN) [Section 397(1)]

(a) Every person responsible for deducting tax or collecting tax at source shall apply to the Assessing Officer for the allotment of a "tax-deduction and collection-account number (TAN)" within the prescribed time, if such person has not already been allotted such number.

(b) Where a TAN has been allotted, such person shall quote such number in –

- all challans,
- statements,
- certificates, and
- such other documents relating to the prescribed transactions in the interest of revenue

(c) The requirement of obtaining and quoting of TAN shall not apply to

- a person in respect of a transaction where he is required to deduct tax under section 393(1):
  - Table Sl. No. 2(i) i.e., TDS on rent on immovable property by certain individual or HUF

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- Table Sl. No. 3(i) i.e., TDS on consideration for transfer of immovable property (other than agricultural land)
- Table Sl. No. 6(ii) i.e., TDS on payment to contractors, fees for professional services and commission by certain individual or HUF

➢ such person notified by the Central Government in this behalf.

(2) Mandatory requirement of furnishing Permanent Account Number (PAN) and consequences of non-furnishing PAN

Every person whose receipts are subject to deduction of tax at source or payment subject to collection of tax shall mandatorily furnish his valid PAN to the person responsible for deducting or collecting tax.

Further, the deductee or collectee shall furnish his valid Permanent Account Number to the deductor or collector, as the case may be, and such PAN shall be indicated in all bills, vouchers, correspondence and other documents other documents exchanged between them.

I. Consequences of Failure to Furnish PAN

(A) Tax shall be deducted at source at the higher of—

- the rate specified in the relevant provision.
- the rate or rates in force i.e., the rate mentioned in the Finance Act; or
- at the rate 20% {or 5% in case of section 393(1) [Table: Sl. No. 8(ii)] i.e., purchase of goods exceeding ₹ 50 lakhs}

In case of payment of rent by certain individuals or HUF under section 393(1) [Table: Sl. No. 2(i)], deduction at higher rate shall not exceed the rent payable for the last month of the tax year or tenancy.



In case of rental payment for plant and machinery, where the payee does not furnish his PAN to the payer, tax would be deductible @20% instead of @2% prescribed under section 393(1) [Table: Sl. No. 2(ii)].

However, non-furnishing of PAN by the deductee in case of income by way of winnings from lotteries, card games etc., would result in tax being deducted at the existing rate of 30% under section 393(3) [Table: Sl. No. 1].

Therefore, wherever tax is deductible at a rate higher than 20%, this provision would not have any impact.

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(B) the **tax shall be collected at source** at higher of the following rates, not exceeding 20% –

- at twice the rate prescribed in the Act; or
- at 5%.

II. Tax would be deductible or collectible at the rates mentioned above if, declaration filed

- under section 393(6) for no deduction of tax at source or
- under section 394(2) for no collection of tax at source

becomes invalid on account of non-furnishing of PAN in the declaration.

III. No certificate under section 395(1) for deduction of tax at lower rate or no deduction of tax or under section 395(3) for collection of tax at lower rate shall be granted by the Assessing Officer unless the applicant furnishes his valid PAN in the application.

(3) Deposit of tax deducted or collected

(a) Every person responsible for deducting or collecting tax at source should deposit the amount deducted or collected to the credit of the Central Government within the prescribed time.

(b) Further, an employer paying tax on non-monetary perquisites provided to employees as per section 392(2)(a), should deposit within the prescribed time, the tax to the credit of the Central Government.

(c) Such persons after paying tax to the credit of the Central Government shall furnish a statement for tax deduction or collection at source in the prescribed form and within prescribed time.

(d) Rule 218 prescribes the time and mode of payment to Government account of TDS or TCS or tax paid under section 392(2)(a) and Rule 219 provides for submission of quarterly statements by every person responsible for deduction or collection of tax [depicted in the diagram given in page 7.92 for TDS]

However, every person responsible for deduction of tax under section 393(1) [Table: Sl. No. 2(i), [Table: Sl. No. 3(i) and [Tabe: Sl. No. 6(ii)] have to furnish a challan-cum-statement in Form No. 141, within thirty days from the end of the month of deduction of tax.

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Time limit for paying tax collected to the credit of the Central Government [Rule 218]

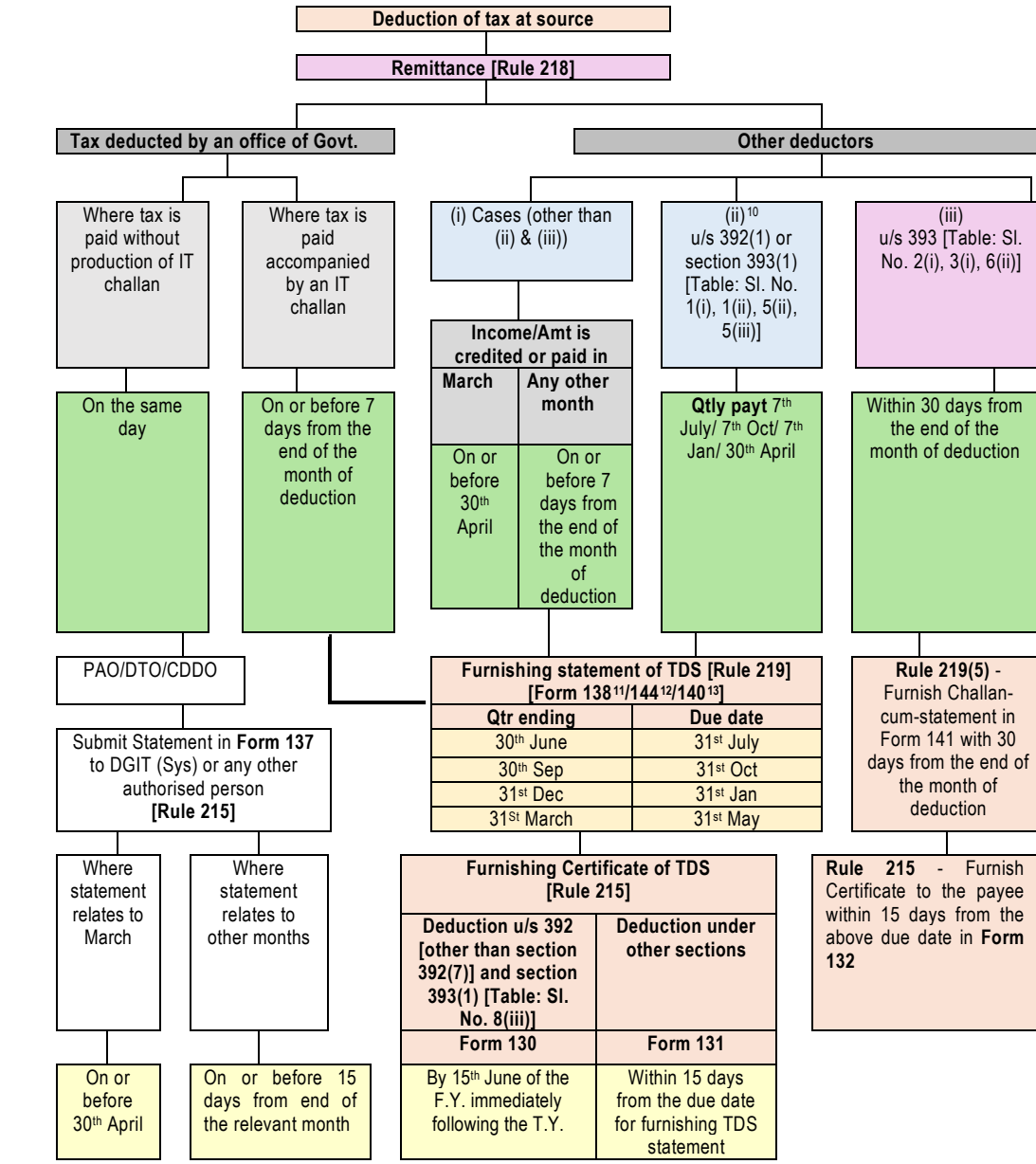
	Person collecting sums as per section 394(1)	Circumstance		Period within which such sum should be paid to the credit of the Central Government
(1)	An office of the Government	(i)	where the tax is paid without production of an income-tax challan	on the same day
		(ii)	where tax is paid accompanied by an income-tax challan	on or before 7 days from the end of the month in which the collection is made
(2)	Collectors other than an office of the Government	(i)	Where the income debited or received in the month of March	on or before 30th April
		(ii)	Where the income debited or received in any other month	On or before 7 days from the end of the month in which the collection is made

Submission of quarterly statement by every person responsible for collection of tax [Rule 219]

Every person responsible for collection of tax at source under section 394(1) has to deliver or cause to be delivered to the Director General of Income-tax (Systems) or the person authorized by him, quarterly statement in Form 143 for the quarter of the financial year ending with the date specified in Column 1 of the table below by the due date specified in column (2) –

Qtr ending of the financial year	Due date
30th June	31st July
30th Sep	31st Oct
31st Dec	31st Jan
31St March	31st May

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Abbreviations used in the above diagram	
PAO	Pay and Accounts Office
DTO	District Treasury Officer
CDDO	Cheque Drawing and Disbursing Officer

[10] In special cases, the A.O. may, with the prior approval of the JC, permit quarterly payment of TDS

[11] If deduction of tax is under section 392 [other than section 392(7) i.e., accumulated balance of PF] and section 393(1) [Table: Sl. No. 8(iii)] i.e., specified senior citizen

[12] If deduction of tax is u/s 392(7), 393(3), in respect of deductee who is a non-corporate non-resident or a foreign company or RNOR

[13] If deduction of tax is u/s 392(7), 393(1) [other than [Table: Sl. No. 8(iii)] and 393(3) in respect of all other deductees

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8. CONSEQUENCES OF FAILURE TO DEDUCT OR PAY, COLLECT OR PAY [SECTION 398]

(1) Deemed assessee-in-default

If a person including the principal officer of a company -

(i) who is required to deduct or collect any amount under the Act; or

(ii) an employer paying tax on non-monetary perquisites under section 392(2)(a).

does not deduct or does not pay or does not collect or does not pay or after deducting or collecting fails to pay, the whole or any part of the tax, as required by or under the Act, then such person shall be deemed to be an assessee-in-default.

(2) Non-applicability of deeming provision

Any person

(a) including the principal officer of the company, who fails to deduct or

(b) responsible for collection of tax as per section 394(1) [Table: Sl. No. 1 to 5 and 9], who fails to collect

the whole or any part of the tax on the amount credited or paid to the account of payee or on the amount collected or debited to the account of buyer or licensee or lessee **shall not be deemed to be an assessee-in-default** in respect of such tax if such payee or buyer or licensee or lessee has –

(i) furnished his return of income under section 263;

(ii) taken into account such sum for computing income in such return of income; and

(iii) paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed.

(3) Interest Liability

(i) A person deemed to be an assessee-in-default under section 398(1), for failure to deduct tax or collect tax or to pay the tax after deduction or collection, is liable to pay simple interest

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- **@ 1%** for every month or part of month on the amount of such tax from the date on which tax was deductible or collectible to the date on which such tax is actually deducted or collected and
- **@ 1.5%** for every month or part of month on the amount of such tax from the date on which tax was deducted or collected to the date on which such tax is actually paid [Section 398(3)(a)].

(ii) Such interest should be paid before furnishing the quarterly statement as per the provisions of section 397(3)(b).

(iii) Where the person **is not deemed to be an assessee-in-default** under section 398(2), interest under section 398(3)(a)(i) i.e., @1% p.m. or part of month, shall be payable by the person **from the date on which such tax was deductible or collectible to the date of furnishing of return of income** by such payee or buyer or licensee or lessee.

The date of deduction or collection and payment of taxes shall be deemed to be the date on which return of income has been furnished by the payee or buyer or licensee or lessee.

(iv) When an order is made by the Assessing Officer for assessee-in-default, the interest shall be paid by the person as per such order.

(v) Where the tax has not been paid after it is deducted or collected, the amount of the tax together with the amount of simple interest thereon shall be a charge upon all the assets of the person.

9. ADVANCE PAYMENT OF TAX [SECTIONS 403 TO 410]

Liability for payment of advance tax

(1) Advance tax shall be payable during any financial year in respect of an assessee's current income of a tax year i.e., the total income of the assessee which would be chargeable to tax for such tax year [Section 403].

(2) Under section 404, obligation to pay advance tax arises where the amount of such tax payable during that year is ₹ 10,000 or more.

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Note - *An assessee who is liable to pay advance tax of less than ₹ 10,000 will not be saddled with interest under sections 424 and 425 for defaults in payment of advance tax. However, the consequences under section 423 regarding interest for belated filing of return would be attracted.*

(3) In case of senior citizens who have passive sources of income like interest, rent, etc., the requirement of payment of advance tax causes genuine compliance hardship. Therefore, in order to reduce the compliance burden on such senior citizens, exemption from payment of advance tax has been provided to a resident individual -

(i) who does not have any income chargeable under the head "Profits and gains of business or profession"; and

(ii) who is of the age of 60 years or more at any time during the tax year.

Computation of advance tax

(1) An assessee has to determine the specified sum i.e., estimated current income and pay advance tax thereon. He need not submit any estimate or statement of income to the Assessing Officer, except where he has been served with order by the Assessing Officer.

(2) Where an obligation to pay advance tax has arisen, the assessee shall himself compute the advance tax payable and deposit the same, whether or not he has been previously assessed to tax.

(3) The amount of advance tax payable by an assessee in the financial year shall be computed as under –

$$\mathbf{A = B - C}$$

A = Amount of advance tax payable in a financial year

B = income-tax on the specified sum calculated at the rates in force in the financial year

C = amount of tax deductible or collectible at source during the said financial year from any income subject to the following

(a) such income has been taken into account in computing the specified sum and

(b) the person responsible for deducting tax has paid or credited such income after deduction of tax; or

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the person responsible for collecting tax has received or debited such income after collection of tax.

(4) **For this purpose, specified sum would be**

(i) where the assessee himself based on his estimation of current income pays the advance tax – **Current income as estimated by the assessee**

(ii) where the Assessing Officer pass an order

- the total income of the latest tax year in respect of which the assessee has been assessed by way of regular assessment or
- the total income returned by the assessee in any return of income furnished by him for any subsequent tax year.

It may be noted that the net agricultural income has also to be considered for the purpose of computing advance tax.

Instalments of advance tax and due dates [Section 408]

(1) Advance tax payment schedule for both corporates and non-corporates [Other than assessees who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3]]:

Due date of instalment	Amount payable
On or before 15th June	Not less than 15% of advance tax
On or before 15th September	Not less than 45% of advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before 15th December	Not less than 75% of advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before 15th March	The whole amount of advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

Note - Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the financial year ending on 31st March.

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(2) Advance tax payment by assessee who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3]

An assessee, who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3], shall be required to pay the whole amount of advance on the current income during each financial year, on or before 15th March.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the financial year ending on 31st March.

(3) If the last day for payment of any instalment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the interest leviable under sections 424 and 425 would not be charged.

Assessee in default

A person shall be deemed to be an assessee in default, if such person, in respect of such instalment or instalments, –

(a) does not pay on the date specified in section 408, any instalment of the advance tax that he is required to pay by an order of the Assessing Officer under section 407(1) and (4); or

(b) does not send to the Assessing Officer an intimation under section 407(8) on or before the date on which any such instalment as is not paid becomes due; or

(c) does not pay on the basis of his estimate of his current income, the advance tax payable by him under section 407(9).

Credit for advance tax

Any sum, other than interest or penalty, paid by or recovered from an assessee as advance tax, is treated as a payment of tax in respect of the income of the tax year in which it was payable, and credit thereof shall be given to such assessee in the regular assessment.

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Interest for non-payment or short payment of advance tax

(1) Interest under section 424 is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of the assessed tax.

(2) The interest liability would be simple interest @1% for every month or part of a month from 1st April following the tax year upto the date of determination of total income under section 270(1) and where a regular assessment is made, upto the date of completion of such regular assessment.

(3) Such interest is calculated on the amount of assessed tax, if assessee failed pay advance tax or on difference between the assessed tax and the advance tax paid, if such advance tax is less than 90% of assessed tax.

(4) **Assessed tax** means the tax on the total income determined under section 270(1) and where a regular assessment is made, the tax on the total income determined under such regular assessment, as reduced by the amount of -

- tax deducted or collected at source on any income which is subject to such deduction or collection and which is taken into account in computing such total income;
- any relief of tax allowed under section 157; and
- any tax credit allowed to be set off as per section 206(2)(e) to (h), in case the assessee exercises the option of shifting out of the default tax regime.

(5) However, where self-assessment tax is paid by the assessee under section 266 or otherwise, interest shall be calculated upto the date of payment of such tax and reduced by the interest, if any, paid under section 266 towards the interest chargeable under this section. Thereafter, interest shall be calculated at 1% on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

Interest payable for deferment of advance tax

(1) Manner of computation of interest under section 425 for deferment of advance tax by corporate and non-corporate assessees:

In case an assessee, other than **an assessee who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3]**, who is liable to pay advance tax

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under section 404 has failed to pay such tax or the advance tax paid by such assessee on its current income on or before the dates specified in column (1) is less than the advance tax due on returned income as specified in column (2), then assessee shall be liable to pay interest on the amount of shortfall of advance tax as per column (3) at the rate of interest specified in column (4).

Specified date	Advance tax due on returned income	Shortfall in advance tax	Interest payable on shortfall
(1)	(2)	(3)	(4)
15th June	15% of the tax due on returned income	15% of tax due on returned income (-) advance tax paid up to 15th June	3%
15th September	45% of the tax due on returned income	45% of tax due on returned income (-) advance tax paid up to 15th September	3%
15th December	75% of the tax due on returned income	75% of tax due on returned income (-) advance tax paid up to 15th December	3%
15th March	100% of the tax due on returned income	100% of tax due on returned income (-) advance tax paid up to 15th March	1%

Note – However, if the advance tax paid by the assessee on the current income, on or before 15th June or 15th September, is 12% or more or 36% or more of the tax due on the returned income, respectively, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.

(2) Computation of interest under section 425 in case of an assessee who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3]:

In case an assessee who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3], who is liable to pay advance tax under section 404 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income,

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then, the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.

(3) Non-applicability of interest under section 425 in certain cases:

Interest under section 425 shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimation of or failure to estimate –

(i) capital gains;

(ii) income as per section 2(29)(n) i.e., winnings from lotteries, crossword puzzles etc.;

(iii) income under the head "Profits and gains of business or profession" accruing or arising for the first time.

(iv) dividend income other than deemed dividend referred u/s 2(40)(e).

However, the assessee should have paid in full, the tax payable on the said income had such income been part of the total income, in any of remaining instalments of advance tax, if any, or by 31st March of the tax year.

(4) Meaning of tax due on the returned income

Tax due on the returned income means the tax chargeable on the total income declared in the return of income furnished by the assessee for the tax year in which the advance tax is paid or payable *less*

- tax deducted or collected at source on any income which is subject to such deduction or collection and which is taken into account in computing such total income;
- any relief of tax allowed under section 157; and
- any tax credit allowed to be set off as per section 206(2)(e) to (h), in case the assessee exercises the option of shifting out of the default tax regime.

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9.	*Mrs. Kavita, resident aged 68 years, has income only from pension and bank interest. Her estimated tax liability for T.Y. 2026-27 is ₹ 1,25,000. Whether she is liable to pay advance tax?*	
	(a)	*Yes, since estimated tax liability exceeds ₹ 50,000*
	(b)	*No, senior citizen not having business or professional income is exempt from advance tax*
	(c)	*Yes, since estimated tax liability exceeds ₹ 10,000*
	(d)	*No, because pension income is exempt*
10.	*A company estimated its tax liability for T.Y. 2026-27 at ₹ 8 lakhs. What minimum amount should be paid by 15th December 2026 to avoid interest under section 425?*	
	(a)	*₹ 1,20,000*
	(b)	*₹ 3,60,000*
	(c)	*₹ 6,00,000*
	(d)	*₹ 8,00,000*

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LET US RECAPITULATE

I. Tax deduction at source

S. No.	Nature of income or sum	Threshold Limit for deduction of tax at source	Payer	Rate of TDS	Time of deduction
On payment to individual employee [Section 392(1) & (7)]					
-	Salary	Basic exemption limit This is taken care of in computation of the average rate of income-tax.	Any person responsible for paying any income chargeable under the head "Salaries"	Average rate of income-tax	At the time of payment.
-	Premature withdrawal from Employees' Provident Fund	Aggregate payment ≥ ₹ 50,000	Trustees of the EPF Scheme or any authorised person under the Scheme	10% on premature taxable withdrawal	At the time of payment.
On payment to any resident [Section 393(1)]					
1(i)	Any income by way of remuneration or reward for soliciting or procuring insurance business i.e., Insurance Commission	Amount or aggregate of amounts > ₹ 20,000 in a T.Y.	Any person	Rate in force i.e., 2% in case of resident other than a domestic company and 10% in case of a domestic company	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

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1(ii)	Any income by way of commission or brokerage	Amount or aggregate of amounts > ₹ 20,000 in a T.Y.	Specified person i.e., - Any person other than an Individual or HUF - An individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the relevant tax year	2%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
2(i)	Any income by way of rent	> ₹ 50,000 for a month or part of a month	Person other than specified person i.e., Individual/ HUF not carrying on business or profession or whose total sales, gross receipts or turnover from business or profession carried on by him does not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the relevant tax year.	2%	At the time of credit of rent to the account of the payee or at the time of payment, whichever is earlier, for the last month of the tax year or the last month of tenancy.

2(ii)	Any income by way of rent	> ₹ 50,000 per month or part of a month	Specified person i.e., - Any person other than an Individual or HUF - An individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the relevant tax year	2% - For use of any P & M or equipment 10% - For use of land or building, land appurtenant to a building, furniture or fittings	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
3(i)	Consideration for transfer of any immovable property other than rural agricultural land	Consideration for transfer or stamp duty value ≥ ₹ 50 lakh	Any person, being a transferee (other than a person who is required to deduct tax under Sl. No. 3(iii))	1% of consideration for transfer or stamp duty value, whichever is higher	At the time of credit of such sum to the account of the transferor or at the time of payment, whichever is earlier.
3(iii)	Any sum in the nature of compensation or enhanced compensation or consideration or	Amount or aggregate of amounts > ₹ 5,00,000 in a T.Y.	Any person	10%	

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	enhanced consideration on compulsory acquisition of immovable property other than agricultural land situated in India				
4(i)	Any income in respect of units of a mutual fund/Administrator of the specified undertaking/ specified company other than in the nature of capital gains	Amount or aggregate of amounts > ₹ 10,000 in a T.Y.	Any person	10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
5(i)	Any income by way of interest on securities	Amount or aggregate of amounts > ₹ 10,000 in a T.Y.	Any person	Rates in force i.e., 10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

5(ii)	Any income by way of interest other than interest on securities	Amount or aggregate of amounts - > ₹ 1,00,000 in a T.Y. in case of a senior citizen or - > ₹ 50,000 in any other case	(i) a banking company; (ii) a co-operative society carrying on the business of banking; or (iii) a post office for any deposit under a notified Scheme	Rates in force i.e., 10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
5(iii)	Any income by way of interest other than interest on securities	Amount or aggregate of amounts > ₹ 10,000 in a T.Y.	Specified person other than person specified in Sl. No. 5(ii)	Rates in force i.e., 10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
6(i)	Any sum for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract (including sub-contract) between the	Single sum credited or paid > ₹ 30,000 (or) aggregate of sums credited or paid to a contractor during the T.Y. > ₹ 1,00,000	Any designated person	- 1% if the contractor is an Individual or HUF - 2%, if the contractor is any other person	At the time of credit of such sum to the account of the contractor or at the time of payment, whichever is earlier.

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	contractor and a designated person	No tax deducted at source where sum is credited or paid exclusively for personal purposes of an Individual/HUF			
6(ii)	Any sum - for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract - by way of fees for professional services - by way of commission or brokerage	Amount or aggregate of amounts > ₹ 50,00,000 in a T.Y.	Individual or HUF other than those who are required to deduct tax at source under Sl. No. 6(i) and 6(iii) or Sl. No. 1(ii)	2%	At the time of credit of such sum or at the time of payment, whichever is earlier.
6(iii)	Any sum by way of fees for professional or technical services/ Royalty/ Non-compete fees/ Director's remuneration	Amount or aggregate of amounts > ₹ 50,000 in a tax year, for each category of income. (However, this limit does not apply in case of payment made to director of a company).	Specified person i.e., - Any person other than an Individual or HUF - An individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him exceeds ₹ 1 crore in case of business	2% - Payee engaged only in the business of operation of call centre 2% - In case of fees for technical services or	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.

		No tax would be deducted at source where fees for technical or professional services is credited or paid exclusively for personal purposes of an Individual/HUF	**or** ₹ 50 lakhs in case of profession during the tax year immediately preceding the relevant tax year	royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films 10% - Other payments	
7	Any dividend (including dividends on preference shares) declared	Amount or aggregate of amounts > ₹ 10,000 in a F.Y., in case of dividend paid or distributed to an individual shareholder by any mode other than cash > No threshold in other cases	Any domestic company	10%	Before making any payment or distribution of dividend.
8(i)	Any sum under a Life Insurance Policy including sum allocated as bonus other than exempt under Schedule II (Table: Sl. No. 2)	Amount or aggregate of amounts > ₹ 1,00,000 in a T.Y.	Any person	2% on income comprised therein.	

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8(ii)	Any sum exceeding ₹ 50 lakhs for purchase of goods	> ₹ 50 lakhs in a tax year	Buyer Buyer means a person whose total sales, gross receipts or turnover from business carried on by him exceeds ₹ 10 crores during the TY immediately preceding the TY in which the purchase of goods is carried out.	0.1% of sum exceeding ₹ 50 lakhs	At the time of credit of such sum to the account of the seller or at the time of payment, whichever is earlier.
8(iii)	Total income of a specified senior citizen after giving effect to the deduction allowable under Chapter VIII and rebate u/s 156 Specified senior citizen i.e., An individual, being a resident in India, - who is of the age of 75 years or more at any time during the TY;	Basic exemption limit [₹ 4,00,000 (in case specified senior citizen pays tax under default tax regime u/s 202(1)), ₹ 3,00,000 / ₹ 5,00,000, as the case may be, if specified senior citizen has exercised the option of shifting out of the default tax regime]	Notified specified bank	Rates in force, where the individual has exercised the option of shifting out of the default tax regime. Rates specified in section 202(1), where the individual pays tax under the default tax regime.	

	- who is having pension income and no other income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and - has furnished a declaration to the specified bank.				
8(iv)	Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a	Value or aggregate of values of benefit or perquisite > ₹ 20,000 in a T.Y.	Specified person i.e., - Any person other than an Individual or HUF - An individual or HUF whose total sales, gross receipts or turnover from business or profession		10% of value or aggregate of values of such benefit or perquisite

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	profession of any resident. The provisions would apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind.		carried on by him exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the relevant tax year		
TDS on payments made to any person [Section 393(3)]					
1	Any income by way of winnings from any lottery, crossword puzzle or card game or other game of any sort or from gambling or betting of any form or nature	Amount in respect of single transaction > ₹ 10,000.	Any person	Rates in force i.e., 30%	At the time of payment
2	Any income by way of winnings from online games	On the net winnings in a person's user account as computed in prescribed manner.	Any person	Rates in force i.e., 30%	At the end of the T.Y. In case there is withdrawal from user account during the T.Y., tax would be deducted

					at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, tax would also be deducted on the remaining amount of net winnings in the user account as computed in prescribed manner at the end of the T.Y.
3	Any income by way of winnings from horse race	Amount in respect of single transaction > ₹ 10,000.	Book Maker or a person holding licence for horse racing or for arranging for wagering or betting in any race course	Rates in force i.e., 30%	At the time of payment
4	Any income by way of commission on sale of lottery tickets to a person who is or has been stocking, distributing,	Amount or aggregate of amounts > ₹ 20,000 in a T.Y.	Any person	2%	At the time of credit of such income to the account of the payee or at the time of payment,

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	purchasing or selling lottery tickets				whichever is earlier.
5	Any sum paid in cash from one or more accounts maintained by any person	> ₹ 3 crore if the recipient is a co-operative society > ₹ 1 crore in case of others	- a banking company - a co-operative society engaged in carrying on the business of banking or - a post office	@2%	At the time of payment of such sum
7	Any sum in the nature of salary, remuneration, commission, bonus or intertest paid to a partner of the firm or credited to his account	Sum or aggregate of such sums > ₹ 20,000 during the T.Y.	Any person, being a firm	10%	

II. Tax collection at source [Section 394]				
S. No.	**Nature of receipt**	**Person**	**Rate of TCS**	**Time of collection**
1	Sale of alcoholic liquor for human consumption	Seller	2%	
2.	Sale of tendu leaves			
3.	Sale of timber whether obtained under a forest lease or otherwise; or any other forest produce (not being timber or tendu leaves) obtained under a forest lease			
4.	Sale of scrap			

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5.	Sale of minerals, being coal or lignite or iron ore	Seller	2%	At the time of debiting the amount payable by the buyer or licensee or lessee, as the case may be, or at the time of receipt, whichever is earlier.
9.	Use of parking lot or toll plaza or a mine or a quarry for the purpose of business excluding mining and quarrying of mineral oil (including petroleum and natural gas)	Licensor or lessor		
However, no collection of tax shall be made in the case of a resident buyer, if such buyer furnishes a written declaration in duplicate mentioning that goods listed at SI. No. 1 to 5, are to be utilised for the purpose of manufacturing, processing or producing articles or things or for generating power and not for trading purposes.				
6.	Sale consideration exceeding ₹ 10 lakhs in case of motor car or any other notified goods	Seller	1%	At the time of debiting the amount payable by the buyer or at the time of receipt, whichever is earlier.
7.	Remittance under the Liberalised Remittance Scheme of an amount or aggregate of amounts exceeding ₹ 10 lakhs	Authorized dealer	2% if the amount remitted is for purposes of education or medical treatment and 20% if the amount remitted is for other purposes	
8.	Sale of "overseas tour programme package" including expenses for travel or hotel stay or boarding or lodging or any such similar or related expenditure	Seller	2%	

Notes –

(1) Section 397(2) requires furnishing of PAN by the deductee to the deductor, failing which the deductor has to deduct tax at the higher of the following rates, namely, -

(i) the rate prescribed in the Act; or

(ii) at the rate or rates in force; or

(iii) at the rate of 5% in case tax is required to be deducted at source u/s 393(1) [Table: Sl. No. 8(ii)] or 20% in any other case.

(2) In case of non-furnishing of PAN by the collectee to the collector, tax is required to be collected at the higher of the following rates, not exceeding 20% –

(i) twice the rate prescribed in the Act; or

(ii) at 5%

The provisions do **not** apply to a non-resident who does not have a permanent establishment in India.

III Advance Payment of Tax	
Liability for payment of advance tax [Sections 403 & 404]	
Advance tax shall be payable during any financial year in respect of an assessee's current income of a tax year i.e., the total income of the assessee which would be chargeable to tax for such tax year. Obligation to pay advance tax arises where the amount of such tax payable during that year is ₹ 10,000 or more. However, an individual resident in India of the age of 60 years or more at any time during the tax year, who does not have any income chargeable under the head "Profits and gains of business or profession" (PGBP), is not liable to pay advance tax.	
Instalments of advance tax and due dates [Section 408]	
Advance tax payment schedule for both corporates and non-corporates [Other than assessees who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3]] – Four instalments	
Due date of instalment	**Amount payable**
On or before 15th June	Not less than 15% of advance tax liability.

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On or before 15th September	Not less than 45% of advance tax liability (-) amount paid in earlier instalment.
On or before 15th December	Not less than 75% of advance tax liability (-) amount paid in earlier instalment or instalments.
On or before 15th March	The whole amount of advance tax liability (-) amount paid in earlier instalment or instalments.

Advance tax payment by assessee who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3]

An assessee, who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3], shall be required to pay the whole amount of advance on the current income during each financial year, on or before 15th March.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the financial year ending on 31st March.

Interest for defaults in payment of advance tax [Section 424]

(1)	Interest under section 424 is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of the assessed tax.
(2)	The interest liability would be simple interest @1% for every month or part of a month from 1st April following the tax year upto the date of determination of total income under section 270(1) and where a regular assessment is made, upto the date of completion of such regular assessment.
(3)	Such interest is calculated on the amount of assessed tax, if assessee failed pay advance tax or on difference between the assessed tax and the advance tax paid, if such advance tax is less than 90% of assessed tax.
(4)	"Assessed tax" means the tax on the total income determined u/s 270(1) *less* TDS & TCS, any relief of tax allowed u/s 157, any tax credit allowed to be set off as per section 206(2)(e) to (h), in case the assessee exercises the option of shifting out of the default tax regime. Tax on the total income determined under section 270(1) shall not include the additional income-tax, if any, payable u/s 267.
(5)	Where self-assessment tax is paid by the assessee u/s 266 or otherwise, interest shall be calculated upto the date of payment of such tax and reduced by the interest, if any, paid u/s 266 towards the interest chargeable under this section. Thereafter, interest shall be calculated at 1% on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

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Interest for deferment of advance tax [Section 425]

(1) **Manner of computation of interest under section 425 for deferment of advance tax by corporate and non-corporate assessees:**

In case an assessee, other than **an assessee who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3]**, who is liable to pay advance tax under section 404 has failed to pay such tax or the advance tax paid by such assessee on its current income on or before the dates specified in column (1) is less than the advance tax due on returned income as specified in column (2), then assessee shall be liable to pay interest on the amount of shortfall of advance tax as per column (3) at the rate of interest specified in column (4).

Specified date	Advance tax due on returned income	Shortfall in advance tax	Interest payable on shortfall
(1)	(2)	(3)	(4)
15th June	15% of the tax due on returned income	15% of tax due on returned income (-) advance tax paid up to 15th June	3%
15th September	45% of the tax due on returned income	45% of tax due on returned income (-) advance tax paid up to 15th September	3%
15th December	75% of the tax due on returned income	75% of tax due on returned income (-) advance tax paid up to 15th December	3%
15th March	100% of the tax due on returned income	100% of tax due on returned income (-) advance tax paid up to 15th March	1%

Note – However, if the advance tax paid by the assessee on the current income, on or before 15th June or 15th September, is 12% or more or 36% or more of the tax due on the returned income, respectively, then, the

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	assessee shall not be liable to pay any interest on the amount of the shortfall on those dates. **Tax due on returned income =** Tax chargeable on total income declared in the return of income – TDS – TCS - any relief of tax allowed u/s 157 - any tax credit allowed to be set off as per section 206(2)(e) to (h), in case the assessee exercises the option of shifting out of the default tax regime.
(2)	**Computation of interest under section 425 in case of an assessee who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3]:** In case an assessee who declares profits and gains as per section 58(2) [Table: Sl. No. 1 or 3], who is liable to pay advance tax under section 404 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.
(3)	**Non-applicability of interest under section 425 in certain cases:** Interest under section 425 shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimation of or failure to estimate – (i) capital gains; (ii) income as per section 2(29)(n) i.e., winnings from lotteries, crossword puzzles etc.; (iii) income under the head "Profits and gains of business or profession" accruing or arising for the first time. (iv) dividend income other than deemed dividend referred u/s 2(40)(e). However, the assessee should have paid in full, the tax payable on the said income had such income been part of the total income, in any of remaining instalments of advance tax, if any, or by 31st March of the tax year.

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TEST YOUR KNOWLEDGE

1. *Ashwin doing manufacture and wholesale trade furnishes you the following information:*

Total turnover for the tax year -

Particulars	₹
2025-26	*1,05,00,000*
2026-27	*95,00,000*

Examine whether tax deduction at source provisions are attracted for the below said expenses incurred during the tax year 2026-27:

Particulars	₹
Interest paid to UCO Bank on 15.8.2026	*41,000*
Contract payment to Raj (2 contracts of ₹ 12,000 each) on 12.12.2026	*24,000*
Shop rent paid	*₹ 40,000 per month*
Commission paid to Balu on 15.3.2027	*7,000*

2. *Compute the amount of tax deduction at source on the following payments made by M/s S Ltd. during the tax year 2026-27 as per the provisions of the Income-tax Act, 2025.*

S. No.	Date	Nature of Payment
(i)	*1-10-2026*	*Payment of ₹ 2,00,000 to Mr. R, a transporter who owns 8 goods carriages throughout the tax year and furnishes a declaration to this effect alongwith his PAN.*
(ii)	*1-11-2026*	*Payment of fee for technical services of ₹ 25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.*
(iii)	*30-06-2026*	*Payment of ₹ 25,000 to M/s X Ltd. for repair of building.*

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(iv)	*01-01-2027*	*Payment of ₹ 2,00,000 made to Mr. A for purchase of diaries made according to specifications of M/s S Ltd. However, no material was supplied for such diaries to Mr. A by M/s S Ltd or its associates.*
(v)	*01-01-2027*	*Payment of ₹ 2,30,000 made to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.*
(vi)	*01-02-2027*	*Payment of commission of ₹ 14,000 to Mr. Y.*

3. *Examine the applicability of TDS provisions and TDS amount in the following cases:*

   (a) Rent of ₹ 55,000 per month was paid for hire of machinery by B Ltd. to Mr. Raman in T.Y. 2026-27.

   (b) Fee paid on 1.12.2026 to Dr. Srivatsan by Sundar (HUF) ₹ 55,000 for surgery performed on a member of the family.

   (c) ABC and Co. Ltd. paid ₹ 19,000 to one of its Directors as sitting fees on 01-01-2027.

4. *Examine the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the T.Y. 2026-27:*

   (1) Payment made by a company to Mr. Ram, sub-contractor, ₹ 3,00,000 with outstanding balance of ₹ 1,20,000 shown in the books as on 31.3.2027.

   (2) Winning from horse race ₹ 1,50,000 paid to Mr. Shyam, an Indian resident.

   (3) ₹ 2,00,000 paid to Mr. A, a resident individual, on 22-02-2027 by the State of Uttar Pradesh on compulsory acquisition of his urban land.

5. *Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains and casual income.*

6. *Examine the applicability of Tax deduction at source (TDS) or Tax collection at source (TCS) as per the Income-tax Act, 2025 for the T.Y 2026-27 in the following situations*

   (i) Mr. Raja paid ₹ 12 lakhs on 1.11.2026 to M/s. Thomas Cook for a holiday package to Singapore for a week with his family, comprising of his wife and two children, being twins aged 22 years, in the last week of

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November. Mr. Raja also remitted ₹ 13 lakhs on 28.3.2027, out of his personal savings, under LRS through Bank of India, as gift to his sister residing in London, on the occasion of her 50th birthday.

(ii) Mr. Rohit and Mr. Raj are the joint owners of a house property. They sold the house property on 31.12.2026 for ₹ 60 lakhs, receiving ₹ 30 lakhs each as their respective shares. However, the stamp duty value (SDV) of the property on the date of transfer is ₹ 75 lakhs. The property was jointly purchased by Ms. Shashi and Ms. Sujata.

(iii) XYZ Ltd. provided a luxury car worth ₹ 15 lakhs to its distributor, Mr. A, as an incentive for achieving high sales targets.

7. Mr. Sameer, aged 52 years, provides you the following information and requests you to determine his advance tax liability with due dates for the tax year 2026-27.

Estimated tax liability for the tax year 2026-27	*₹ 80,000*
Tax deducted at source for this year	*₹ 12,000*

ANSWERS

1. As the turnover of business carried on by Ashwin for T.Y. 2025-26, has exceeded ₹ 1 crore, he is a specified person and he has to comply with the tax deduction provisions during the tax year 2026-27, subject to the exemptions provided for under the relevant sections for applicability of TDS provisions.

Interest paid to UCO Bank

TDS under section 393(1) [Table: Sl. No. 5(iii)] is not attracted in respect of interest paid to a banking company by virtue of section 393(4) [Table: Sl. No. 7].

Contract payment of ₹ 24,000 to Raj for 2 contracts of ₹ 12,000 each

TDS provisions under section 393(1) [Table: Sl. No. 6(i)] would not be attracted if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 1,00,000 in the aggregate during the tax year. Therefore, TDS provisions under section 393(1) [Table: Sl. No. 6(i)] are not attracted in this case.

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Shop Rent paid ₹ 40,000 per month – Tax under section 393(1) [Table: Sl. No. 2(ii)] would not be attracted since the rental payment does not exceed ₹ 50,000 per month or part of the month.

Commission paid to Balu – No, tax has to be deducted under section 393(1) [Table: Sl. No. 1(ii)] in this case as the commission does not exceed ₹ 20,000.

2. **(i)** No tax is required to be deducted at source under section 393(1) [Table: Sl. No. 6(i)] by M/s S Ltd. on payment to transporter Mr. R, since he satisfies the following conditions:

(1) He owns ten or less goods carriages at any time during the tax year.

(2) He is engaged in the business of plying, hiring or leasing goods carriages;

(3) He has furnished a declaration to this effect along with his PAN.

(ii) As per section 393(1) [Table: Sl. No. 6(iii)], liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 50,000 during the tax year. In the given case, since the individual payments for fee of technical services i.e., ₹ 25,000 and royalty ₹ 20,000 is less than ₹ 50,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during the year to Mr. Shyam.

(iii) Provisions of section 393(1) [Table: Sl. No. 6(i)] are not attracted in this case, since the payment for repair of building on 30.06.2026 to M/s X Ltd. is less than the threshold limit of ₹ 30,000.

(iv) According to section 402(47), the definition of "work" does not include the manufacturing or supply of product according to the specification by customer in case the material is purchased from a person other than the customer or associate of such customer.

Therefore, there is no liability to deduct tax at source in respect of payment of ₹ 2,00,000 to Mr. A, since the contract is a contract for 'sale'.

(v) As per section 393(1) [Table: Sl. No. 3(iii)], any person responsible for payment to a resident, any sum in the nature of compensation or

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consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the tax year exceeds ₹ 5,00,000**.**

In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed ₹ 5,00,000.

(vi) As per section 393(1) [Table: Sl. No. 1(ii)], tax is deductible at source if the amount of commission or brokerage or the aggregate of the amounts of commission or brokerage credited or paid during the tax year exceeds ₹ 20,000.

Since the commission payment made to Mr. Y does not exceed ₹ 20,000, the provisions of section 393(1) [Table: Sl. No. 1(ii)] are not attracted.

3. **(a)** Since the rent paid for hire of machinery by B Ltd. to Mr. Raman exceeds ₹ 50,000 per month or part of the month, the provisions of section 393(1) [Table: Sl. No. 2(ii)] for deduction of tax at source are attracted.

The rate applicable for deduction of tax at source under section 393(1) [Table: Sl. No. 2(ii)] on rent paid for hire of plant and machinery is 2%, assuming that Mr. Raman had furnished his permanent account number to B Ltd.

Therefore, the amount of tax to be deducted at source:

= ₹ 6,60,000 x 2% = ₹ 13,200.

Note: In case Mr. Raman does not furnish his permanent account number to B Ltd., tax shall be deducted @ 20% on ₹ 6,60,000, by virtue of provisions of section 397(2).

(b) As per the provisions of section 393(1) [Table: Sl. No. 6(iii)], a Hindu Undivided Family is required to deduct tax at source on fees paid for professional services only if the total sales, gross receipts or turnover form the business or profession exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the tax year immediately preceding the current tax year and such payment made for professional services is not exclusively for the personal purpose of any member of Hindu Undivided Family.

Section 393(1) [Table: Sl. No. 6(ii)], provides for deduction of tax at source by a HUF (which is not required to deduct tax at source under section 393(1) [Table: Sl. No. 6(iii)]) in respect of fees for professional

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service if such sum or aggregate of such sum exceeds ₹ 50 lakhs during the tax year.

In the given case, the fees for professional service to Dr. Srivatsan is paid on 1.12.2026 for a personal purpose, therefore, section 393(1) [Table: Sl. No. 6(iii)] is not attracted. Section 393(1) [Table: Sl. No. 6(ii)] would have been attracted if the payment or aggregate of payments exceeded ₹ 50 lakhs in the T.Y.2026-27. However, since the payment does not exceed ₹ 50 lakh in this case, there is no liability to deduct tax at source under section 393(1) [Table: Sl. No. 6(ii)] also.

(c) Section 393(1) [Table: Sl. No. 6(iii)] provides for deduction of tax at source @10% from any sum paid by way of any remuneration or fees or commission, by whatever name called, to a resident director, which is not in the nature of salary on which tax is deductible under section 392. The threshold limit of ₹ 50,000 upto which the provisions of tax deduction at source are not attracted in respect of every other payment covered under section 393(1) [Table: Sl. No. 6(iii)] is, however, not applicable in respect of sum paid to a director.

Therefore, tax@10% has to be deducted at source under section 393(1) [Table: Sl. No. 6(iii)] in respect of the sum of ₹ 19,000 paid by ABC Ltd. to its director.

Therefore, the amount of tax to be deducted at source:

= ₹ 19,000 x 10% = ₹ 1,900

4. (1) Provisions of tax deduction at source under section 393(1) [Table: Sl. No. 6(i)] are attracted in respect of payment by a company to a sub-contractor. Under section 393(1) [Table: Sl. No. 6(i)], tax is deductible at the time of credit or payment, whichever is earlier @1% in case the payment is made to an individual.

Since the aggregate amount credited or paid during the year is ₹ 4,20,000, tax is deductible @1% on ₹ 4,20,000.

Tax to be deducted = ₹ 4,20,000 x 1% **= ₹ 4,200**

(2) Under section 393(3) [Table: Sl. No. 3], tax is to be deducted at source, if the winnings from horse races exceed ₹ 10,000 in respect of a single transaction. The rate of deduction of tax at source is 30%.

Hence, tax to be deducted = ₹ 1,50,000 x 30% = **₹ 45,000.**

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(3) As per section 393(1) [Table: Sl. No. 3(iii)], any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is required to deduct tax at source, if such payment or the aggregate amount of such payments to the resident during the tax year exceeds ₹ 5,00,000.

In the given case, there is no liability to deduct tax at source as the payment made to Mr. A does not exceed ₹ 5,00,000.

5. Advance tax is payable by an assessee on his/its total income, which includes capital gains and casual income like income from lotteries, crossword puzzles, etc.

Since it is not possible for the assessee to estimate his capital gains, or income from lotteries etc., it has been provided that if any such income arises after the due date for any instalment, then, the entire amount of the tax payable (after considering tax deducted at source) on such capital gains or casual income should be paid in the remaining instalments of advance tax, which are due.

Where no such instalment is due, the entire tax should be paid by 31st March of the relevant tax year.

No interest liability on late payment would arise if the entire tax liability is so paid as per section 425(4).

***Note**: In case of casual income, the entire tax liability is fully deductible at source @30% under section 393(3) [Table: Sl. No. 1, 2 and 3]. Therefore, advance tax liability would arise only if the surcharge, if any, and health and education cess@4% in respect thereof, along with tax liability in respect of other income, if any, is ₹ 10,000 or more.*

6. (i) M/s. Thomas Cook, being a seller of an overseas tour programme package has to collect tax at source @2% on ₹ 12 lakhs under section 394(1) [Table: Sl. No. 8] from Mr. Raja on sale of overseas tour programme package.

M/s Thomas Cook has to collect tax of ₹ 24,000 (2% of ₹ 12 lakhs).

Bank of India, being an authorized dealer has to collect tax at source under section 394(1) [Table: Sl. No. 7] @20% on amount exceeding ₹ 10 lakhs remitted under the LRS since the remittance of ₹ 13 lakhs is not for the purpose of education and medical treatment.

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Bank of India has to collect tax of ₹ 60,000 i.e., 20% of ₹ 3 lakhs, being the amount remitted exceeding ₹ 10 lakhs.

(ii) As per section 393(1) [Table: Sl. No. 3(i)], if a person (transferor) transfers any immovable property whose consideration for transfer or stamp duty value is or greater than ₹ 50 lakh to a person (transferee), then transferee is required to deduct tax at source @1% of consideration for transfer or stamp duty value, whichever is higher.

In case there are multiple transferee or transferor in respect of any immovable property, consideration shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property.

Accordingly, in the present case, Ms. Shashi and Ms. Sujata are required to deduct tax at source @1% on ₹ 75 lakhs, being the amount higher of consideration of ₹ 60 lakhs and stamp duty value of ₹ 75 lakhs.

(iii) As per section 393(1) [Table: Sl. No. 8(iv)], if any specified person (being, a company in the present case) provides any benefit or perquisite to a resident arising from his business or profession and the total value of such benefits exceeds ₹ 20,000 in a tax year, then such person is required to deduct tax at source @10% of the total value of the benefit or perquisite. Where the benefit or perquisite is in kind, the person has to ensure before releasing such benefit or perquisite that the tax required to be deducted has been paid in respect of such benefit or perquisite.

In the present case, XYZ Ltd. provided a luxury car worth ₹ 15 lakhs to Mr. A, as an incentive which qualifies as a perquisite u/s 393(1) [Table: Sl. No. 8(iv)]. Therefore, XYZ Ltd. has to ensure before releasing the car that the tax of ₹ 1,50,000 i.e., 10% of ₹ 15 lakhs has been paid by Mr. A.

7. **Determination of Advance Tax Liability of Mr. Sameer**

Particulars	₹
Estimated tax liability for the tax year 2026-27	80,000
Less: Tax deducted at source	12,000
Tax payable	**68,000**

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Due Date of installment	Amount payable	₹
On or before 15th June, 2026	Not less than 15% of advance tax liability	10,200
On or before 15th September, 2026	Not less than 45% of advance tax liability *less* amount paid in earlier installment	20,400 (₹ 30,600, being 45% of ₹ 68,000 - ₹ 10,200)
On or before 15th December, 2026	Not less than 75% of advance tax liability *less* amount paid in earlier installment(s)	20,400 (₹ 51,000, being 75% of ₹ 68,000 - ₹ 30,600)
On or before 15th March, 2027	Whole of the advance tax liability *less* amount paid in earlier installment(s)	17,000 (₹ 68,000, being 100% of ₹ 68,000 - ₹ 51,000)



Q.NO.	ANSWERS	
1.	(d)	No, since neither his turnover from business exceeds 1 crore during T.Y. 2026-27 nor fee for professional services exceed ₹ 50 lakhs
2.	(b)	₹ 5.2 lakhs
3.	(a)	Nil
4.	(b)	₹ 1,200 per month
5	(c)	No, since dividend does not exceed threshold limit
6	(b)	₹ 11,000
7	(d)	₹ 14,000
8	(c)	₹ 40,000
9.	(b)	No, senior citizen not having business or professional income is exempt from advance tax
10.	(c)	₹ 6,00,000

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CHAPTER 8

PROVISIONS FOR FILING RETURN OF INCOME AND SELF ASSESSMENT



LEARNING OUTCOMES

After studying this chapter, you would be able to–

- **comprehend** as to what is a "return of income";
- **identify** the persons who have to compulsorily furnish a return of income;
- **identify** and recall the due date for furnishing return of income for different assessees;
- **appreciate** when a return of income can be revised and the time limit within which a return has to be revised;
- **examine** the consequences of late furnishing of return;
- **compute** the interest payable for delayed furnishing of return of income;
- **compute** the fee payable for delayed furnishing of return of income;
- **appreciate** when an updated return of income can be furnished;
- **appreciate** who are the specified classes of persons who can furnish return through Tax Return Preparer;

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- **identify** the persons who are authorised to verify the return of income in the case of different assessees in various circumstances;
- **appreciate** the requirement to pay self-assessment tax before furnishing return of income;
- **appreciate** the order of adjustment of amount paid by the assessee against self-assessment tax, fee and interest;
- **appreciate** the manner of computation of tax payable on the basis of updated return;
- **identify** the persons who are required to apply for permanent account number;
- **identify** the transactions in respect of which quoting of PAN/Aadhaar Number is mandatory.

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CHAPTER OVERVIEW

Filing of Return

- Compulsory filing of Return of Income [Section 263(1)]
- Belated Return [Section 263(4)]
- Revised Return [Section 263(5)]
- Updated Return [Section 263(6)]

Interest and fee for default in furnishing return of income

- Interest for default in furnishing return of income [Section 423]
- Fee for default in furnishing return of income [Section 428]

Other Provisions

- Permanent Account Number and Quoting of Aadhaar Number [Section 262]
- Penalty for failure to comply with PAN and Aadhaar Number provisions [Section 467]
- Fee for default relating to intimation of Aadhaar Number [Section 430]
- Submission of returns through Tax Return Preparers [Section 264]
- Person authorised to verify return of income [Section 265]
- Self-Assessment [Section 266]
- Tax on updated return [Section 267]

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1. STRUCTURED SECTIONAL LEARNING

Section	Particulars
262	PAN
263	Return of income
264	Scheme for submission of returns through tax return preparers
265	Return by whom to be verified
266	Self assessment
267	Tax on updated return
423	Interest for default in furnishing return of income
428	Fee for default in furnishing return of income
430	Fee for default relating to intimation of Aadhaar Number
467	Penalty for failure to comply with the provisions of section 262

2. RETURN OF INCOME



The Income-tax Act, 2025 contains provisions for furnishing of return of income. Return of income is a prescribed statement through which an assessee furnishes particulars relating to his/its total income, tax liability, taxes paid and other prescribed information for a tax year. The provisions relating to furnishing of return of income under the Income-tax Act, 2025 ensure proper reporting of income and facilitate assessment and collection of taxes.

The CBDT prescribes different return forms for different categories of assessees. The return forms generally contain details regarding income under various heads, deductions from gross total income, computation of total income, tax liability, taxes paid and refund claimed, if any.

In short, a return of income is the declaration of income and the resultant tax by the assessee in the prescribed format.

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3. COMPULSORY FILING OF RETURN OF INCOME [SECTION 263(1)]

As per section 263(1), the following persons are compulsorily required to furnish return of income on or before the due date -

(i) company

(ii) firm

(iii) a University, college or other institution[1]

(iv) a person, who is a **resident other than not ordinarily resident** and who at any time during the tax year, -

(a) holds, as a **beneficial owner** or otherwise, any asset (including any financial interest in any entity) **located outside India** or has a **signing authority in any account located outside India;** or

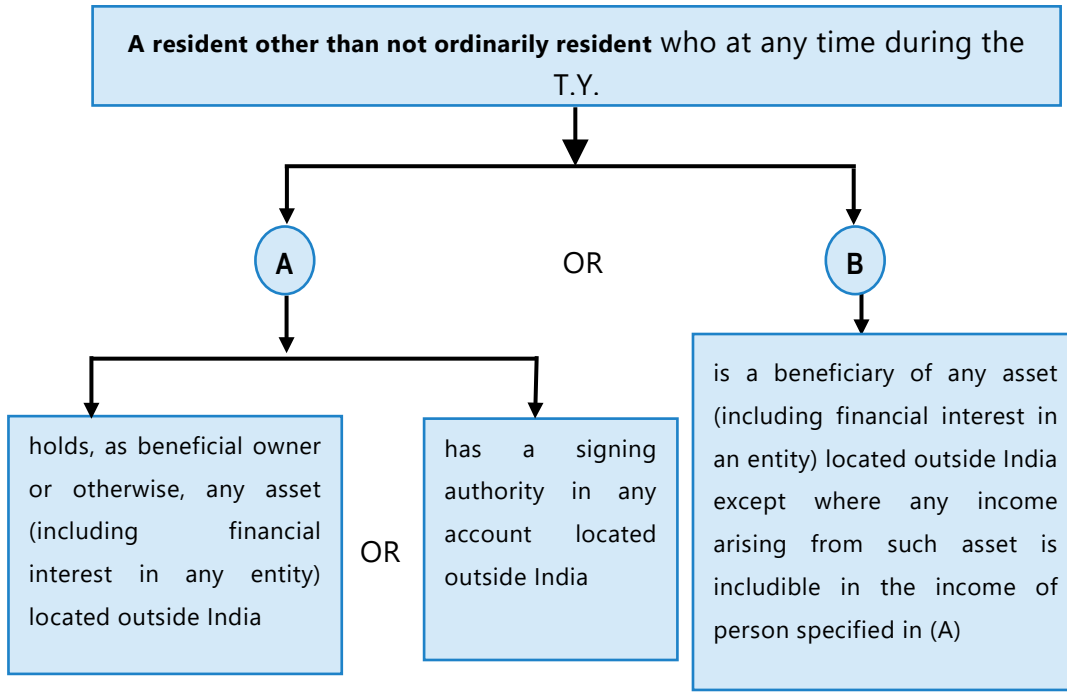
(b) is a **beneficiary of any asse**t (including any financial interest in an entity) **located outside India**, except where any income arising from such asset is includible in the income of the person referred to in (a) above.

Meaning of "beneficial owner" and "beneficiary" in respect of an asset for the purpose of section 263:

Beneficial Owner	An individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person
Beneficiary	An individual who derives benefit from the asset during the tax year and the consideration for such asset has been provided by any person other than such beneficiary.

[1] As referred to in section 45(3)(a)

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The above-mentioned persons are required to furnish their return of income on or before the due date irrespective of the fact whether that person has incurred a loss or earned income during the tax year.

The below mentioned persons shall, for a tax year, furnish a return of his income if the conditions specified therein are satisfied –

(i) a person other than a company or a firm, if his **total income** or the total income of any other person in respect of which he is assessable under this Act during the tax year (without giving effect to deductions allowable under section 82, 83, 84, 85, 86 relating to deductions from certain capital gains or deductions under Chapter VIII) **exceeds the basic exemption limit.**

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

- whose total income or the total income of any other person in respect of which he is assessable under this Act during the tax year
- without giving effect to the deductions allowable under Chapter VIII or section 82/83/84/85/86
- exceeded the basic exemption limit

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is required to furnish a return of his income or income of such other person for the relevant tax year on or before the due date.



The basic exemption limit is ***₹ 4,00,000*** *for individuals/HUF/AOPs/BOIs and artificial juridical persons under default tax regime under section 202(1). This amount denotes the level of total income, which is arrived at after claiming the admissible deductions under Chapter VIII i.e.,124(1)/(2), 125(2) or 146 under default tax regime and deductions under section 82 to 86 in respect of capital gain. However, the level of total income to be considered for the purpose of furnishing return of income is the income before claiming the admissible deductions under Chapter VIII and under sections 82 to 86.*

However, in case the assessee has exercised the option of shifting out of the default tax regime, the basic exemption limit would be ₹ 2,50,000 for individuals/HUF/AOPs/ BOIs and artificial juridical persons, ₹ 3,00,000 for resident individuals of the age of 60 years but less than 80 years and ₹ 5,00,000 for resident individuals of the age of 80 years or more at any time during the tax year. Also, the assessee would be eligible for other deductions under Chapter VIII subject to fulfilling the stipulated conditions.

(ii) a person who has suffered a loss in the tax year under the head "Profits and gains of business or profession" or under "Capital gains" and who intends to claim such loss or any part thereof to be carried forward as per the Act.

Section 121 requires mandatory furnishing of return of loss u/s 263(1) on or before the due date specified u/s 263(1(c) for carry forward of the following losses -

(a) Loss under the head "Capital Gains" u/s 111(1)

(b) Business loss u/s 112(1)

(c) Speculation business loss u/s 113(2)

(d) Loss from specified business u/s 114(2) [In case the assessee has exercised the option of shifting out of the default tax regime]

(e) Loss from specified activity i.e., the activity of owning and maintaining race horses u/s 115(2)

However, loss under the head "Income from house property" u/s 110(1) [In case the assessee has exercised the option of shifting out of the default tax regime] and unabsorbed depreciation u/s 33(11)(b) can be carried forward

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for set-off even though return of loss has not been furnished on or before the due date.

(iii) a person, other than a company or firm, who during the tax year, fulfills the prescribed conditions. Accordingly, Rule 163 prescribes the conditions to be fulfilled in a tax year for the purpose of furnishing return of income in respect of a person other than a company or firm -

(a) if he has deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or

(b) if he has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country (not including travel to the neighbouring countries or to specified pilgrimage places); or

(c) if he has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 1 lakh towards consumption of electricity; or

(d) if his total sales/turnover/ gross receipts, as the case may be, in the business exceed ₹ 60 lakhs; or

(e) if his total gross receipts in profession exceed ₹ 10 lakhs; or

(f) if the aggregate of tax deducted at source or tax collected at source, in case of such person is ₹ 25,000 or more (₹ 50,000 or more in case of individual resident of the age of 60 years or more); or

(g) if he has deposited in his one or more savings bank account, in aggregate, ₹ 50 lakhs or more.



The provisions of section 263, i.e., furnishing return of income is not applicable to a specified senior citizen, as referred to in section 402(39), for the relevant tax year in which tax has been deducted at source under section 393(1) [Table: Sl. No. 8(iii)] [Section 263(8(b)].

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Meaning of due date: [Section 263(1)(c)]

"Due date" in respect of the persons mentioned in column B of the Table below, subject to conditions as mentioned in column C of the said Table, shall be the due date of the financial year succeeding the relevant tax year as mentioned in column D thereof:

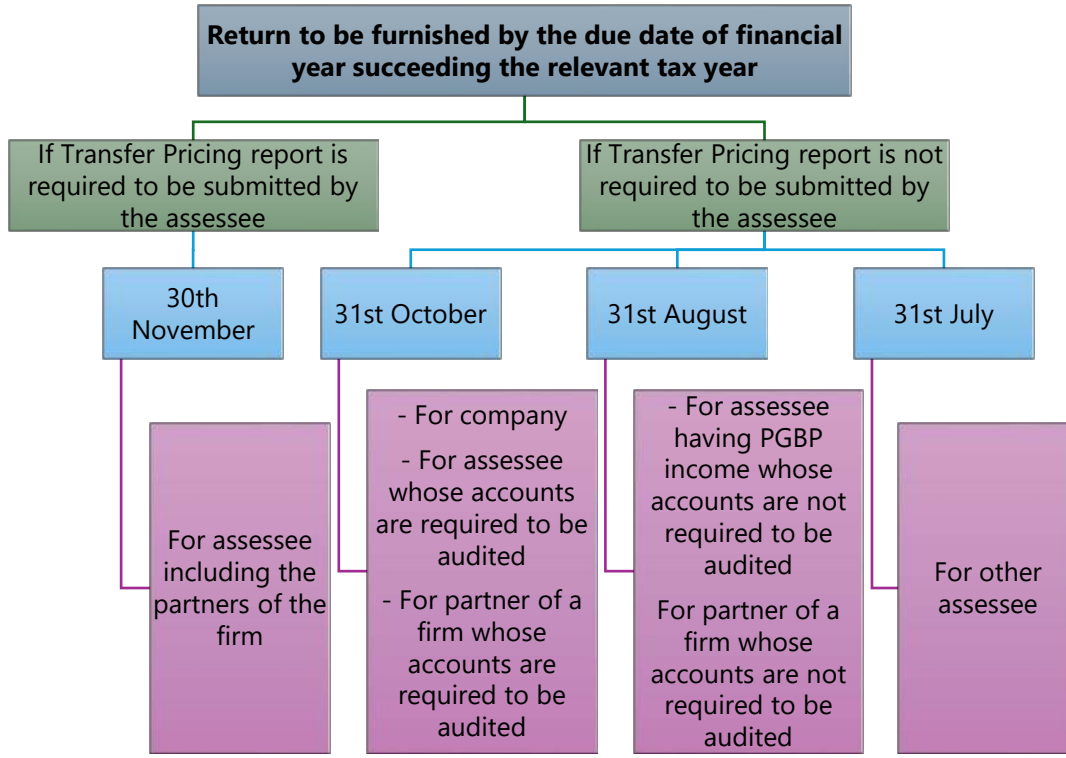
Sl. No.	Person	Conditions	Due date
A	B	C	D
1.	Assessee, including the partners of the firm[2]	Where the provisions of section 172 apply	30th November
2.	(i) Company; (ii) assessee (other than a company) whose accounts are required to be audited; (iii) partner of a firm whose accounts are required to be audited[3].	Where the provisions of section 172 do not apply	31st October
3.	(i) Assessee having income from profits and gains of business or profession whose accounts are not required to be audited; (ii) partner of a firm whose accounts are not required to be audited[4].	Where the provisions of section 172 do not apply	31st August
4.	Any other assesse		31st July

Note *– Section 172 is not covered within the scope of syllabus of Intermediate Paper 3A: Income-tax Law. Section 263(1)(c) provides an extended due date, i.e., 30th November of the financial year succeeding the relevant tax year, for assessees who have to file a transfer pricing report i.e., accountant's report u/s 172 (i.e. assessees who have undertaken international transactions with associated enterprises). Therefore, reference has been made to this section, i.e. section 172, for explaining this provision in section 263(1)(c).*

[2] or the spouse of such partner (if section 10 applies to such spouse)
[3] or the spouse of such partner (if section 10 applies to such spouse)
[4] or the spouse of such partner (if section 10 applies to such spouse)

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DUE DATE FOR FURNISHING RETURN OF INCOME UNDER SECTION 263(1)(c)





1. *XYZ Ltd. is a domestic company who is not engaged in international transactions. The due date for filing the return of income for Tax Year 2026-27 in its case is*

(a)	*31st July, 2027*
(b)	*31st August, 2027*
(c)	*31st October, 2027*
(d)	*30th November, 2027*



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2.	*Stylish & Sons, a firm, is engaged in providing consultancy services to its clients. For Tax Year 2026-27, it is not liable to audit its books of account. The due date for filing its return of income for Tax Year 2026-27 is*		
	(a)	*31st July, 2027*	
	(b)	*31st August, 2027*	
	(c)	*31st October, 2027*	
	(d)	*30th November, 2027*	
3.	*The due date for filing return of income for Mr. Ashish, a salaried individual, is*		
	(a)	*31st July, 2027*	
	(b)	*31st August, 2027*	
	(c)	*31st October, 2027*	
	(d)	*30th November, 2027*	

ILLUSTRATION 1

Paras aged 55 years is a resident outside India as per FEMA Act, 1999. During the F.Y. 2026-27, interest of ₹ 2,88,000 was credited to his Non-resident (External) Account with SBI. ₹ 30,000, being interest on fixed deposit with SBI, was credited to his saving bank account during this period. He also earned ₹ 3,000 as interest on this saving account. Is Paras required to furnish return of income?

What will be your answer, if he has incurred ₹ 3 lakhs as travel expenditure of self and spouse to US to stay with his married daughter for some time?

SOLUTION

An individual is required to furnish a return of income under section 263(1) if his total income, before giving effect to the deductions under Chapter VIII or under sections 82 to 86, exceeds the maximum amount not chargeable to tax i.e. ₹ 4,00,000 under default tax regime u/s 202(1) and ₹ 2,50,000 if exercises the option of shifting out of the default tax regime (for tax year 2026-27).

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Computation of total income of Mr. Paras for tax year 2026-27

Particulars	₹
Income from other sources	
Interest earned from Non-resident (External) Account ₹ 2,88,000 [Exempt under Schedule IV (Table: Sl. No. 1)]	NIL
Interest on fixed deposit with SBI	30,000
Interest on savings bank account	3,000
Gross Total Income	**33,000**
Less: Deduction under Chapter VIII (not available under the default tax regime under section 202(1))	-
Total Income	**33,000**

In case he exercises the option of shifting out of the default tax regime, he would be eligible for deduction of ₹ 3,000 under section 153. Accordingly, his total income would be ₹ 30,000. However, in both regimes, total income of ₹ 33,000, before giving effect to deductions under Chapter VIII, would be considered.

Since the total income of Mr. Paras for tax year 2026-27, before giving effect to the deductions under Chapter VIII, is less than the basic exemption limit in both regimes, he is not required to furnish return of income for tax year 2026-27.

If he has incurred expenditure of ₹ 3 lakhs on foreign travel of self and spouse, he has to mandatorily furnish his return of income on or before the due date under section 263(1), even if his income is less than the basic exemption limit.

4. BOARD TO PRESCRIBE FORM FOR FURNISHING RETURN OF INCOME, MANNER OF ITS VERIFICATION AND REQUIRED PARTICULARS [SECTION 263(2)]

The board may prescribe form for furnishing return of income and manner of its verification and such other particulars including -

(i) the class or classes of persons who shall be required to furnish the return in electronic form or otherwise;

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(ii) the form and the manner in which the return may be furnished, whether in electronic form or otherwise;

(iii) the documents, statements, receipts, certificates, audited reports or any other documents which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;

(iv) the computer resource or the electronic record to which the return in electronic form may be transmitted.

The particulars may also include -

(i) income exempt from tax;

(ii) assets of the prescribed nature and value held by the assessee as a beneficial owner or otherwise or in which he is a beneficiary;

(iii) bank account and credit card held by the assessee;

(iv) expenditure exceeding the prescribed limit incurred by the assessee under prescribed heads;

(v) such other outgoings as may be prescribed;

(vi) the report of any audit referred to in section 63 or a copy thereof;

(vii) the particulars of the location and style of the principal place of the business or profession and all the branches thereof;

(viii) the names and addresses of the partners, if any, in the business or profession;

(ix) the names of the other members of the AoP or the BoI and the extent of the share of the assessee and the shares of all such members in the profits of the business or profession and any branches thereof.

5. SPECIFIED CLASS OR CLASSES OF PERSONS TO BE EXEMPTED FROM FILING RETURN OF INCOME [SECTION 263(3)]

(1) Every person who falls within the ambit of the conditions mentioned under section 263(1)(a) has to furnish a return of his income on or before the due date specified under section 263(1)(c).

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(2) For reducing the compliance burden of small taxpayers, the Central Government has been empowered to notify the class or classes of persons who will be exempted from the obligation to file a return of income, subject to satisfying the prescribed conditions.

6. BELATED RETURN [SECTION 263(4)]

Any person who has not furnished a return within the time allowed to him under section 263(1)(c), may furnish the return for any tax year at any time -

(i) within nine months from the end of the relevant tax year (i.e., 31.12.2027 for Tax Year 2026-27); or

(ii) before the completion of the assessment,

whichever is earlier.

Hence, belated return cannot be filed after 31st December of the financial year succeeding the relevant tax year.

7. REVISED RETURN [SECTION 263(5)]

If any person, having furnished a return under section 263(1) or a belated return under section 263(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time –

(i) within twelve months from the end of the relevant tax year (i.e., 31.03.2028 for Tax Year 2026-27); or

(ii) before the completion of the assessment,

whichever is earlier.

Hence, revised return cannot be filed after 31st March of the financial year succeeding the relevant tax year.

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4.	*Mr. Aman filed his original return of income on 25th July 2027. Assessment was completed on 10th November 2027. He wants to revise the return on 20th November 2027. Is he permitted to do so?*	
	(a)	*Yes, revised return can be filed anytime before 31st March 2028*
	(b)	*Yes, since original return was filed within due date*
	(c)	*No, revised return cannot be filed after completion of assessment*
	(d)	*No, because only belated return can be revised*
5.	*M/s Bright Associates failed to file its return of income for the Tax year 2026-27 within the due date. The firm filed return later on within permissible time allowed. The Assessing Officer stated that such return cannot be revised. Is the statement correct?*	
	(a)	*Yes, belated return cannot be revised*
	(b)	*No, belated return can also be revised*
	(c)	*Yes, only company returns can be revised*
	(d)	*No, but only with prior approval*

8. INTEREST FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 423]

(1) Interest under section 423 is attracted for furnishing a return of income after the due date or where the assessee does not furnish the return of income.

(2) The assessee shall be liable to pay simple interest as per the following formula:

Interest payable = 1% X A X T

A = amount of tax on which interest is payable (Column E of below Table)

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T = Number of months comprised in the period commencing from starting date (Column C of below Table) and ending on the end date (Column D of below Table)

Computation of interest shall be in accordance with the following Table which specifies the circumstances in which interest is payable and the period for which it is payable and the amount of tax on which such interest is payable.

S. No.	Circumstances	Starting date	Ending date	Amount of tax on which interest is payable
A	B	C	D	E
1.	Where return is furnished u/s 263(1), (4) or (6) after the due date	Due date for furnishing the return of income under section 263(1)	Date of furnishing the return	a) Where regular assessment is not made, tax on the total income as determined u/s 270(1) as reduced by tax paid; b) Where regular assessment is made, tax on the total income as determined under regular assessment as reduced by tax paid
2.	Where no return is furnished u/s 263(1), (4) or (6)	Due date for furnishing the return of income under section 263(1)	Date of completion of assessment	Tax on the total income determined under regular assessment as reduced by tax paid

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(3) Tax on total income as determined under section 270(1) or as determined under regular assessment shall not include additional income tax, if any, payable u/s 267.

(4) The interest payable under section 423 shall be reduced by the interest, if any, paid on self-assessment under section 266 towards the interest chargeable.

(5) "Tax paid" means -

(a) advance tax, if any, paid

(b) any tax deducted or collected at source

(c) any relief of tax allowed u/s 157 (such as tax relief on arrears of salary)

(d) AMT credit allowed to be set off as per section 206(2)(e) to (h).

9. FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 428]

(1) Where a person, who is required to furnish a return of income under section 263, fails to do so within the due date specified under section 263(1)(c), he shall be liable to pay by way of fee –

- ₹ 1,000, if the total income of such person does not exceed ₹ 5,00,000; and
- ₹ 5,000, in any other case [Section 428(a)].

(2) Where a person furnishes **a revised return** of income u/s 263(5) **beyond nine months** from the end of relevant tax year, he shall be liable to pay by way of fee -

- ₹ 1,000, if the total income of such person does not exceed ₹ 5,00,000; and
- ₹ 5,000, in any other case [Section 428(b)].



Late filing fee under section 428 is mandatory in nature and is payable where return is furnished after the due date prescribed under section 263(1)(c).

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6.	*Mr. A was required to furnish his return of income under section 263 but failed to do so within the due date specified under section 263(1)(c). His total income is ₹ 4,80,000. The fee payable by him shall be:*	
	(a)	*Nil*
	(b)	*₹ 500*
	(c)	*₹ 1,000*
	(d)	*₹ 5,000*
7.	*Mr. Aman filed his return of income on 15th June, 2027 for Tax Year 2026-27 with a total income of ₹ 5,50,000. He revised his return of income under section 263(5) on 11th November, 2027 with total income of ₹ 4,80,000. Which of the following is correct regarding fee liability?*	
	(a)	*A Fee of ₹ 1,000 is leviable u/s 428(a)*
	(b)	*A Fee of ₹ 1,000 is leviable u/s 428(b)*
	(c)	*No fee is leviable*
	(d)	*A Fee of ₹ 5,000 is leviable u/s 428(b)*

ILLUSTRATION 2

Explain with brief reasons whether the return of income for the tax year 2026-27 (due date 31st July 2027) can be revised under section 263(5) of the Income-tax Act, 2025 in the following independent cases:

(i) Belated return filed under section 263(4) on 30th November 2027.

(ii) Return already revised once under section 263(5) on 30th October 2027. Original return furnished on 15th July, 2027.

(iii) Return of loss furnished under section 263(1) on 30th July 2027.

Also, state the applicability of fee in each of the case, if any. Assume assessment has not been completed.

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SOLUTION

Any person who has furnished a return under section 263(1) or 263(4) can file a revised return at any time **within twelve months** from the end of the relevant tax year or before the completion of the assessment, whichever is earlier, if he discovers any omission or any wrong statement in the return furnished earlier. Accordingly,

(i) A belated return furnished under section 263(4) for tax year 2026-27 can be revised upto 31.03.2028 by the assessee. Hence, belated return furnished on 30th November, 2027 may be revised till 31.03.2028.

As per section 428(a), in case of default in furnishing return of income within the due date of 31st July, 2027, a fee of ₹ 1,000 is leviable, if his total income does not exceed ₹ 5 lakhs and ₹ 5,000, in any other. Accordingly, he is liable to pay fee u/s 428(a).

Besides, as per section 428(b), if any person furnishes **a revised return** of income u/s 263(5) **beyond nine months** from the end of relevant tax year, he shall be liable to pay a fee of ₹ 1,000, if his total income does not exceed ₹ 5 lakhs and ₹ 5,000, in any other case. Therefore, if the assessee furnishes the revised return u/s 263(5) upto 31.12.2027, no fee u/s 428(b) shall be leviable on him, since the return has been revised within 9 months from the end of the tax year. However, if he furnishes the revised return between 1.1.2028 to 31.03.2028, he has to pay the fee u/s 428(b) also.

(ii) A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. at any time **within twelve months** from the end of the relevant tax year or before the completion of the assessment, whichever is earlier. It implies that a return of income can be revised more than once within the prescribed time. However, as per section 428(b), if any person furnishes **a revised return** of income u/s 263(5) **beyond nine months** from the end of relevant tax year, he shall be liable to pay a fee of ₹ 1,000, if his total income does not exceed ₹ 5 lakhs and ₹ 5,000, in any other case. Therefore, if the assessee furnishes the second revised return u/s 263(5) upto 31.12.2027, no fee u/s 428(b) shall be leviable on him, since the return has been revised within 9 months from the end of the tax year. However, if he furnishes the revised return between 1.1.2028 to 31.03.2028, he has to pay the fee u/s 428(b).

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(iii) A return of loss is furnished under section 263(1). As per section 263(5), a return can be revised within the prescribed time whether its return of income or loss. Hence, the return furnished on 30th July 2027 can be revised till 31.12.2027 without fee and between the period from 01.01.2028 to 31.03.2028 with a fee of ₹ 1,000, since it is a loss return which means total income does not exceed ₹ 5 lakhs.

10. UPDATED RETURN OF INCOME [SECTION 263(6)]

(1) Option to furnish updated return - Any person may furnish an updated return of his income or the income of any other person in respect of which he is assessable, at any time within **48 months** from the end of the financial year succeeding the relevant tax year.

This is irrespective of whether or not he has furnished a return under section 263(1) or belated return under section 263(4) or revised return under section 263(5) for that tax year.



An updated return for tax year 2026-27 can be furnished till 31.3.2032.

(2) Updated return can be filed if original return is a loss return and updated return is a return of income or has the effect of reducing the loss - If any person has a loss in any tax year and has **furnished a return of loss on or before the due date** of furnishing return of income under section 263(1), he shall be allowed to furnish an updated return **if such updated return is a return of income or such updated return has the effect of reducing the loss .**



If Mr. X has furnished his return of loss for tax year 2026-27 on 31.5.2027 consisting of ₹ 5,00,000 as business loss, he can furnish an updated return for tax year 2026-27 upto 31.3.2032 if such updated return is a return of income or results in reducing the loss.

(3) Non applicability of the provisions of updated return – The provisions of updated return would not apply for a tax year for any person if –

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(i) the **updated return is a return of loss** for that tax year (except where the updated return has the effect of reducing loss originally claimed); or

(ii) the updated return **has the effect of decreasing the total tax liability** determined on the basis of return furnished under section 263(1) or section 263(4) or section 263(5) for that tax year; or

(iii) the updated return **results in refund where no refund was due or increases the refund** due on the basis of return furnished under section 263(1) or section 263(4) or section 263(5) for that tax year; or

(iv) an updated return has already been furnished for that tax year. It means an **updated return cannot be updated again.**

(v) he is such person or belongs to such class of persons, as may be notified by the Board.

(4) Updated return to be furnished for subsequent tax year as well in case (2) - If a person furnished an updated return for a tax year and as a result the loss or any part thereof carried forward under Chapter VII or unabsorbed depreciation carried forward under section 33(11)(b) or tax credit carried forward under section 206(2)(e) to (h) is to be reduced for any subsequent tax year, then an updated return is required to be furnished for each such subsequent tax year. [In case the assessee has exercised the option of shifting out of the default tax regime].

Note - There are other circumstances also in which the provisions of updated return shall not apply for a tax year. Those circumstances will be dealt with at Final level.

11. DEFECTIVE RETURN [SECTION 263(7)]

(1) A return of income furnished shall be treated as defective if it is not in conformity with all the prescribed conditions.

(2) Where the Assessing Officer considers that the return of income furnished by the assessee is defective,

(i) he may **intimate the defect** to the assessee and

(ii) give him an **opportunity to rectify the defect within 15 days** from the date of such intimation.

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He may **extend the time period** beyond 15 days, on an application made by the assessee in this behalf. The period of 15 days will have to be reckoned from the date on which the communication is served upon the assessee.

(3) **If the defect is not rectified** within the period of 15 days or such further extended period, the return would be treated as an **invalid return** and the consequential effect would be the same as if the assessee had failed to furnish the return.

(4) Where the **assessee rectifies the defect after the expiry of 15 days** (or the further extended period), **but before the assessment** is made, the Assessing Officer may condone the delay and treat the return as a **valid return.**

(5) Rule 166 states the following conditions when a return of income shall be treated as a defective return under section 263(7).

(i) **all applicable fields, parts, schedules, statements and columns in the return, have not been duly filled** in, including those related to computation of income chargeable under various heads, computation of gross total income and total income; or

(ii) **the audit report** referred to in section 63, where applicable, has **not been furnished prior to the filing of the return** of income; or

(iii) **if the updated return is furnished, the details of payment of tax** as per section 267 are not duly filled in the return; or

(iv) the **brought forward AMT credit claimed** in the return **is not in accordance with the carry forward of AMT** in the latest return, allowed to the assessee.

12. SUBMISSION OF RETURNS THROUGH TAX RETURN PREPARERS [SECTION 264]

(1) This section provides that the CBDT may make a scheme for furnishing returns of income through a Tax Return Preparer and such scheme shall be notified.

(2) The scheme may enable any specified class or classes of persons in preparing and furnishing returns of income through a tax return preparer authorised to act as such under the said Scheme.

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(3) Such scheme may be made irrespective of the provisions of section 263.

(4) Every notification for the scheme shall be issued as per section 534 i.e., laid by the Central Government before both houses of the Parliament in the prescribed manner.

(5) **Meaning of certain terms:**

Term	Meaning
Tax Return Preparer	Any individual, not being a person referred to in section 515(3)(a)(ii) i.e., any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings or an employee of the 'specified class or classes of persons,' who has been authorised to act as a Tax Return Preparer under the Scheme.
Specified class or classes of persons	Any person, other than a company or a person, whose accounts are required to be audited under section 63 (tax audit) or under any other law, who is required to furnish a return of income under the Act.



As per section 264(2)(a), an employee of the "specified class or classes of persons" is not authorized to act as a Tax Return Preparer. Therefore, it follows that employees of companies and persons whose accounts are required to be audited under section 63 or any other law for the time being in force (since they are not falling in the category of specified class or classes of persons), are eligible to act as Tax Return Preparers.

ILLUSTRATION 3

Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account audited under section 63 for the tax year 2026-27. Her total income for the tax year 2026-27 is ₹15,35,000. She wants to furnish her return of income for tax year 2026-27 through a tax return preparer. Can she do so?

SOLUTION

Section 264 provides a scheme for submission of return of income for any tax year through a Tax Return Preparer. However, it is not applicable to persons whose books of account are required to be audited under section 63. Therefore, Mrs. Hetal cannot furnish her return of income for tax year 2026-27 through a Tax Return Preparer.

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13. PERSONS AUTHORISED TO VERIFY RETURN OF INCOME [SECTION 265]

This section specifies the persons who are authorized to verify the return of income under section 263.

	Person furnishing return of income	Circumstance	To be verified
1.	Individual	(i) In circumstances not covered under (ii) & (iii) below	- by the individual himself
		(ii) where the individual is mentally incapacitated from attending to his affairs	- by his guardian; or - by any other person competent to act on his behalf
		(iii) where, for any other reason, it is not possible for the individual to verify the return	- by any person duly authorised by him in this behalf holding a valid power of attorney from the individual
2.	Hindu Undivided Family	(i) in circumstances not covered under (ii) below	- by the karta
		(ii) where the karta is absent from India or is mentally incapacitated from attending to his affairs	- by any other adult member of such HUF
3.	Company other than specified in 4, 5, 6, and 7	(i) in circumstances not covered under (ii) below	- by the managing director of the company

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		(ii) (a) where there is no managing director; or (b) the managing director is not able to verify the return due to any unavoidable reason	by any director of the company or any other person as may be prescribed for this purpose. Rule 168 prescribes that any other person to be the person appointed by the Adjudicating Authority.
4.	Company not being resident in India		- by any person holding a valid power of attorney from the company to do so
5.	Company which is being wound up by orders of the Court or otherwise, or where any person has been appointed as receiver of any assets of the company.		- by the liquidator
6.	Company whose management has been taken over by the Central Government or any State Government under any law		- by the principal officer of the company
7.	Company, for which application seeking		- by the insolvency professional appointed by such

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	corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016		Adjudicating Authority
8.	Firm	(i) in circumstances not covered under (ii) below	- by the managing partner of the firm
		(ii) (a) where the managing partner is not able to verify the return due to any unavoidable reason; or (b) there is no managing partner	by any partner of the firm, not being a minor
9.	LLP	(i) in circumstances not covered under (ii) below	- by designated partner of the LLP
		(ii) (a) where the designated partner is not able to verify the return due to any unavoidable reason; or (b) where there is no designated partner	by any partner of the LLP or any other person as may be prescribed for this purpose. Rule 168 prescribes that any other person to be the person appointed by the Adjudicating Authority.

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10.	Local authority	-	- by the principal officer
11.	Political party	-	- by the chief executive officer of such party (whether he is known as secretary or by any other designation)
12.	Any other association	-	- by any member of the association or the principal officer of such association
13.	Any other person	-	- by that person himself or any person competent to act on his behalf.



8.	*The Karta of a Hindu Undivided Family (HUF) is residing outside India for a prolonged period. Who can verify the return of income of the HUF?*	
	(a)	*Any coparcener only with permission of AO*
	(b)	*Any adult member of the HUF*
	(c)	*Manager of the bank account*
	(d)	*Chartered Accountant of the HUF*
9.	*Mr. Z filed a return of loss within the due date for tax year 2026-27. Later, he wants to file an updated return that increases the loss from ₹ 2,00,000 to ₹ 4,00,000. Is it allowed?*	
	(a)	*Yes*
	(b)	*No, because an updated return cannot be a return of loss, except where it reduces the loss originally claimed*
	(c)	*Yes, if it is filed before 31.3.3032*
	(d)	*No, because updated return can never be filed after original return*

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10.	*Mr. A has furnished an updated return for tax year 2026-27 and later discovers another omission for the same tax year. Can another updated return be filed for tax year 2026-27?*	
	(a)	*Yes, there is no limits on number of times an updated return can be filed*
	(b)	*Yes, but only within 48 months from the end of the financial year succeeding the relevant tax year*
	(c)	*No, an updated return cannot be updated again*
	(d)	*Yes, if the second updated return reduces tax liability*

14. SELF-ASSESSMENT [SECTION 266]

(1) Payment of tax, interest and fee before furnishing return of income [Section 266(1)]

Where any tax is payable on the basis of any return required to be furnished, *inter alia*, under section 263 then, the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return. The return has to be accompanied by the proof of payment of such tax, interest and fee.

(2) Manner of computation of tax payable [Section 266(2)]

The tax payable is to computed after taking into account -

(i) the amount of tax, if any, already paid under any provision of the Act (advance tax);

(ii) any tax deducted or collected at source;

(iii) any relief of tax claimed under section 157 (tax relief on arrears of salary); and

(iv) any tax credit claimed to set-off as per section 206(2)(e) to (h) (Alternate minimum tax credit), in case the assessee has exercised the option of shifting out of the default tax regime.

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(3) Order of adjustment of amount paid by the assessee [Section 266(3)]

Where the amount paid by the assessee under section 266(1) falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards the interest payable and the balance, if any, shall be adjusted towards the tax payable.

(4) Interest under section 423 [Section 266(4)]

For the above purpose, interest payable under section 423 shall be computed on the amount of tax on the total income as declared in the return, as reduced by the amount of-

(i) advance tax paid, if any;

(ii) any tax deducted or collected at source;

(iii) any relief of tax claimed under section 157

(iv) any tax credit claimed to set-off as per the provisions of section 206(2)(e) to (h), in case the assessee has exercised the option of shifting out of the default tax regime.

(5) Interest under section 424 [Section 266(5) & (6)]

Interest under section 424 is payable for default in payment of advance tax. Interest payable under section 424 shall be computed on the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.

For this purpose, "assessed tax" means the tax on total income as declared in the return as reduced by the amount of -

- tax deducted or collected at source on any income which is subject to such deduction or collection and which is taken into account in computing such total income;
- any relief of tax claimed under section 157
- any tax credit claimed to set-off as per the provisions of section 206(2)(e) to (h), in case the assessee has exercised the option of shifting out of the default tax regime.

(6) Consequence of failure to pay tax, interest or fee [Section 266(8) & (9)]

If any assessee fails to pay the whole or any part of such of tax or interest or fee, he shall be deemed to be an assessee in default in respect of the tax or

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interest or fee remaining unpaid and all the provisions of this Act shall apply accordingly.

This consequence does not limit any other consequences which the assessee may incur.

15. TAX ON UPDATED RETURN [SECTION 267]

(1) Payment of tax, additional tax, interest and fee before furnishing updated return of income

(a) <u>In a case where no return of income is furnished earlier [Section 267(1) & (2)]</u>

(I) Tax to be paid along with interest and fee before furnishing of updating return:

Where **no return** of income under section 263(1) or 263(4) has been furnished by an assessee and **tax is payable, on the basis of updated return** to be furnished by such assessee u/s 263(6), then

(a) the assessee would be **liable to pay such tax** together **with interest and fee payable** under any provision of the Act for any delay in furnishing the return or any default or delay in payment of advance tax,

(b) **such tax, interest and fee shall be payable along with the payment of additional tax** as computed as per section 267(5), before furnishing the return.

The updated return shall be accompanied by proof of payment of such tax, additional tax, interest and fee.

(II) Manner of computation of tax payable on the basis of updated return

The tax payable is to be computed after taking into account the following -

(i) the amount of tax, if any, already paid, as advance tax;

(ii) any tax deducted or collected at source;

(iii) any relief of tax claimed under section 157;

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(iv) any tax credit claimed to set-off as per the provisions of section 206(2)(e) to (h), in case the assessee has exercised the option of shifting out of the default tax regime provided under section 202(1).

(III) Interest under section 423 if no earlier return has been furnished

In a case, where no earlier return has been furnished, the interest payable under section 423 has to be computed on the amount of the tax on the total income as declared in the updated return under section 263(6), as per section 266(4).

(b) <u>In a case where return is furnished earlier [Section 267(3)]</u>

(I) Tax to be paid along with interest before furnishing updated return:

Where **return of income under section 263(1) or 263(4) or 263(5)** has been furnished by an assessee and **tax is payable, on the basis of updated return** to be furnished by such assesse u/s 263(6), then

(c) the assessee would be **liable to pay such tax** together **with interest and fee payable** under any provision of the Act for any default or delay in payment of advance tax,

(d) **such tax, interest and fell shall be payable along with the payment of additional tax** as computed as per section 267(5), as reduced by the amount of interest paid under the provisions of the Act in the earlier return, before furnishing the return.

The updated return shall be accompanied by proof of payment of such tax, additional tax, interest and fee.

(II) Manner of computation of tax payable on the basis of updated return:

The tax payable has to be computed after taking into account the following -

(i) the amount of relief or tax referred to in section 266(1), the credit for which has been taken in the earlier return;

(ii) **the tax deducted or collected at source** on any income which is subject to such deduction or collection and which is taken into account in computing total income **and which has not been included in the earlier return;** and

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(iii) any tax credit claimed, to set-off as per the provisions of section 206(2)(e) to (h), **which has not been claimed in the earlier return,** in case the assessee has exercised the option of shifting out of the default tax regime.

The aforesaid amount would be increased by the amount of refund, if any, issued in respect of such earlier return.

(III) Interest under section 424 where earlier return has been furnished [Section 267(7]

In a case where an earlier return has been furnished, interest payable under section 424 has to be computed on the assessed tax.

"Assessed tax" means the tax on the total income as declared in the updated return to be furnished under section 263(6), after taking into account the following:

(i) the amount of relief or tax referred to in section 266(1), the credit for which has been taken in the earlier return, if any;

(ii) **tax deducted or collected at source** on any income which is subject to such deduction or collection and which is taken into account in computing such total income **and which has not been included in the earlier return;** and

(iii) any tax credit claimed, to set-off as per the provisions of section 206(2)(e) to (h), **which has not been claimed in the earlier return,** in case the assessee has exercised the option of shifting out of the default tax regime.

The aforesaid amount would be increased by the amount of refund, if any, issued in respect of such earlier return.

(IV) Interest under section 425 if earlier return has been furnished

Interest payable under section 425 for deferment of advance tax, where an earlier return has been furnished, has to be computed after taking into account the total income furnished in the updated return under section 263(6) as the returned income.

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(2) Additional income-tax payable at the time of furnishing updated return [Section 267(5)]

The additional income-tax payable at the time of furnishing the updated return under section 263(6) would be –

S.No.	Time of furnishing updated return	Additional Income-tax Payable
(i)	If such return is furnished after the expiry of the time available under section 263(4) or 263(5) and before completion of 12 months from the end of the financial year succeeding the relevant tax year	**25% of aggregate** of tax and interest payable, as determined in (1) above
(ii)	If such return is furnished after the expiry of 12 months but before completion of 24 months from the end of the financial year succeeding the relevant tax year	**50% of aggregate** of tax and interest payable, as determined in (1) above
(iii)	If such return is furnished after the expiry of 24 months but before the completion of 36 months from the end of the financial year succeeding the relevant tax year	**60% of aggregate** of tax and interest payable, as determined in (1) above
(iv)	If such return is furnished after the expiry of 36 months but before the completion of 48 months from the end of the financial year succeeding the relevant tax year	**70% of aggregate** of tax and interest payable, as determined in (1) above

Computation of Additional income-tax

For the purpose of computation of "Additional income-tax",

- tax would include surcharge and cess, by whatever name called, on such tax.
- the interest payable would be interest chargeable under any provision of the Act, on the income as per updated return furnished under section 266, as reduced by interest paid in the earlier return, if any.

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The interest paid in the earlier return would be nil in case of an updated return, if no earlier return has been furnished.

(3) Power to CBDT to issue guidelines

If any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty, with the previous approval of the Central Government. Every guideline issued shall be laid before each House of Parliament.

ILLUSTRATION 4

Rishi, a 34 year resident individual, did not furnish his return of income for the tax year 2020-21, 2021-22 and 2022-23. For tax year 2023-24, he has furnished his return of income on 31.07.24 with a loss of ₹ 3,50,000. He furnished an updated return with an income of ₹ 7,50,000 on 30.04.2026 for tax year 2024-25. He gives the following information regarding each of the tax years-

Particulars	***tax year 2020-21***	***tax year 2021-22***	***tax year 2022-23***	***tax year 2023-24***	***tax year 2024-25***
Tax liability on total income before TDS/TCS/ Interest/Self-Assessment tax	*₹ 14,50,000*	*₹ 5,60,000*	*₹ 6,30,000*	-	-
TDS deducted	*₹ 5,00,000*	*₹ 10,00,000*	*₹ 2,00,000*	-	-
Interest for default in advance tax and furnishing of return of income, interest for deferment of advance tax	*₹ 2,90,000*	-	*₹ 90,000*	-	-
Self-Assessment Tax Paid	-	-	*₹ 1,00,000*	-	-

In May 2026, Rishi came to know about loss from house property of ₹ 2,00,000 which he forgot to claim while furnishing the return of income for tax year 2023-24.

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Moreover, in tax year 2024-25, he has earned dividend income of ₹4,500 and ₹4,150 from A Ltd. & B Ltd., respectively, which he has not reported in his updated return of income. He approaches you on 16.05.2026 to furnish updated return for all the tax years in order to clear his income-tax records. You are required to prepare a suggestion for which of the tax years Rishi can furnish an updated return and tax payable at the time of furnishing updated return.[5]

SOLUTION

An updated return can be furnished for any tax year at any time within 48 months from the end of the financial year succeeding the relevant tax year.

Accordingly, following are the suggestions to Rishi with respect to updated return on 16.05.2026 for tax years 2020-21, 2021-22, 2022-23, 2023-24 and 2024-25 and tax payable at the time of furnishing updated return:

Tax Year 2020-21: Since the period of 48 months from the end of financial year succeeding the tax year 2020-21 expired on 31.3.2026, updated return cannot be furnished on 16.5.2026 for tax year 2020-21.

Tax Year 2021-22: Since the period of 48 months from the end of financial year succeeding the tax year 2021-22 expires on 31.3.2027, updated return can be furnished on 16.5.2026 for tax year 2021-22. However, the amount of tax payable of ₹ 5,60,000 is before adjusting TDS of ₹ 10,00,000. In such a case, since the refund of ₹ 4,40,000 would arise, an updated return cannot be furnished for tax year 2021-22.

Tax Year 2022-23: Since the period of 48 months from the end of financial year succeeding the tax year 2022-23 expires on 31.3.2028, updated return can be furnished on 16.5.2026 for tax year 2022-23. Since updated return would be furnished after the expiry of 24 months but before completion of the period of 36 months from the end of the financial year succeeding the tax year 2022-23, additional income tax would be payable @60% of aggregate of tax (after taking into consideration tax deducted at source and self-assessment tax paid) and interest for default in advance tax and furnishing of return of income, interest for deferment of advance tax. Rishi is required to pay additional income-tax of ₹ 2,52,000 i.e., 60% of ₹ 4,20,000 [₹ 3,30,000 (₹ 6,30,000 – ₹ 2,00,000 – ₹ 1,00,000) + ₹ 90,000] in addition to tax payable of ₹ 3,30,000, interest payable of ₹ 90,000 and late fee of ₹ 5,000.

[5] Assume that the provisions of updated return under the Income-tax Act, 1961 and Income-tax Act, 2025 are same.

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Tax Year 2023-24: Since the period of 48 months from the end of financial year succeeding the tax year 2023-24 expires on 31.3.2029, updated return can be furnished on 16.5.2026 for tax year 2023-24. However, Rishi has declared loss of ₹ 3,50,000 in his original return of income and he wishes to claim additional loss from house property of ₹ 2,00,000 which he forgot to claim while furnishing the return of income. In such case, since his loss will increase from ₹ 3,50,000 to ₹ 5,50,000, an updated return cannot be furnished for tax year 2023-24.

Tax Year 2024-25: Since Rishi has already furnished an updated return for tax year 2024-25, he cannot again furnish an updated return for tax year 2024-25.

16. PERMANENT ACCOUNT NUMBER (PAN) [SECTION 262]

(1) **Persons who are mandatorily required to apply for PAN -** Sub-section (1) requires that **every person**, who has not been allotted a permanent account number (PAN), **to apply** to the Assessing Officer within the time specified in column (3) for the allotment of a PAN if he fulfils any of the conditions mentioned in column (2).

(1)	(2)	(3)
	Persons required to apply for PAN	**Time limit for making such application (Rule 158)**
(i)	his total income or the total income of any other person for which he is assessable under the Act during any tax year exceeds the maximum amount not chargeable to income-tax	On or before 31st May of the tax year immediately succeeding the tax year for which such income is assessable.
(ii)	he is carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed ₹ 5 lakhs in any tax year	Before the end of that tax year.
(iii)	he is required to furnish a return of income u/s 263 for any tax year or a person entitled to receive any amount	Before the end of that tax year.

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	on which TDS is deductible or collectible in any tax year	
(iv)	he is a resident, other than an individual, which enters into a financial transaction aggregating to ₹ 2,50,000 or more in a tax year	On or before 31st May, immediately following such tax year
(v)	he is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in (iv) above or any person competent to act on behalf of such person referred to in (iv) above	On or before 31st May, immediately following the tax year in which the person referred to in (iv) enters into financial transaction specified therein.
(vi)	he intends to enter into such transaction as may be prescribed by the Board in the interest of revenue. As per Rule 161, the CBDT has prescribed the following persons required to apply for PAN - Person who intends to deposit or deposits cash aggregating to ₹ 20 lakhs or more in a financial year, in one or more account with a banking company or a co-operative bank or Post Office - Person who intends to withdrawal or withdrawals cash aggregating to ₹ 20 lakhs or more in a financial year, in one or more account with a banking company or a co-operative bank or Post Office - Person who intends to open a current account or cash credit account with a banking company or a co-operative bank or Post Office	At least 7 days before the date on which he intends to enter into the said transaction

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	However, a person is not required to apply for PAN in a case where – - where the person, carrying out the above transaction is a non-resident (not being a company) or a foreign company; - the transaction is entered into with an IFSC banking unit; and - such non-resident (not being a company) or the foreign company does not have any income chargeable to tax in India.	

(2) **Persons who can apply for PAN - Any person, not covered** under sub section (1) **may apply** to Assessing Officer for allotment of PAN after which the Assessing Officer shall allot a PAN to such person.

(3) **Quoting of PAN -** Every person **shall quote PAN in all his returns, correspondence** with income tax authorities and in all **challans** for payment of any some due under the Act.

(4) **Intimation of changes to the Assessing Officer -** Every person **shall intimate the Assessing Officer of any change** in his address or name/nature of his business on the basis of which PAN was allotted to him.

(5) **Quoting of Aadhaar Number -** Every person who is **eligible to obtain Aadhaar Number shall quote it** in PAN application form and in return of income.

(6) Every person who has been allotted PAN and who is eligible to obtain Aadhaar Number **shall intimate his Aadhaar Number** to the prescribed income tax authority in the prescribed manner and **if he fails to do so, his PAN shall be made inoperative** in the prescribed manner.

Fee for default relating to intimation of Aadhaar Number:

Under section 430, if a person fails to intimate his Aadhaar Number on or before the prescribed date, he shall be liable to pay a fee not exceeding ₹ 1,000 at the time of making intimation u/s 262(6) after the due date.

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According to Rule 158(10), every person who is required to intimate his Aadhaar number to the prescribed authority failed to do so, shall, on subsequent intimation of his Aadhaar Number to the prescribed authority, be liable to pay a fee of ₹ 1,000.

According to **Rule 162,** when the above-mentioned person intimates his Aadhaar Number and pays the required fee, his PAN shall become operative within 30 days from the date of intimation of Aadhaar Number.

Consequences of inoperative PAN

A person, whose PAN has become inoperative, shall be liable for the following consequences till the date PAN becomes operative:

i) refund of any tax or part thereof, due under the provisions of the Act shall not be made

ii) Interest on such refund shall not be payable for the period till the date on which it becomes operative

iii) Where tax is required to be deducted or collected at source in case of such person, it will be deducted or collected at a higher rate in accordance with the provisions of section 397(2).

(7) Inter-changeability of PAN with Aadhaar Number - Every person who is required to furnish/quote PAN and who

(a) has not been allotted PAN but possesses the Aadhaar Number may intimate/ quote/ furnish his Aadhaar Number in lieu of PAN and PAN would be allotted to such person in a prescribed manner.

(b) has been allotted PAN and who has intimated his Aadhaar number to the prescribed authority, may intimate/ quote/ furnish his Aadhaar in lieu of PAN.

(8) A person having PAN, **cannot apply, obtain or possess another PAN.**

(9) Quoting and authentication of PAN or Aadhaar Number:

(a) Every person entering into prescribed transactions shall **quote his PAN or Aadhaar Number in related documents** and also authenticate such PAN or Aadhaar number in the prescribed manner.

(b) Every person receiving such document relating to the transactions referred to in clause (a) has to ensure that PAN or Aadhaar number has

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been duly quoted in such document and also ensure that such PAN or Aadhaar number is so authenticated.

Accordingly, Rule 161 prescribed that every person has, at the time of entering into a transaction specified in column (2) of the Table below, quote his PAN in documents pertaining to such transaction, and every person specified in column (3) of the said Table, who receives such document, has to ensure that the said number has been duly quoted and authenticated:

(1)	(2)	(3)
S. No.	**Nature of transaction**	**Person required to authenticate**
1.	Cash deposit or deposits aggregating to ₹ 20 lakhs or more in a financial year, in one or more account of a person with a bank or a co-operative bank or Post Office.	A bank or a co-operative bank or Post Master General of a Post Office.
2.	Cash withdrawal or withdrawals aggregating to ₹ 20 lakhs or more in a financial year, in one or more account of a person with a bank or a co-operative bank or Post Office	A bank or a co-operative bank or Post Master General of a Post Office.
3.	Opening of a current account or cash credit account by a person with a bank or a co-operative bank or Post Office	A bank or a co-operative bank or Post Master General of a Post Office.

Note - The requirement to quote PAN /Aadhaar does not apply

a) where the person carrying out such transactions is Central or State Government or Consular Office or

b) where the person carrying out such transactions is a

(i) non resident (not being company) or a foreign company

(ii) the transaction is entered into with IFSC banking unit

(iii) such non-resident (not being a company) or the foreign company who does not have any income chargeable to tax in India

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(10) Power to make Rules - The Board is empowered to make rules regarding form, manner and time in which PAN application will be made, categories of documents pertaining to, business or profession, or other transactions, in which PAN shall be quoted by every person, manner of authentication, class of persons required to take PAN and also persons exempted from provisions of this section.

According to Rule 159, every person shall quote his PAN in all documents pertaining to the following transactions for the value of transaction as given in the table below:

S. No.	Nature of transaction	Value of transaction
1.	Making an application to any bank or a co-operative bank or to any other company or institution, for issue of a credit card.	All such transactions
2.	Opening of an account with a depository, participant, custodian of securities or any other person registered under section 12(1A) of the SEBI Act, 1992.	All such transactions
3.	Payment to the RBI for acquiring bonds issued by it.	Amount exceeding ₹ 50,000
4.	Payment to a Mutual Fund for purchase of its units	Amount exceeding ₹ 50,000
5.	A contract for sale or purchase of securities (other than shares) as defined in section 2(h) of Securities Contracts (Regulation) Act 1956	Amount exceeding ₹ 1,00,000 per transaction
6.	Deposit or withdrawal with a bank or a co-operative bank or post office	Cash deposits or withdrawal aggregating to ₹ 10 lakhs or more in a financial year in one or more account of a person
7.	Sale or purchase of motor vehicle or vehicle, as defined in the Motor Vehicles Act, 1988 which requires registration by a	Amount exceeding ₹ 5,00,000

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	registering authority under that Act, except 'tractor' or sale or purchase of motor cycle as defined in Motor Vehicles Act 1988	
8.	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.	Amount exceeding ₹ 1 lakh per transaction.
9.	Payment to a company or an institution for acquiring debentures or bonds issued by it.	Amount exceeding ₹ 50,000
10.	Purchase or sale or gift or joint development agreement by any person of any immovable property.	Amount exceeding ₹ 20 lakh or valued by stamp valuation authority referred to in section 78, at an amount exceeding ₹ 20 lakh
11.	Opening an account other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account with a bank or a co-operative bank	All such transactions
12.	A time deposit (means any deposit repayable on the expiry of a fixed period) with, - (i) a bank or a co-operative bank; (ii) a Post Office; (iii) a Nidhi referred to in section 406 of the Companies Act, 2013; or (iv) a non-banking financial company which holds a certificate of registration under section 45-IA of the RBI Act, 1934, to hold or accept deposit from public.	Amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakh during a financial year.
13.	Commencement of account based relationship with an insurer as defined in section 2(9) of the Insurance Act, 1938	All such transactions where insurance premium exceeds ₹ 50,000 during a financial year

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14.	Payment to a hotel or restaurant or convention centre or banquet hall or person engaged in event management against a bill or bills at any one time.	Payment in cash of an amount exceeding ₹ 1,00,000.
15.	Sale or purchase by any person, of goods or services of any nature other than those specified at Sl. No. 1 to 14, if any.	Amount exceeding ₹ 2 lakh per transaction

Minor to quote PAN of parent or guardian

Where a person, entering into any transaction referred to in this Rule, is a minor and who does not have any income chargeable to tax, he shall quote the PAN of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction.

Declaration by a person not having PAN

Further, any person, not being a company or a firm and who does not have a PAN entering into any of the transactions mentioned at serial no. 10 to 15, shall make a declaration in Form No.97 giving therein the particulars of such transaction.

In case of a foreign company who does not have any income chargeable to tax in India and does not have a PAN and enters into transaction referred to at Sl. No. 11 or 12 of the above table, in an IFSC banking unit, has to make a declaration in Form No. 97

Compulsory application for PAN by certain person

Where any person (not being firm or company), who does not have PAN entering into any transaction referred to at Sl. No. 1 or 9 of the above table or in case of transaction referred to at Sl. No. 10, where amount of immovable property exceeds ₹ 45 lakhs or more or its value as per Stamp Valuation Authority exceeds ₹ 45 lakhs, such person shall apply for PAN.

This provision shall not apply where the person carrying out any transaction referred to at Sl. No. 1 or 9 of the above table is a non resident (not being company) or foreign company, where transaction is with IFSC banking unit and such non resident (not being company) or foreign company does not have any income chargeable to tax in India.

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Non-applicability of Rule 159

The provisions of this Rule shall not apply to the following class or classes of persons:

(i) the Central Government, State Governments and the Consular Offices; and

(ii) the non-residents in respect of the transactions referred to at Sl. No. 1 or 3 or 14 or 15 of the above Table.

(11) The Central Government may notify the class or classes of persons who shall apply to the Assessing Officer for allotment of PAN and the time limit for doing so. The class or classes of persons may include such persons by whom tax is payable under the Act, by whom any tax or duty is payable under any other law in force or being importers and exporters, even when no tax is payable by them.

It may also notify class or classes of persons or any State or any part of any State for whom quoting/ intimating of Aadhaar Number is not required.

Accordingly, the Central Government has, vide Notification No. 37/2017 dated 11.05.2017 effective from 01.07.2017, notified that the provisions relating to quoting of Aadhaar Number would not apply to an individual who does not possess the Aadhaar number and is:

(i) residing in Assam, Jammu & Kashmir and Meghalaya;

(ii) a non-resident as per Income-tax Act, 2025;

(iii) of the age of 80 years or more at any time during the tex year;

(iv) not a citizen of India

(12) Meaning of certain term

Term	Meaning
Authentication	The process by which the PAN or Aadhaar number along with demographic information or biometric information of an individual is submitted to the income-tax authority or such other prescribed authority or agency as may be prescribed for its verification and such authority or agency verifies the correctness, or the lack thereof, on the basis of information available with it.

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(13) Penalty for failure to comply with the provisions of section 262 [Section 467]

Section	Default	Penalty
467(1)	Failure to comply with the provisions of section 262	Assessing officer may impose a penalty of ₹ 10,000
467(2)	Failure to quote/intimate his PAN/Aadhaar number in any document as referred to in section 262(9)(a) or knowingly or believing quoting/intimating a false number	Assessing officer may impose a penalty of ₹ 10,000 for each such default
467(3)	Failure to quote or authenticate PAN/Aadhaar Number in any document as referred to in section 262(9)(a)	Assessing officer may impose a penalty of ₹ 10,000 for each such default
467(4)	Failure to ensure that the PAN/Aadhaar Number has been correctly quoted or authenticated in documents relating to transactions prescribed under section 262(9)(a) by the person responsible to do so	Assessing officer may impose a penalty of ₹ 10,000 for each such default

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LET US RECAPITULATE

Section	Particulars
263(1)	**Assessees required to furnish return of income compulsorily** (i) Companies; (ii) firms; (iii) a University, college or other institution; and (iv) a person, who is a resident other than not ordinarily resident, and who at any time during the tax year, holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has a signing authority in any account located outside India or is a beneficiary of any asset (including any financial interest in an entity) located outside India. The below mentioned persons shall, for a tax year, **furnish a return of his income if the conditions specified therein are satisfied –** (i) Individuals, HUF, AOPs or BOIs and artificial juridical persons if his total income or the total income of any other person in respect of which he is assessable during the tax year without giving effect to deductions allowable under section 82, 83, 84, 85, 86 or deductions under Chapter VIII exceeds the basic exemption limit; (ii) a person who has suffered a loss in the tax year under the head "Profits and gains of business or profession" or under "Capital gains" and who intends to claim such loss or any part thereof to be carried forward as per the Act; (iii) a person other than a company or a firm, who is not required to furnish a return under section 263(1), who during the tax year – (a) has deposited more than ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or (b) has incurred expenditure of more than ₹ 2 lakh for himself or any other person for travel to a foreign

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country (not including travel to neighbouring countries or to specific pilgrimage places); or

(c) has incurred expenditure of more than ₹ 1 lakh towards consumption of electricity; or

(d) his total sales/turnover/ gross receipts in the business exceed ₹ 60 lakhs; or

(e) his total gross receipts in profession exceed ₹ 10 lakhs ; or

(f) aggregate tax deducted or collected at source in case of such person is ₹ 25,000 or more (₹ 50,000 or more in case of individual resident of age 60 years or more); or

(g) has deposited in his one or more savings bank account, in aggregate, ₹ 50 lakhs or more.

Due date of filing return of income

(i) 30th November of the financial year succeeding the relevant tax year, in the case of an assessee including the partners of the firm, who is required to furnish a report referred to in section 172.

(ii) 31st October of the financial year succeeding the relevant tax year, in case the assessee (other than an assessee referred to in (i) above) is:

(a) a company;

(b) an assessee (other than company) whose accounts are required to be audited; or

(c) a partner of a firm whose accounts are required to be audited.

(iii) 31st August of the financial year succeeding the relevant tax year, in case of assessee, where the assessee, other than an assessee referred to in (ii) above, is -

(a) having income from profits and gains of business or profession whose accounts are not required to be audited; or

(c) a partner of a firm whose accounts are not required to be audited

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	(iv) 31st July of the financial year succeeding the relevant tax year, in case of any other assessee.
263(4)	**Belated Return** A return of income for any tax year, which has not been furnished within the time allowed u/s 263(1)(c), may be furnished at any time : (i) within nine months from the end of the relevant tax year (i.e., 31.12.2027 for tax year 2026-27); or (ii) before completion of the assessment, whichever is earlier.
263(5)	**Revised Return** If any omission or any wrong statement is discovered in a return furnished u/s 263(1) or belated return u/s 263(4), a revised return may be furnished by the assessee at any time: (i) within twelve months from the end of the relevant tax year (i.e., 31.03.2028 for tax year 2026-27); or (ii) before completion of the assessment, whichever is earlier. Belated return or return of loss can also be revised.
423	**Interest for default in furnishing return of income** Interest under section 423 is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income. **Where return is furnished u/s 263(1), (4) or (6),** the assessee shall be liable to pay simple interest at the rate of 1%. Interest shall be paid for the number of months comprised in the period starting with the due date for furnishing the return under section 263(1) and ending with the date of furnishing the return. If no return has been furnished, the period for which interest is payable ends on the date of completion of assessment. Amount of tax on which interest is payable shall be the amount of tax on total income as determined under section 270(1) or as determined under regular assessment less the amount of tax already paid. Tax on total income as determined under section 270(1) or as determined under regular assessment shall not include additional income tax, if any, payable u/s 267.

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	The interest payable under section 423 shall be reduced by the interest, if any, paid on self-assessment under section 266 towards interest chargeable.
428	**Fee for default in furnishing return of income** a) Where a person who is required to furnish a return of income under section 263(1), fails to do so within the prescribed time limit under section 263(1)(c), he shall be liable to pay by way of fee – - ₹ 1,000, if the total income of such person does not exceed ₹ 5,00,000; and - ₹ 5,000, in any other case. b) Where a person furnishes revised return of income u/s 263(5) beyond nine months from the end of relevant tax year, he shall be liable to pay by way of fee - - ₹ 1,000, if the total income of such person does not exceed ₹ 5,00,000; and - ₹ 5,000, in any other case.
263(6)	**Updated Return** Any person may, whether or not he has furnished a return under section 263(1) or belated return under section 263(4) or revised return under section 263(5) for the relevant tax year, furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the tax year at any time within 48 months from the end of the financial year succeeding the relevant tax year. If any person has a loss in any tax year and has furnished a return of loss on or before the due date of furnishing return of income under section 263(1), he shall be allowed to furnish an updated return if such updated return is a return of income or such updated return has the effect of reducing the loss . The provisions of updated return would not apply for a tax year for any person if – (i) the updated return is a return of loss for that tax year (except where the updated return has the effect of reducing loss originally claimed); or (ii) the updated return has the effect of decreasing the total tax liability determined on the basis of return furnished under section 263(1) or section 263(4) or section 263(5) for that tax year; or

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	(iii) the updated return results in refund where no refund was due or increases the refund due on the basis of return furnished under section 263(1) or section 263(4) or section 263(5) for that tax year; (iv) an updated return has already been furnished for that tax year; or (v) he is such person or belongs to such class of persons, as may be notified by the Board.
263(7)	**Defective Return** Where the Assessing Officer considers that the return of income is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within 15 days from the date of intimation or within such further period as may be allowed by the Assessing Officer on an application made by the assessee in this behalf. If the defect is not rectified within such period, the return would be treated as an invalid return. Consequently, the provisions of the Income-tax Act, 2025 would apply as if the assessee had failed to furnish the return. However, where the assessee rectifies the defect after the expiry of 15 days or further period allowed by the Assessing Officer but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.
266	**Self-Assessment tax** Where any tax is payable on the basis of any return required to be furnished under section 263, after taking into account – (i) the amount of tax, already paid, (ii) the tax deducted or collected at source (iii) any relief of tax claimed under section 157; and (iv) any AMT credit claimed to be set-off, in case the assessee has exercised the option of shifting out of the default tax regime); the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return.

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	Where the amount paid by the assessee under section 266(1) falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter, towards interest and the balance shall be adjusted towards the tax payable.
267	**Tax on Updated Return** **Payment of tax, additional tax, interest and fee before furnishing updated return of income if no return is furnished earlier -** Where no return of income has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 263(6), the assessee would be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional tax computed under section 267(5), before furnishing the return. The updated return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee. The tax payable is to be computed after taking into account the following - (i) the amount of tax, if any, already paid, as advance tax (ii) the tax deducted or collected at source (iii) any relief of tax claimed under section 157; and (iv) any AMT credit claimed to set-off, in case the assessee has exercised the option of shifting out of the default tax regime. In a case, where no earlier return has been furnished, the interest payable under section 423 has to be computed on the amount of the tax on the total income as declared in the updated return under section 263(6), as per section 266(4). **Payment of tax, additional tax, interest and fee before furnishing updated return of income if return is furnished earlier** Where return of income under section 263(1) or 263(4) or 263(5) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 263(6), the assessee would be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax, along with the payment of

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	additional tax computed u/s 267(5), as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return. The updated return shall be accompanied by proof of payment of such tax, additional income-tax and interest. The tax payable has to be computed after taking into account the following - (i) the amount of relief or tax referred to in section 266(1), the credit for which has been taken in the earlier return (ii) the tax deducted or collected at source on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return (iii) any AMT credit claimed, to set-off which has not been claimed in the earlier return, in case the assessee has exercised the option of shifting out of the default tax regime. The aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return. **Additional income-tax payable at the time of updated return** The additional tax payable at the time of furnishing the updated return under section 263(6) would be – (i) 25% of aggregate of tax and interest payable, as determined above, if such return is furnished after expiry of the time available under section 263(4) or 263(5) and before completion of the period of 12 months from the end of the financial year succeeding the relevant tax year; or (ii) 50% of aggregate of tax and interest payable, as determined above, if such return is furnished after the expiry of 12 months, but before completion of the period of 24 months from the end of the financial year succeeding the relevant tax year. (iii) 60% of aggregate of tax and interest payable, as determined above, if such return is furnished after the expiry of 24 months but before completion of the period of 36 months from the end of the financial year succeeding the relevant tax year. (iv) 70% of aggregate of tax and interest payable, as determined above, if such return is furnished after the expiry of 36 months but before completion of the period of 48 months from the end of the financial year succeeding the relevant tax year.

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262	**Permanent Account Number (PAN)** Every person is required to quote his PAN in all his returns, correspondence with income tax authorities and in all challans for payment of any some due under the Act. Every person who is eligible to obtain Aadhaar Number shall quote it in PAN application form and in return of income. Every person who has been allotted PAN and who is eligible to obtain Aadhaar Number shall intimate his Aadhaar Number to the prescribed income tax authority in the prescribed manner and if he fails to do so, his PAN shall be made inoperative in the prescribed manner. Under section 430, if a person fails to intimate his Aadhaar Number on or before the prescribed date, he shall be liable to pay a fee not exceeding ₹ 1,000 at the time of making intimation u/s 262(6) after the due date. When the above mentioned person intimates his Aadhaar Number and pays the required fee, his PAN shall become operative within 30 days from the date of intimation of Aadhaar Number. A person, whose PAN has become inoperative, shall be liable for the certain consequences till the date PAN becomes operative. **Inter-changeability of PAN with the Aadhaar number** Every person who is required to furnish or intimate or quote his PAN may furnish or intimate or quote his Aadhaar Number in lieu of the PAN if he - has not been allotted a PAN but possesses the Aadhaar number - has been allotted a PAN and has intimated his Aadhaar number to prescribed authority.

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TEST YOUR KNOWLEDGE

1. *State with reasons whether you agree or disagree with the following statements:*

   (a) *Return of income of Limited Liability Partnership (LLP) could be verified by any partner.*

   (b) *Time limit for furnishing return under section 263(1) in the case of Mr. A having total turnover of ₹ 160 lakhs (₹ 100 lakhs received in cash) for the year ended 31.03.2027 whether or not declaring presumptive income under section 58, is 31st October, 2027.*

2. *Mr. Vineet exercised the option of shifting out of the default tax regime and submits his return of income under the optional tax regime (i.e., the normal provisions of the Act) on 12.07.2027 for tax year 2026-27 consisting of income under the head "Salaries", "Income from house property" and bank interest. On 21.12.2027, he realized that he had not claimed deduction under section 153 in respect of his interest income on the Savings Bank Account. He wants to revise his return of income. Can he do so? Examine. Would your answer be different if he discovered this omission on 21.03.2028?*

3. *Where the Karta of a HUF is absent from India, the return of income can be verified by any male member of the family. Examine with reasons, whether the given statement is true or false, with regard to the provisions of the Income-tax Act, 2025.*

4. *Explain the term "return of loss" under the Income-tax Act, 2025. Can any loss be carried forward even if return of loss has not been filed as required?*

5. *Mr. Aakash has undertaken certain transactions during the tax year 2026-27, which are listed below. You are required to identify the transactions in respect of which quoting of PAN is mandatory in the related documents –*

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S. No.	Transaction
1.	*Payment of life insurance premium of ₹ 45,000 in the tax year 2026-27 by account payee cheque to LIC for insuring life of self and spouse*
2.	*Payment of ₹ 1,00,000 to a five-star hotel for stay for 5 days with family, out of which ₹ 60,000 was paid in cash*
3.	*Payment of ₹ 80,000 by ECS through bank account for acquiring the debentures of A Ltd., an Indian company*
4.	*Applied to SBI for issue of credit card.*
5.	*Purchased a tractor for ₹ 10,00,000*

ANSWERS

1. (a) Disagree

The return of income of LLP should be verified by a designated partner.

Any other partner can verify the Return of Income of LLP only in the following cases:-

(i) where the designated partner is not able to verify the return due to any unavoidable reason, or

(ii) where there is no designated partner.

(b) Disagree

In case Mr. A offers his business income as per the presumptive taxation provisions of section 58 (₹ 11.60 lakhs or more), then the due date under section 263(1) for furnishing of return of income for the year ended 31.03.2027, shall be 31st August, 2027.

In case, Mr. A wants to declare business income lower than ₹ 11.60 lakhs, he has to get his accounts audited under section 63 since his turnover exceeds ₹ 1 crore, in which case, the due date for furnishing return would be 31st October, 2027.

2. Since Mr. Vineet has income only under the heads "Salaries", "Income from house property" and "Income from other sources", he does not fall under the category of a person who is having income from profits and gains of business

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or profession. Therefore, the due date of furnishing return for tax year 2026-27 under section 263(1), in his case, is 31st July, 2027. Since Mr. Vineet had furnished his return under optional regime on 12.7.2027, the said return is within the time provided under section 263(1)(c).

As per section 263(5), a return furnished under section 263(1) can be revised. Therefore, Mr. Vineet can revise the return of income furnished by him under section 263(1) in December 2027, to claim deduction under section 153, since the time limit for filing a revised return is 12 months from the end of the relevant tax year, which is 31.03.28. He shall not be required to pay the fee u/s 428(b), as the revised return is furnished within nine months from the end of relevant tax year.

He can still revise his return of income had he discovered this omission only on 21.03.2028, since it is within 31.03.2028. However, in this case, he shall be liable to pay fee u/s 428(b) of ₹ 1,000, if his total income does not exceed ₹ 5,00,000 and ₹ 5,000, in any other case.

3. **False:** Section 265 provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.

4. A return of loss is a return which shows certain losses. Section 263(1)(viii) states that to carry forward the losses specified therein, the return should be filed within the time specified in section 263(1).

Section 121 requires mandatory furnishing of return of loss u/s 263(1) on or before the due date specified u/s 263(1)(c) for carry forward of the following losses -

(a) Loss under the head "Capital Gains" u/s 111(1)

(b) Business loss u/s 112(1)

(c) Speculation business loss u/s 113(2)

(d) Loss from specified business u/s 114(2) [In case the assessee has exercised the option of shifting out of the default tax regime]

(e) Loss from specified activity i.e., the activity of owning and maintaining race horses u/s 115(2)

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However, loss under the head "Income from house property" u/s 110(1) [In case the assessee has exercised the option of shifting out of the default tax regime] and unabsorbed depreciation u/s 33(11)(b) can be carried forward for set-off even though return of loss has not been furnished on or before the due date.

5.

	Transaction	Is quoting of PAN mandatory in related documents?
1.	Payment of life insurance premium of ₹ 45,000 in the tax year 2026-27 by account payee cheque to LIC for insuring life of self and spouse	No, since the premium paid does not exceed ₹ 50,000 in the tax year 2026-27
2.	Payment of ₹ 1,00,000 to a five-star hotel for stay for 5 days with family, out of which ₹ 60,000 was paid in cash	No, since the amount paid in cash does not exceed ₹ 1,00,000.
3.	Payment of ₹ 80,000, by ECS through bank account, for acquiring the debentures of A Ltd., an Indian company	Yes, since the amount paid for acquiring debentures exceeds ₹ 50,000. Mode of payment is not relevant in this case.
4.	Applied to SBI for issue of credit card.	Yes, quoting of PAN is mandatory on making an application to a bank for issue of credit card.
5.	Purchased a tractor for ₹ 10,00,000	No, since the purchase of tractor is excluded from "motor vehicle", even though the amount of transaction exceeds ₹ 5,00,000.

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Q. NO.	ANSWERS	
1.	(c)	31st October, 2027
2.	(c)	31st October, 2027
3.	(a)	31st July, 2027
4.	(c)	No, revised return cannot be filed after completion of assessment
5.	(b)	No, belated return can be revised
6.	(c)	₹ 1,000
7.	(c)	No fee is leviable
8.	(b)	Any adult member of the HUF
9.	(b)	No, because an updated return cannot be a return of loss, except where it reduces the loss originally claimed
10.	(c)	No, an updated return cannot be updated again

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CHAPTER 9

INCOME TAX LIABILITY - COMPUTATION AND OPTIMISATION



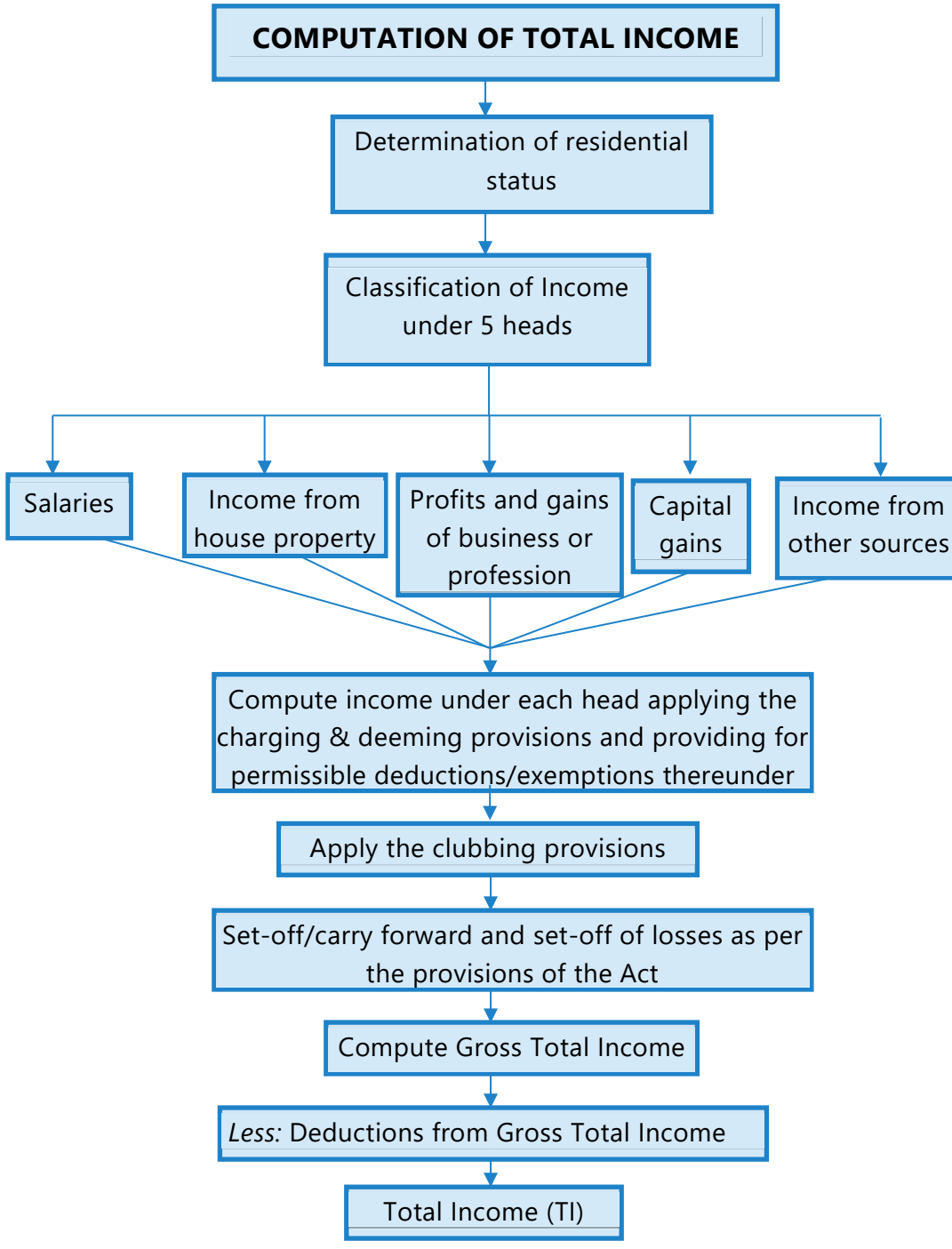
LEARNING OUTCOMES

After studying this chapter, you would be able to–

- **compute** the tax liability of an individual under the default tax regime under section 202(1);
- **compute** the tax liability of an individual as per the optional tax regime of the Income-tax Act, 2025;
- **examine** the applicability of the provisions of Alternate Minimum Tax (AMT), if applicable and compute the tax liability applying such provisions and determine the tax credit, if any, to be carried forward;
- **compare** the tax liability computed under the default tax regime under section 202(1) with the tax as per the optional tax regime (including provisions relating to AMT, if applicable) and determine which is more beneficial to the individual.

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CHAPTER OVERVIEW



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1. MEANING OF TOTAL INCOME

The total income of an individual is arrived at after making deductions under Chapter VIII from the Gross Total Income. As we have learnt earlier, Gross Total Income is the aggregate of the income computed under the 5 heads of income, after giving effect to the provisions for clubbing of income and set-off and carry forward & set-off of losses.

2. INCOME TO BE CONSIDERED WHILE COMPUTING TOTAL INCOME OF INDIVIDUALS

	Capacity in which income is earned by an individual	Treatment of income earned in each capacity
(1)	In his personal capacity (under the 5 heads of income)	Income from salaries, Income from house property, Profits and gains of business or profession, Capital gains and Income from other sources.
(2)	As a partner of a firm/LLP	(i) Salary, bonus etc. received by a partner is taxable as his business income. (ii) Interest on capital and/or loans to the firm/LLP is taxable as business income of the partner. The income mentioned in (i) and (ii) above are taxable to the extent they are allowed as deduction to the firm. (iii) Share of profit in the firm is exempt in the hands of the partner [Schedule III (Table: Sl.No.2)]. The profit credited to the partners' accounts in the firm would be exempt from tax in the hands of such partners, even if the income chargeable to tax becomes Nil in the hands of the firm on account of any exemption or deduction available under the provisions of the Act [Circular No. 8/2014 dated 31.03.2014].

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(3)	As a member of HUF	(i) Share of income of HUF is exempt in the hands of the member [Schedule III Table: Sl.No.1]. (ii) Income from an impartible estate of HUF is taxable in the hands of the holder of the estate who is the eldest member of the HUF. (iii) Income from self-acquired property converted into joint family property, without adequate consideration.
(4)	Income of other persons included in the income of the individual	(i) Transferee's income, where there is a transfer of income without transfer of assets (ii) Income arising to transferee from a revocable transfer of an asset. In cases (i) and (ii), income is includible in the hands of the transferor. (iii) Income of spouse as mentioned in section 99(1)(a)(i)/(ii) (iv) Income from assets transferred otherwise than for adequate consideration to any person for the benefit of spouse [Section 99(1)(d)]. (v) Income from assets transferred otherwise than for adequate consideration to son's wife or to any person for the benefit of son's wife [Section 99(1)(b)/(d)]. (vi) Income of minor child as mentioned in section 99(1)(c).

3. COMPUTATION OF TOTAL INCOME AND TAX PAYABLE BY AN INDIVIDUAL

Income-tax is levied on an assessee's total income. Such total income has to be computed as per the provisions contained in the Income-tax Act, 2025. Steps 1 to 8 given hereunder have to be followed to compute the total income of an individual assessee. Thereafter, steps 9 to 15 have to be followed to compute the tax payable.

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Step 1 – Determination of residential status

- The residential status of an individual has to be determined to ascertain which income is to be included in computing the total income.
- In the case of an individual, the duration for which he is present in India in the relevant tax year or relevant tax year and the preceding tax years, as the case may be, determine his residential status.
- An individual can be either a –
  - Resident and ordinarily resident
  - Resident but not ordinarily resident
  - Non-resident
- An individual would be deemed to be resident in India for a tax year if he
  - is a citizen of India;
  - is not liable to tax in any other country or territory due to his domicile, residence or similar criteria; and
  - has total income (other than the income from foreign sources) exceeding ₹ 15 lakhs during such tax year.

  Such deemed resident would, by default, be a resident but not ordinarily resident in India in that tax year.
- The residential status of an individual determines the scope of his taxable income.
- Income which accrues outside India and is received outside India is taxable in the hands of a resident and ordinarily resident but is not taxable in the case of a non-resident. In the case of a resident but not ordinarily resident, such income would be taxable only if it is derived from a business controlled in India or profession set up in India.

Step 2 – Classification of income under different heads

- An individual may earn income from different sources. Under the Income-tax Act, 2025, for computation of total income, all income of an individual assessee can be classified into five different heads of income.

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- There are five heads of income, namely, -
  - Salaries,
  - Income from house property,
  - Profits and gains of business or profession
  - Capital Gains
  - Income from other sources
- The income of an assessee should be identified and grouped under the respective head of income.
- Each head of income has a charging section (for example, section 15 for salaries, section 20 for income from house property).
- Deeming provisions are also contained under certain heads, by which specific items are sought to be taxed under those heads.



Unrealized rent and arrears of rent from house property would be deemed to be income from house property in the hands of the recipient individual even if he is not the owner of the house property at the time of receipt of such amount.

- The charging section and the deeming provisions would help you to determine the scope of income chargeable under a particular head.

Step 3 – Computation of income under each head

- Income is to be computed as per the provisions governing a particular head of income.
- Assess the income under each head by -
  - applying the charging and deeming provisions,
  - excluding items of income relating to that head in respect of which specific exemptions are provided in schedules read with section 11.

    There are certain incomes which are wholly exempt from income-tax. These incomes have to be excluded and will not form part of Gross Total Income. *For e.g. agricultural income which is exempt under both the tax regimes.*

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Also, some incomes are partially exempt from income-tax. These incomes are excluded while computing income under the relevant head only to the extent of the limits specified in the Act. *For e.g. House Rent Allowance, Children Education Allowance are exempt upto prescribed limits under the optional tax regime. However, there is no exemption for these allowances under the default tax regime under section 202(1).*

- allowing the permissible deductions under that head, and



While calculating income from house property of a rented house property, municipal taxes paid by the owner and interest on loan are allowed as deduction. Standard deduction of upto ₹ 50,000 (under optional regime) and ₹ 75,000 (under default regime) is allowed under salaries. Similarly, deductions and allowances are prescribed under other heads of income.

- disallowing the non-permissible deductions.



While computing income under the head "Profits and gains from business or profession", expenditure of personal nature and expenditure which is in the nature of offence are not allowable as deduction. Hence, such expenditure, if any, debited to profits and loss account, has to be added back while computing income under this head.

Likewise, while computing net consideration for capital gains, brokerage is a permissible deduction from gross sale consideration but securities transaction tax paid is not permissible.

♦ In this step, it is necessary to consider whether the individual is paying tax under the default tax regime or exercising the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act. Certain deductions which are allowable under the normal provisions of the Act are not permissible under the default tax regime, *For e.g. additional depreciation, investment linked tax deduction under section 46, contribution to scientific research association, national laboratory, IIT etc. However, expenditure on in-house scientific research related to the business of the assessee is allowable as deduction under both the tax regimes.*

♦

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Step 4 – Clubbing of income of spouse, minor child etc.

- An individual in a higher tax bracket may have a tendency to divert his income to another person who is not subject to tax or who is in a lower tax bracket.



An individual may make a fixed deposit in the name of his minor son, so that income from such deposit would accrue to his son, who does not have any other income.

- In order to prevent evasion of income-tax by such means, clubbing provisions have been incorporated in the Act, under which income arising to certain persons (like spouse, son's wife etc.) have to be included in the income of the person who has diverted his income to such persons for the purpose of computing tax liability.

- Further, income of a minor child, not being a minor child suffering from any disability of the nature specified under section 154 (other than Income from work done by child or from activities where skill, talent or specialised knowledge / experience is applied) is includible in the hands of the parent whose total income excluding minor's income is greater. Such income will be included in the hands of the parent and if that parent has exercised the option to shift out of the default tax regime and pays tax under normal provisions of the Act, exemption of up to ₹ 1,500 under Schedule III (Table: S. No. 17) would be provided from that income.

Step 5 – Set-off or carry forward and set-off of losses

An individual may have different sources of income under the same head of income. He may have profit from one source and loss from the other. Similarly, he can have loss under one head of income and profits under another head of income. There are provisions in the Act for allowing inter-source and inter-head adjustment.

- **Inter-source set-off of losses**

  - A person may have income from one source and loss from another source under the same head of income. For instance, a person may have profit from wholesale trade of merchandise and loss from the business of plying vehicles.

    The loss of one business can be set-off against the profits of another business to arrive at the net income under the head "Profits and gains of business or profession". However, loss from speculation business can

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be set-off only against profits from speculation business and not any other business.

- Set-off of loss from one source against income from another source within the same head of income is permissible, subject to certain exceptions, like long-term capital loss cannot be set-off against short-term capital gains though short-term capital loss can be set-off against long-term capital gains.

♦ **Inter-head set-off of losses**

- Likewise, set-off of loss from one head against income from another head is also permissible, subject to certain exceptions, like business loss cannot be set-off against salary income; loss under the head "Capital Gains" cannot be set-off against any other head of income.
- Loss from house property cannot be set-off against any other head of income, if the individual pays tax under the default tax regime under section 202(1).

  If the individual exercises the option to shift out of the default tax regime and pays tax under normal provisions of the Act, loss from house property can be set-off against income under any other head only to the extent of ₹ 2 lakhs. The remaining loss from house property has to be carried forward to the subsequent year for set-off against income from house property in that year.

♦ **Carry forward and set-off of losses**

- Unabsorbed losses of the current year can be carried forward to the next year for set-off only against the respective head of income.
- Here again, if there are any restrictions relating to inter-source set-off, the same will apply, like long-term capital loss which is carried forward can be set-off only against long-term capital gains and not short-term capital gains of a later year.
- The maximum number of years up to which any particular loss can be carried forward is also provided under the Act.



Business loss can be carried forward for a maximum of 8 tax years immediately succeeding the tax year for which the loss was first computed to be set-off against business

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income. However, loss from specified business referred to in section 46 can be carried forward indefinitely for set-off against income from any specified business.

- It must be noted that **loss from an exempt source** cannot be set-off against profits from a taxable source of income.



Share of loss from a partnership firm cannot be set-off against sole proprietary business income of the partner, since share of income of the firm is exempt under Schedule III (Table: Sl.No.2).

Step 6 – Computation of Gross Total Income

- The income computed under each head, after giving effect to the clubbing provisions and provisions for set-off and carry forward and set-off of losses, have to be aggregated to arrive at the gross total income.
- The process of computing GTI is depicted hereunder -

Add income computed under each head	→	Apply clubbing provisions	→	Apply the provisions for set-off and carry forward of losses

Step 7 – Deductions from Gross Total Income

Certain deductions are allowable from gross total income to arrive at the total income. These deductions are contained in Chapter VIII. These deductions are allowable if the individual exercises the option to shift out of the default tax regime and pay tax under normal provisions of the Act, subject to satisfaction of the conditions prescribed in the relevant sections.

- **Deduction in respect of certain payments, for example,**

Section	Nature of Payment/Deposit
123	Payment of life insurance premium, tuition fees of children, deposit in public provident fund, repayment of housing loan etc.
126	Health insurance premium paid by an individual/HUF for the specified persons/ contribution to CGHS etc.

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129	Payment of interest on educational loan taken for self or relative

- **Deduction in respect of certain incomes, for example,**

Section	Nature of Income
144	Deduction in respect of units established in Special Economic Zones
151	Royalty income of authors of certain books other than text books
152	Royalty on patents

- **Deduction in respect of other incomes**

Section	Nature of Income
153	Interest on deposits with a bank, co-operative society and post office.

- **Other Deductions**

Deduction under section 154 in case of a person with disability

There are limits in respect of deduction under certain sections. The payments/incomes are allowable as deduction subject to such limits. For example, the maximum deduction under section 151 is ₹ 3 lakhs; under section 153 is ₹ 10,000/ ₹ 50,000, as the case may be.

Note - Deduction under section 124(1)/(2) [Employer's contribution to pension scheme of Central Government], section 125(2) [Central Government's contribution to assessee's account in Agniveer Corpus Fund] and section 146 would be available even if the eligible assessee pays tax at concessional rates of tax u/s 202(1) under the default tax regime.

Step 8 – Computation of Total income

- The gross total income as reduced by the above deductions under Chapter VIII is the total income.

Total income = GTI – Deductions under Chapter VIII

- It should be rounded off to the nearest multiple of ₹ 10.
- Tax is calculated on the total income of the assessee.

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Step 9 – Application of the rates of tax on the total income in case of an individual

- **Concessional tax rates under default tax regime under section 202(1) of the Income-tax Act, 2025**

  For individuals, there is a slab rate and basic exemption limit. At present, the basic exemption limit is ₹ 4,00,000 under the default tax regime. The rates of tax and level of total income are as under –

	Total income (in ₹)	Rate of Tax
(i)	Upto ₹ 4,00,000	NIL
(ii)	From ₹ 4,00,001 to ₹ 8,00,000	5%
(iii)	From ₹ 8,00,001 to ₹ 12,00,000	10%
(iv)	From ₹ 12,00,001 to ₹ 16,00,000	15%
(v)	From ₹ 16,00,001 to ₹ 20,00,000	20%
(vi)	From ₹ 20,00,001 to ₹ 24,00,000	25%
(vii)	Above ₹ 24,00,000	30%

- **Tax rates prescribed by the Annual Finance Act under the optional tax regime (regular provisions of the Act)**

  The slab rates for tax year 2026-27 applicable to Individual under normal provisions of the Act are as follows:

Total income (in ₹)	Rate of Tax
(i) Upto ₹ 2,50,000 (below 60 years) (ii) Upto ₹ 3,00,000 (60 years or above but less than 80 years and resident in India) (iii) Upto ₹ 5,00,000 (above 80 years and resident in India)	Nil
₹ 2,50,001/ ₹ 3,00,001, as the case may be, to ₹ 5,00,000 [in cases (i) and (ii) above, respectively]	5%
₹ 5,00,001 to ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

- The rates of tax have to be applied on the total income to compute the tax liability.

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- Rates of tax in respect of certain incomes are provided under the Income-tax Act, 2025 itself. Slab rates are not applicable under both the tax regimes in respect of such incomes. For instance, the rates of tax for long term capital gains on certain assets, long term capital gain on other assets, certain short term capital gains, winnings from lotteries, crossword puzzles, races and winnings from online games etc. are prescribed in sections 198, 197, 196, 194(1) (Table: Sl. No. 1) and 194(1) (Table: Sl. No. 5), respectively.
- The special rates of tax have to be applied on the respective component of total income and the general slab rates have to be applied on the balance of total income as per the tax regime in which he pays tax.
- The unexhausted basic exemption limit can, however, be adjusted against long-term capital gains taxable under section 198/197 and short-term capital gains taxable under section 196 in case of resident individual in both the tax regime.

Step 10 – Surcharge/ Rebate under section 156

Surcharge

Surcharge is an additional tax payable over and above the income-tax. Surcharge is levied as a percentage of income-tax.

In case the assessee pays tax under default tax regime under section 202(1)

The rates of surcharge applicable for tax year 2026-27, in case the individual assessee pays tax under default regime under section 202(1), are as follows:

	Particulars	Rate of surcharge on income-tax
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 196, 197 and 198) >₹ 50 lakhs but ≤ ₹ 1 crore	10%
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 1 crore but ≤ ₹ 2 crore	15%
(iii)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 2 crore	25%
	Where the total income includes any dividend income or capital gains chargeable to tax u/s 196,	Not exceeding 15%

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	197 and 198, the rate of surcharge on the amount of income-tax computed in respect of that part of income	
(iv)	Where total income (including dividend income and capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 2 crore in cases not covered under (iii) above	15%

In case the assessee exercises the option to shift out of the default regime

The rates of surcharge applicable for tax year 2026-27, in case the individual assessee exercises the option to shift out of the default regime, are as follows:

	Particulars	Rate of surcharge on income-tax
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 50 lakhs but ≤ ₹ 1 crore	10%
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 1 crore but ≤ ₹ 2 crore	15%
(iii)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 2 crore but ≤ ₹ 5 crore	25%
	Where the total income includes any dividend income or capital gains chargeable to tax u/s 196, 197 and 198, the rate of surcharge on the amount of income-tax computed in respect of that part of income	Not exceeding 15%
(iv)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 5 crore	37%
	Where the total income includes any dividend income or capital gains chargeable to tax u/s 196, 197 and 198, the rate of surcharge on the amount of income-tax computed in respect of that part of income	Not exceeding 15%

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(v)	Where total income (including dividend income and capital gains chargeable to tax u/s 196, 197 and 198) > ₹ 2 crore in cases not covered under (iii) and (iv) above	15%

Marginal relief would also be available under both the tax regimes to ensure that the increase in amount of tax payable (including surcharge) due to increase in total income of an assessee beyond the prescribed limit should not exceed the amount of increase in total income.

Rebate u/s 156

Section 156 provides a rebate from the tax payable by an assessee, being an individual resident in India.

Rebate to resident individual paying tax under default regime u/s 202(1)

(i) If the total income of the resident individual for any tax year is chargeable to tax under section 202(1) and the total income of such individual **does not exceed ₹ 12,00,000**, the rebate shall be equal to

- the amount of income-tax payable or
- **₹ 60,000**,

whichever is less.

(ii) If the total income of the resident individual for any tax year is chargeable to tax under section 202(1) and the total income of such individual **exceeds ₹ 12,00,000** and income-tax payable on such total income exceeds the amount by which the total income is in excess of ₹ 12,00,000, the rebate would be as follows.

Step 1 – Total income (-) ₹ 12 lakhs (A)

Step 2 - Compute income-tax payable on total income (B)

Step 3 - If B>A, rebate under section 202(1) would be a B – A.

In both the above situations, rebate shall not exceed income-tax payable as per the rates provided in section 202(1). It implies that deduction against tax payable on income taxable at special rates such as LTCG taxable under section 197 or 198, STCG taxable under section 196 would not be available.

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Rebate to resident individual paying tax under optional tax regime (normal provisions of the Act

If total income of such individual **does not exceed ₹ 5,00,000**, the rebate shall be equal to

- the amount of income-tax payable or
- **₹ 12,500**,

whichever is less.

However, rebate under section 156 shall be allowed from the income-tax on the total income as reduced by tax payable on capital gain chargeable to tax u/s 198. It implies that rebate would be available against tax payable on LTCG u/s 197 or on STCG u/s 196.

Step 11 – Health and Education cess (HEC) on income-tax

The amount of income-tax as increased by the union surcharge, if applicable, should be further increased by an additional surcharge called the "Health and Education cess on income-tax", calculated at the rate of 4% of such income-tax and surcharge, if applicable. Health and education cess is leviable in the case of all assessees i.e. individuals, HUF, AOP/BOI, firms, local authorities, co-operative societies and companies.

It is leviable to fulfill the commitment of the Government to provide and finance quality health services and universalised quality basic education and secondary and higher education

Total Tax Liability of an individual	=	Tax on total income at applicable rates	(+)	Surcharge, at applicable rates, if total income > ₹ 50 lakhs,	(+)	HEC@ 4%
				or		
			(-)	Rebate u/s 156		

Step 12 – Alternate Minimum Tax (AMT)

The Income-tax Act, 2025 contains profit-linked and investment-linked deductions in order to encourage investment in various industries and infrastructure facilities. Taxpayers who exercise the option to shift out of the default tax regime and are

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eligible to claim such deductions end up paying no income-tax or marginal income-tax though they are capable of paying higher taxes. It has to be kept in mind that our Government also needs regular/consistent inflow of tax, which is one of its major source of revenue, to fund various expenses for the welfare of the country. Hence, in order to ensure payment of reasonable tax by such zero-tax paying/marginal-tax paying entities, the concept of alternate minimum tax has been introduced in the Act.

Section 206(2) contains special provisions for levy of alternate minimum tax in case of persons other than a company[1]. Any person other than a company, who has claimed any deduction under any section (other than section 149) included in Chapter VIII Part C – Deductions in respect of certain incomes" or under section 46 would be subject to AMT [Section 206(2)(c)].

The provisions of AMT would, however, not be applicable to

- a person whose income-tax payable in respect of the total income of such person is computed under section 202(1) or
- an individual, HUF, AOPs, BOIs, whether incorporated or not, or artificial juridical person, if the adjusted total income of such person does not exceed ₹ 20 lakh [Section 206(2)(d)].

Note - *At intermediate level, since profit-linked deductions provided under section 138 to 143, section 145, 147, 148, 149, 150 have been excluded from the scope of syllabus by way of Study Guidelines and computation of total income and tax liability is restricted to individual assessees only, the discussion in relation to AMT in this chapter is limited with respect to deduction under section 46 and deduction under section 144, 146, 151 & 152 only.*

Accordingly, where the regular income-tax payable for a tax year by a person, other than a company as per the normal provisions of the Income-tax Act, 2025 is less than the AMT payable for such tax year, the adjusted total income shall be deemed to be the total income of that person for such year and he shall be liable to pay income-tax equal to the AMT [Section 206(2)(a)].

AMT means the amount of tax computed on adjusted total income @18.5% *plus* surcharge, if applicable, and HEC@4% [Section 206(2)(b)(ii)].

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[1] *In respect of companies, minimum alternate tax (MAT) provisions are applicable, which will be dealt with at the Final level.*

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"Adjusted total income" would mean the total income before giving effect to section 206(2)(a) as increased by deductions claimed, if any, under

(i) any section (other than section 149) included in Chapter VIII Part C - Deductions in respect of certain incomes [For Intermediate level, the relevant sections are 144, 146, 151 & 152]; and

(ii) section 46, as reduced by the depreciation allowable as per section 33, as if no deduction under section 46 was allowed in respect of the asset on which such deduction is claimed.

Tax credit for AMT [Section 206(2)(e)/(g)]

Where AMT is paid by an assessee, then, credit shall be allowed to him of an amount which shall be the excess of AMT over the regular income-tax payable of that year.

Such tax credit shall be carried forward and set-off against in a year, when the regular income-tax exceeds the AMT and such set off in respect of brought forward tax credit shall be allowed for any tax year to the extent of the excess of regular income-tax over the AMT for that tax year.

The carry forward shall not be allowed beyond the 15 tax years immediately succeeding the tax year in which the tax credit becomes allowable.

Step 13 – Examine whether to pay tax under default regime under section 202(1) or pay tax under the optional tax regime as per the regular provisions of the Act

In case of an assessee not having income from business or profession:

In case of individuals not having income from business or profession, the total income and tax liability may be computed every year, both in accordance with default tax regime under section 202(1) and regular provisions of the Act (including provisions relating to AMT, if applicable), in order to determine which is more beneficial and accordingly, decide whether or not to shift out of the default tax regime.

In effect, such individual can choose whether or not to exercise the option of shifting out in each tax year. He may choose to pay tax under default regime under section 202(1) in one year and exercise the option to shift out of default tax regime in another year.

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In case of an assessee having income from business or profession:

In case of individuals having income from business or profession, the total income and tax liability may be computed, both in accordance with default tax regime under section 202(1) and regular provisions of the Act (including provisions relating to AMT, if applicable), in order to determine which is more beneficial.

Such individuals have an option to shift out/opt out of the default tax regime and the option has to be exercised on or before the due date specified under section 263(1) for furnishing the return of income for such tax year and such option, once exercised, would apply to subsequent tax years.

Such person who has exercised the above option of shifting out of the default regime for any tax year shall be able to withdraw such option only once and pay tax under the default regime under section 202(1) for a tax year other than the year for which it was exercised.

Thereafter, such person shall never be eligible to exercise the option under this section, except where such person ceases to have any income from business or profession.

Step 14 – Credit for advance tax, TDS and TCS

- Tax is deductible at source on payment of salary, rent, interest, fees for professional services, royalty etc.
- The payer has to deduct tax at source at the rates specified in section 393.
- Such tax deducted at source has to be reduced by the payee to determine his net tax liability.
- Tax is collectible by the seller in case of certain goods at the rate specified in section 394. Credit of such tax collection at source is allowable to determine the net tax liability.
- The Income-tax Act, 2025 also requires payment of advance tax in instalments during the tax year itself on the basis of estimated income, if the amount of tax payable during that year, after reducing TDS/TCS, is ₹ 10,000 or more.
- An individual is required to pay advance tax in four instalments, on or before 15th June, 15th September, 15th December and 15th March of the financial year.

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- Assessees who declares profits and gains as per the presumptive taxation provisions under section 58(2) (Table: Sl. No. 1 or 3) shall pay the whole advance tax on or before 15th March of the financial year.
- From the total tax due, deduct the TDS, TCS and advance tax paid for the relevant tax year to arrive at the net tax liability.

  Net tax liability = Gross tax liability – TDS – TCS - Advance tax paid

Step 15 - Tax Payable/ Tax Refundable

After adjusting the advance tax, tax deducted and collected at source, the assessee would arrive at the amount of net tax liability or refundable. Such amount should be rounded off to the nearest multiple of ₹ 10. The assessee has to pay the amount of net tax liability along with the interest and fee payable before or at the time of filing of the return. Similarly, if any refund is due, assessee will get the same after filing the return of income.

Note: *Students are advised to read the above steps carefully and follow the given procedure while solving problems on computation of total income and tax liability.*

4. TAX PLANNING IN RESPECT OF SALARY INCOME

The definition of salary is very wide and includes not only monetary salary but also benefits and perquisites in kind. Under the default tax regime under section 202(1), all the deductions available under section 19(1) are allowable except deduction at Table: Sl. No. 1 i.e., deduction for professional tax. Further, there are many exemptions under schedule III in respect of allowances received from employer which are not available under the default tax regime under section 202(1).

The following are some of the aspects which can be considered for tax planning in regard to salary income -

(1) **Salary Structure:** An employer may plan the salary structure of employees keeping in view the deductions and exemptions available under the Act. If salary is paid as a consolidated amount, without any break-up, the amount of salary after providing standard deduction of upto ₹ 50,000 (under optional regime) and ₹ 75,000 (under default regime), would become taxable without any further exemption and deduction. Therefore, the employer may structure

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the salary by including various allowances and perquisites in addition to basic salary, so as to enable the employee to optimise his tax liability.

For example, the employer may include allowances as part of the salary structure of the employees for which exemption can be claimed under Rule 280 if the employee exercises the option to shift out of the default tax regime, e.g. Children education allowance, hostel allowance, etc. The employer will get a deduction of all the above amounts paid while computing his profits and gains of business or profession.

Further, if the employee exercises the option to shift out of the default tax regime, the employer can give such allowances like special compensatory allowance, compensatory modified field area allowance depending upon the place of posting of the employee. Some exemptions are available in respect of these allowances. In this connection, Rule 280 specifies the exempt allowances. The employer has to make a careful study and fix the salary structure in such a manner that it will include allowances which are exempt.

(2) Employees' welfare schemes: There are several employees' welfare schemes such as recognised provident fund, approved superannuation fund, gratuity fund. Payments received from such funds by the employees are totally exempt or exempt upto significant amounts.

For example, gratuity received by an employee under the Payment of Gratuity Act, 1972 is exempt upto ₹ 20 lakh. The provident fund received by the employee from recognised provident fund is exempt, subject to limits and conditions. The employer can institute such welfare schemes for the benefit of the employees. Such amount contributed by the employer towards the above funds is deductible under section 29 subject to the conditions specified therein. Further, the employer can contribute to recognized provident fund account of the employee without any limit and the same would not be taxable in the hands of the employees. The aggregate amounts of any contribution in excess of ₹ 7,50,000 in a tax year, made in a recognised provident fund, in NPS referred to in section 124(1) and in an approved superannuation fund by the employer to the account of the assessee, would be taxable as perquisite in the hands of the employee. Likewise, interest accrued during the tax year on RPF shall not be eligible for exclusion from total income where it is attributable to the contribution (including aggregate thereof) made by that person on or after 1st April, 2021 and employee's contribution to RPF exceeds ₹ 2,50,000 p.a. or ₹ 5,00,000 p.a., as the case may be, depending on whether

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the employer contributes to RPF. The detailed provisions have been dealt with in Unit 1 of Chapter 3.

(3) **Insurance policies:** Any payment made by an employer on behalf of an employee to maintain a life policy will be treated as perquisite in the hands of the employee. Further, payments received from the employer in respect of keyman insurance policies constitute income in the hands of the employees. However, any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of any member of his family under any scheme approved by the Central Government or IRDA for the purpose of section 126 is not a perquisite in the hands of the employee.

Further, the payment of premium by the employer on behalf of the employee will not be treated as a perquisite in the case of accident insurance policies. This is due to the fact that the employer has a vested interest in the safety of the life of his employee who is engaged in such dangerous occupations.[2]

In respect of accident insurance policies, the term perquisite applies to only such sums in regard to which there was an obligation on the part of the employer to pay and a vested right on the part of the employee. If the employee has no vested interest in the policy, it cannot be considered as a perquisite. In cases where an employer takes out accident insurance policy covering all workmen and staff members and pays insurance premium and whenever any worker/staff member meets with an accident and the amount of claim is received from the insurance company and the same is paid away by the employer to the said worker or his family members, the premium paid by the employer in respect of group accident policies could not be considered as a perquisite[3]. The amount received from insurance company on accident or death by employee or his dependents will not also be in the nature of income but a capital receipt and therefore the same will not be taxable.

(4) **Dearness allowance, dearness pay:** The employer should ensure that dearness allowance and dearness pay should form part of "salary". This is because certain items like commuted pension etc. are calculated on the basis of salary. Therefore, if dearness allowance, dearness pay etc. are included in

[2] *CIT v Lala Shri Dhar (1972) 84 ITR 192 (Del) and CIT v Vinay Bharat Ram (1981) 129 ITR 128 (Del)*
[3] *CIT v. Lala Shri Dhar (1972) 84 ITR 192 (Delhi)*

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salary, the above benefits will also increase leading to higher terminal benefits in the hands of the employee.

Also, for determining the exemption in respect of house rent allowance etc., dearness allowance forming part of pay for retirement benefits is included within the meaning of "Salary".

(5) **Leave travel facility:** If the employee exercises the option to shift out of the default tax regime, the employer should avail leave travel facility. Under Schedule III (Table: Sl. No. 8), exemption is provided in the hands of the employee in respect of leave travel concession. Such exemption is available for the employee, spouse, children (upto a maximum of 2 children), dependent parents, dependent brothers and dependent sisters.

However, if the employee pays tax under the default tax regime under section 202(1), exemption under schedule III (Table: Sl. No. 8) would not be available.

(6) **Rent free accommodation / House Rent Allowance (HRA):** An employee should analyse the tax incidence of a perquisite and an allowance, whenever he is given an option, in order to choose the one which is more beneficial to him. In the case of Rent Free Accommodation vs. HRA, it must be noted that the perquisite of rent free accommodation is taxed as per Rule 15(2) of the Income-tax Rules, 2026 and HRA is exempt to the extent mentioned in schedule IIII (Table: Sl. No. 11) read with Rule 279. However, exemption for HRA would be available only if the employee exercises the option to shift out of the default tax regime. The employee should therefore work out his tax liability and net cash flow under both the options and then, decide on whether to receive HRA or choose a rent free accommodation.

(7) **Uncommuted/Commuted pension:** Uncommuted pension is fully taxable. Therefore, the employees should get their pension commuted. Deduction for commuted pension is fully allowed in the case of government employees and partly allowed in the case of non-government employees.

(8) **Provident Fund:** Accumulated balance due to an employee participating in a Recognized Provident Fund (RPF) would be exempt, where an employee who is a member of a recognised provident fund and who resigns after completing five years of continuous service. However, if he resigns before completing five years of continuous service, he should ensure that he joins an organisation which maintains a recognised provident fund. The accumulated balance of the provident fund with the previous employer will

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be exempt from tax provided the same is transferred to the new employer who also maintains a recognised provident fund.

It may be noted the exemption would not be available in respect of income by way of interest accrued during the tax year to the extent it relates to the amount or the aggregate of amounts of contribution made by the employee exceeding ₹ 2,50,000/₹ 5,00,000, as the case may be, in any tax year in that fund, on or after 1st April, 2021 and computed in prescribed manner.

(9) Tax free perquisites: The following are the perquisites which are exempt from tax–

(i) Use of computers and laptop by employee;

(ii) Medical facility in employer's own hospital or a public hospital or Government or other approved hospital;

(iii) Educational benefit in a school run by employer provided value of benefit does not exceed ₹ 3,000 per month per child.

(10) Considerations for salary structuring: The perquisite valuation rules prescribe the method for valuing the various perquisites provided by the employer to his employees on the basis of the cost of such perquisites to the employee. For a detailed study, students are advised to refer to the Unit 1 of Chapter 3 - 'Salaries'. Accordingly, the entire salary structuring for employees will have to be done after carefully weighing the pros and cons of paying salary in monetary terms or allowing the benefit of perquisites in kind to the employees.

It may be noted that a salaried person has an option to choose whether to pay tax under the default tax regime under section 202(1) or shift out of the default tax regime and pay tax under normal provisions of the Act in each tax year.

Under section 202(1), in respect of his total income, he can not avail certain exemptions/deductions like Leave Travel Concession, special allowance being House Rent Allowance, exemption under schedule III (Table: Sl. No. 12 and 13) (other than those allowable), deduction for professional tax, interest on housing loan on self-occupied property, deductions under Chapter VIII [other than under section 124(1)/(2) and 125(2)] etc. The exemptions allowable, specified in schedule III (Table: Sl. No. 12 and 13) under the default tax regime under section 202(1), include travelling allowance, conveyance allowance and

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transport allowance to blind/deaf and dumb/orthopedically handicapped employee.

Therefore, a salaried taxpayer not availing the above deductions/ exemptions or availing a lesser amount of such deductions/ exemptions can analyse his tax liability under default tax regime under section 202(1) *vis-à-vis* the regular provisions of the Income-tax Act, 2025 in each tax year. An employee intending to shift out of the default tax regime has to intimate the same to the employer.

ILLUSTRATION 1

Mr. A, aged 32 years, is employed with XYZ (P) Ltd. on a basic salary of ₹ 80,000 p.m. He has received transport allowance of ₹ 15,000 p.m. and house rent allowance of ₹ 20,000 p.m. from the company for the tax year 2026-27. He has paid rent of ₹ 25,000 p.m. for an accommodation in Delhi. Mr. A has paid interest of ₹ 2,10,000 for housing loan taken for the construction of his house in Mumbai. The construction of the house is completed in March, 2027 and his parents live in that house.

Other Information

- *Contribution to PPF - ₹ 1,50,000*
- *Contribution to pension scheme referred to in section 124 - ₹ 50,000*
- *Payment of medical insurance premium for father, who is of the age of 65 - ₹ 55,000*
- *Payment of medical insurance premium for self and spouse - ₹ 32,000*

Compute the total income and tax liability of Mr. A for the T.Y. 2026-27 in the most beneficial manner.

SOLUTION

Computation of total income and tax liability of Mr. A for T.Y. 2026-27 under default tax regime under section 202(1)

Particulars	₹
Salaries	
Basic Salary [₹ 80,000 x 12]	9,60,000
Transport allowance [₹ 15,000 x 12]	1,80,000
HRA received [₹ 20,000 x 12]	2,40,000
Gross salary	**13,80,000**

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Less: Standard deduction u/s 19(1) (Table: Sl. No. 2)		(75,000)
		13,05,000
Income from house property		
Interest on housing loan [Not allowable under default tax regime]		-
Gross Total Income		**13,05,000**
Less: Deductions under Chapter VIII		
Section 123		
Contribution in PPF		-
Section 124		
Contribution to pension scheme		-
Section 126		
Mediclaim insurance premium for self and parents		-
Total Income		**13,05,000**
Tax liability		
Tax @5% on ₹ 4,00,000 [₹ 8,00,000 - ₹ 4,00,000]	20,000	
Tax @10% on ₹ 4,00,000 [₹ 12,00,000 - ₹ 8,00,000]	40,000	
Tax @15% on ₹ 1,05,000 [₹ 13,05,000 - ₹ 12,00,000]	15,750	75,750
Add: Health & Education cess @ 4%		3,030
Total Tax Liability		**78,780**

Computation of total income and tax liability of Mr. A for T.Y. 2026-27 as per optional tax regime

Particulars		₹
Salaries		
Basic Salary [₹ 80,000 x 12]		9,60,000
Transport allowance [₹ 15,000 x 12]		1,80,000
HRA received	2,40,000	
Less: Least of the following exempt u/s schedule III (Table: Sl. No. 11) read with Rule 279	2,04,000	36,000
HRA Received	2,40,000	

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Actual rent paid – 1/10 of salary [₹ 3,00,000 – ₹ 96,000]	2,04,000	
50% of salary (Since he is staying in Delhi)	4,80,000	
Gross salary		**11,76,000**
Less: Standard deduction u/s 19(1) (Table: Sl. No. 2)		(50,000)
		11,26,000
Income from house property		
[Annual Value is Nil. Deduction u/s 22(1)(b) for interest on housing loan would be restricted to ₹ 2,00,000, in case of self-occupied property, which would represent loss from house property]		(2,00,000)
Gross Total Income		**9,26,000**
Less: Deductions under Chapter VIII		
Section 123		
Contribution to PPF		1,50,000
Section 124(3)		
Own contribution to pension scheme		50,000
Section 126		
Mediclaim insurance premium		
For self and spouse, restricted to	25,000	
For father, who is a senior citizen, restricted to	50,000	
		75,000
Total Income		**6,51,000**
Tax liability		
Tax @ 5% on ₹ 2,50,000 [₹ 5,00,000 - ₹ 2,50,000]	12,500	
Tax @ 20% on ₹ 1,51,000 [₹ 6,51,000 - ₹ 5,00,000]	30,200	42,700
Add: Health & Education cess @ 4%		1,708
Total Tax Liability		**44,408**
Total Tax Liability (Rounded Off)		**44,410**

Since tax liability as per optional tax regime is lower than the tax liability under the default tax regime under section 202(1), it would be beneficial for Mr. A to shift out of the default tax regime for T.Y. 2026-27.

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Note: In this case, Mr. A is entitled to exemption under schedule III (Table: Sl. No. 11), benefit of interest on housing loan in respect of self-occupied property and Chapter VIII deductions, owing to which his total income is reduced by ₹ 6,54,000. Hence, in this case, it is beneficial for Mr. A to shift out of the default tax regime for T.Y. 2026-27.

ILLUSTRATION 2

Mr. Kadam is entitled to a salary of ₹41,000 per month. He is given an option by his employer either to take house rent allowance or a rent free accommodation which is owned by the company. The HRA amount payable was ₹7,000 per month. The rent for the hired accommodation was ₹6,000 per month at New Delhi. Advice Mr. Kadam whether it would be beneficial for him to avail HRA or Rent Free Accommodation. Give your advice on the basis of "Net Take Home Cash benefits". Assume Mr. Kadam exercises the option to shift out of the default tax regime.

SOLUTION

Computation of tax liability of Kadam under both the options

Particulars		Option I – HRA (₹)	Option II – RFA (₹)
Basic Salary (₹ 41,000 x 12 Months)		4,92,000	4,92,000
Perquisite value of rent-free accommodation (10% of ₹ 4,92,000)		N.A.	49,200
House rent Allowance (₹ 7,000 x 12 Months)	₹ 84,000		
Less: Exempt under schedule III (Table: Sl. No. 11) read with Rule 279 – least of the following -			
- 50% of Basic Salary	₹ 2,46,000		
- Actual HRA received	₹ 84,000		
- Rent paid *less* 1/10 of salary ₹ 22,800	₹ 22,800	61,200	
Gross Salary		5,53,200	5,41,200
Less: Standard deduction u/s 19(1) (Table: Sl. No. 2)		50,000	50,000
Net Salary		5,03,200	4,91,200
Less: Deduction under Chapter VIII		-	-
Total Income		**5,03,200**	**4,91,200**
Tax on total income		13,140	12,060

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Less: Rebate under section 156 - Lower of ₹ 12,500 or income-tax of ₹ 12,060, since total income does not exceed ₹ 5,00,000	Nil	12,060
	13,140	Nil
Add: Health and Education cess@4%	526	Nil
Tax liability	**13,666**	**Nil**
Tax liability (Rounded off)	**13,670**	**Nil**

Cash Flow Statement

Particulars	Option I – HRA	Option II – RFA
Inflow: Salary	5,76,000	4,92,000
Less: Outflow: Rent paid	(72,000)	-
Tax on total income	(13,670)	Nil
Net Inflow	**4,90,330**	**4,92,000**

Since the net cash inflow under option II (RFA) is higher than in Option I (HRA), it is beneficial for Mr. Kadam to avail Option II, i.e., Rent Free Accommodation.

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TEST YOUR KNOWLEDGE

1. *Compute the tax liability of Mr. Gupta (aged 61) under default tax regime, having total income of ₹ 1,01,50,000 for T.Y.2026-27. Assume that his total income comprises of salary income, income from house property and interest on fixed deposit.*

2. *Miss Charlie, an American national, got married to Mr. Radhey of India in USA on 02.03.2026 and came to India for the first time on 16.03.2026. She left for USA on 19.9.2026. She returned to India again on 27.03.2027. While in India, she had purchased a show room in Mumbai on 30.04.2026, which was leased out to a company on a rent of ₹ 25,000 p.m. from 01.05.2026. She had taken loan from a bank for purchase of this show room on which bank had charged interest of ₹ 97,500 upto 31.03.2027. She had received the following cash gifts from her relatives and friends during 1.4.2026 to 31.3.2027:*

   - *From parents of husband ₹ 51,000*
   - *From married sister of husband ₹ 11,000*
   - *From two very close friends of her husband (₹ 1,51,000 and ₹ 21,000)*

   (a) Determine her residential status and compute the total income chargeable to tax along with the amount of tax liability on such income for the T.Y. 2026-27 if she opts out of the default tax regime.

   (b) Would her residential status undergo any change, assuming that she is a person of Indian origin and her total income from Indian sources is ₹ 18,00,000 and she is not liable to tax in USA?

3. *Dr. Niranjana, a resident individual, aged 60 years is running a clinic in Surat. Her Income and Expenditure Account for the year ending March 31st, 2027 is as under:*

Expenditure	₹	Income	₹
To Medicine consumed	35,38,400	By Consultation and medical charges	58,85,850
To Staff salary	13,80,000	By Income-tax refund (principal ₹ 5,000, interest ₹ 450)	5,450

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To	*Clinic consumables*	*1,10,000*	*By*	*Dividend from units of UTI (Gross)*	*10,500*
To	*Rent paid*	*90,000*	*By*	*Winning from game show on T.V. (net of TDS of ₹ 15,000)*	*35,000*
To	*Administrative expenses*	*2,55,000*	*By*	*Rent*	*27,000*
To	*Amount paid to scientific research association approved u/s 45(3)*	*1,50,000*			
To	*Net profit*	*4,40,400*			
		59,63,800			***59,63,800***

(i) Rent paid includes ₹ 30,000 paid by cheque towards rent for her residential house in Surat.

(ii) Clinic equipments are:

1.4.2026 Opening W.D.V. - ₹ 5,00,000

7.12.2026 Acquired (cost) by cheque - ₹ 2,00,000

(iii) Rent received relates to residential house property situated at Surat. Gross Annual Value ₹ 27,000. The municipal tax of ₹ 2,000, paid in December, 2026, has been included in "administrative expenses".

(iv) She received salary of ₹ 7,500 p.m. from "Full Cure Hospital" which has not been included in the "consultation and medical charges".

(v) Dr. Niranjana availed a loan of ₹ 5,50,000 from a bank for higher education of her daughter. She repaid principal of ₹ 1,00,000, and interest thereon ₹ 55,000 during the tax year 2026-27.

(vi) She paid ₹ 1,00,000 as tuition fee (not in the nature of development fees/ donation) to the university for full time education of her daughter.

(vii) An amount of ₹ 28,000 has also been paid by cheque on 27th March, 2027 for her health insurance premium.

From the above, compute the total income of Dr. Niranjana for the T.Y. 2026-27 under the default tax regime and optional tax regime as per the normal provisions of the Act.

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4. *Ms. Purvi, aged 55 years, is a Chartered Accountant in practice. She maintains her accounts on cash basis. Her Income and Expenditure account for the year ended March 31, 2027 reads as follows:*

Expenditure	**(₹)**	**Income**	**(₹)**	**(₹)**
Salary to staff	*15,50,000*	*Fees earned:*		
Stipend to articled Assistants	*1,37,000*	*Audit*	*27,88,000*	
		Taxation services	*15,40,300*	
Incentive to articled Assistants	*13,000*	*Consultancy*	*12,70,000*	*55,98,300*
		Dividend on shares of X Ltd., an Indian company (Gross)		*10,524*
Office rent	*12,24,000*	*Income from UTI (Gross)*		*7,600*
Printing and stationery	*12,22,000*	*Honorarium received from various institutions for valuation of answer papers*		*15,800*
Meeting, seminar and conference	*31,600*	*Rent received from residential flat let out*		*85,600*
Purchase of car (for official use)	*80,000*			
Repair, maintenance and petrol of car	*4,000*			
Travelling expenses	*5,25,000*			
Municipal tax paid in respect of house property	*3,000*			
Net Profit	*9,28,224*			
	57,17,824			***57,17,824***

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Other Information:

(i) Allowable rate of depreciation on motor car is 15%.

(ii) Value of benefits received from clients during the course of profession is ₹ 10,500.

(iii) Incentives to articled assistants represent amount paid to two articled assistants for passing CA Intermediate Examination at first attempt.

(iv) Repairs and maintenance of car include ₹ 2,000 for the period from 1-10-2026 to 30-09-2027.

(v) Salary includes ₹ 30,000 to a computer specialist in cash for assisting Ms. Purvi in one professional assignment.

(vi) The travelling expenses include expenditure incurred on foreign tour of ₹ 32,000 which was within the RBI norms.

(vii) Health Insurance Premium on the health of dependent brother and major son dependent on her amounts to ₹ 5,000 and ₹ 10,000, respectively, paid in cash.

(viii) She invested an amount of ₹ 10,000 in National Saving Certificate.

Compute the total income and tax liability of Ms. Purvi for the T.Y. 2026-27 in a most beneficial manner.

5. *Mr. Y carries on his own business. An analysis of his trading and profit & loss for the year ended 31-3-2027 revealed the following information:*

(1) The net profit was ₹ 11,20,000.

(2) The following incomes were credited in the profit and loss account:

(a) Income from UTI ₹ 22,000 (Gross)

(b) Interest on debentures ₹ 17,500 (Gross)

(c) Winnings from horse races ₹ 15,000 (Gross)

(3) It was found that some stocks were omitted to be included in both the opening and closing stocks, the value of which were:

Opening stock ₹ 8,000.

Closing stock ₹ 12,000.

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(4) *₹ 1,00,000 was debited in the profit and loss account, being contribution to a University approved and notified under section 45(3)(a).*

(5) *Salary includes ₹ 20,000 paid to his brother which is unreasonable to the extent of ₹ 2,500.*

(6) *Advertisement expenses include 15 gift packets of dry fruits costing ₹ 1,000 per packet presented to important customers.*

(7) *Total expenses on car was ₹ 78,000. The car was used both for business and personal purposes. ¾th is for business purposes.*

(8) *Miscellaneous expenses included ₹ 30,000 paid to A & Co., a goods transport operator in cash on 31-1-2027 for distribution of the company's product to the warehouses.*

(9) *Depreciation debited in the books was ₹ 55,000. Depreciation allowed as per Income-tax Rules, 2026 was ₹ 50,000.*

(10) *Drawings of ₹ 10,000 debited in the books.*

(11) *Investment in NSC ₹ 15,000 debited in the books.*

Compute the total income of Mr. Y for the tax year 2026-27 under optional tax regime as per normal provisions of the Act.

6. *Balamurugan furnishes the following information for the year ended 31-03-2027:*

Particulars	***₹***
Income from textile business	*(1,35,000)*
Income from house property	*(15,000)*
Lottery winning (Gross)	*5,00,000*
Speculation business income	*1,00,000*
Income by way of salary (Computed)	*3,70,000*
Long term capital gain u/s 197	*70,000*

Compute his total income, tax liability and advance tax obligations under default tax regime under section 202(1).

7. *Mr. Rajiv aged 50 years, a resident individual and practicing Chartered Accountant, furnishes you the receipts and payments account for the financial year 2026-27.*

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Receipts and Payments Account

Receipts	***₹***	***Payments***	***₹***
Opening balance (1.4.2026) Cash on hand and at Bank	*12,000*	*Staff salary, bonus and stipend to articled clerks*	*21,50,000*
Fee from professional services (Gross)	*59,38,000*	*Other administrative expenses*	*11,48,000*
Rent	*50,000*	*Office rent*	*30,000*
Motor car loan from Canara Bank (@ 9% p.a.)	*2,50,000*	*Housing loan repaid to SBI (includes interest of ₹88,000)*	*1,88,000*
		Life insurance premium (10% of sum assured)	*24,000*
		Motor car (acquired in Jan. 2027 by A/c payee cheque)	*4,25,000*
		Health insurance premium (for self and wife) (paid by A/c Payee cheque)	*18,000*
		Books bought on 1.07.2026 (annual publications by A/c payee cheque)	*20,000*
		Computer acquired on 1.11.2026 by A/c payee cheque (for professional use)	*30,000*
		Domestic drawings	*2,72,000*
		Public provident fund subscription	*20,000*
		Motor car maintenance	*10,000*
		Closing balance (31.3.2027) Cash on hand and at Bank	*19,15,000*
	62,50,000		***62,50,000***

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Following further information is given to you:

(1) He occupies 50% of the building for own residence and let out the balance for residential use at a monthly rent of ₹ 5,000. The building was constructed during the year 2010-11, when the housing loan was taken.

(2) Motor car was put to use both for official and personal purpose. One-fifth of the motor car use is for personal purpose. No car loan interest was paid during the year.

(3) The written down value of assets as on 1-4-2026 are given below:

Furniture & Fittings	*₹ 60,000*
Plant & Machinery	*₹ 80,000*
(Air-conditioners, Photocopiers, etc.)	
Computers	*₹ 50,000*

***Note**: Mr. Rajiv follows regularly the cash system of accounting.*

Compute the total income of Mr. Rajiv for the T.Y. 2026-27 assuming that he has shifted out of the default tax regime.

8. *From the following details, compute the total income and tax liability of Mr. Siddhant, aged 31 years, of Delhi both as per section 202(1) and as per optional tax regime for the T.Y.2026-27. Advise Mr. Siddhant in which regime he should pay tax for T.Y. 2026-27:*

Particulars	***₹***
Salary including dearness allowance	*4,35,000*
Bonus	*15,000*
Salary of servant provided by the employer	*12,000*
Rent paid by Siddhant for his accommodation	*49,600*
Bills paid by the employer for gas, electricity and water provided free of cost at the above flat	*11,000*

Siddhant purchased a flat in a co-operative housing society in Delhi for ₹ 4,75,000 in April, 2017, which was financed by a loan from Life Insurance Corporation of India of ₹ 1,60,000@15% interest, his own savings of ₹ 65,000 and a deposit from a nationalized bank for ₹ 2,50,000 to whom this flat was given on lease for ten years. The rent payable by the bank was ₹ 3,500 per month. The following particulars are relevant:

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(a) *Municipal taxes paid by Mr. Siddhant* *₹4,300 (per annum)*

(b) *House Insurance* *₹860*

(c) *He earned ₹2,700 in share speculation business and lost ₹4,200 in cotton speculation business.*

(d) *In the year 2022-23, he had gifted ₹30,000 to his wife and ₹20,000 to his son who was aged 11. The gifted amounts were advanced to Mr. Rajesh, who was paying interest@19% per annum.*

(e) *Siddhant received a gift of ₹30,000 each from four friends.*

(f) *He contributed ₹50,000 to Public Provident Fund.*

9. *Ramdin, aged 50 years, working as Manager (Sales) with Frozen Foods Ltd., provides the following information for the year ended 31.03.2027:*

- *Basic Salary* *₹15,000 p.m.*
- *DA (50% of it meant for retirement benefits)* *₹12,000 p.m.*
- *Commission as a percentage of turnover of the Company* *0.5 %*
- *Turnover of the Company* *₹50 lakhs*
- *Bonus* *₹50,000*
- *Gratuity* *₹30,000*
- *Own Contribution to R.P.F.* *₹30,000*
- *Employer's contribution to R.P.F.20% of basic salary*
- *Interest credited in the R.P.F. account @ 15% p.a.* *₹15,000*
- *Gold Ring worth ₹10,000 was given by employer on his 25th wedding anniversary.*
- *Music System purchased on 01.04.2026 by the company for ₹85,000 and was given to him for personal use.*
- *Two old light goods vehicles owned by him were leased to a transport company against the fixed charges of ₹6,500 p.m. Books of account are not maintained.*
- *Received interest of ₹5,860 on bank FDRs on 24.4.2026 and interest of ₹7,540 from the debentures of Indian Companies on 5.5.2026.*

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- *Made payment by cheques of ₹ 15,370 towards premium on Life Insurance policies and ₹ 22,500 for Health Insurance policy for self and spouse.*
- *Invested in NSC ₹ 30,000 and in FDR of SBI for 5 years ₹ 50,000.*
- *Donations of ₹ 11,000 to an institution approved u/s 133 and of ₹ 5,100 to Prime Minister's National Relief Fund were given during the year by way of cheque.*

Compute his total income and tax liability thereon for the T.Y. 2026-27. Assume that Mr. Ramdin has exercised the option to shift out of the default tax regime.

10. *From the following particulars furnished by Mr. X for the year ended 31.3.2027, you are requested to compute his total income and tax payable for the tax year 2026-27, assuming that he opts out of the default tax regime.*

    (a) Mr. X retired on 31.12.2026 at the age of 58, after putting in 26 years and 1 month of service, from a private company at Mumbai.

    (b) He was paid a salary of ₹ 25,000 p.m. and house rent allowance of ₹ 6,000 p.m. He paid rent of ₹ 6,500 p.m. during his tenure of service.

    (c) On retirement, he was paid a gratuity of ₹ 3,50,000. He was covered by the payment of Gratuity Act. Mr. X had not received any other gratuity at any point of time earlier, other than this gratuity.

    (d) After retirement, he ventured into textile business and incurred a loss of ₹ 80,000 for the period upto 31.3.2027.

    (e) Mr. X has deposited ₹ 1,00,000 in public provident fund.

11. *Rosy and Mary are sisters, born and brought up at Mumbai. Rosy got married in 1992 and settled at Canada since 1992. Mary got married and settled in Mumbai. Both of them are below 60 years. The following are the details of their income for the tax year ended 31.3.2027:*

S. No.	Particulars	Rosy ₹	Mary ₹
1.	Pension received from State Government	--	60,000
2.	Pension received from Canadian Government	20,000	--
3.	Long-term capital gain on sale of land at Mumbai	1,00,000	1,00,000

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4.	*Short-term capital gain on sale of shares of Indian listed companies in respect of which STT was paid*	*20,000*	*2,50,000*
5.	*LIC premium paid*	*--*	*10,000*
6.	*Premium paid to Canadian Life Insurance Corporation at Canada*	*40,000*	*--*
7.	*Health insurance premium paid by A/c Payee Cheque*	*--*	*25,000*
8.	*Deposit in PPF*	*--*	*20,000*
9.	*Rent received in respect of house property at Mumbai*	*60,000*	*30,000*

Compute the total income and tax liability of Mrs. Rosy and Mrs. Mary for the T.Y. 2026-27 and tax thereon assuming both exercised the option to shift out of the default tax regime.

12. *Mr. Rishabh, a resident individual, aged 54 years, is engaged in the business of manufacturing clothes. He earned profit of ₹ 82,45,000 as per profit and loss account after debiting and crediting the following items:*

(i) Depreciation ₹ 15,40,000

(ii) Short term capital gains on transfer of listed equity shares in a company on which STT is paid ₹ 10,00,000

(iii) He received income-tax refund of ₹ 15,550 which includes interest on refund of ₹ 4,550.

(iv) Dividend income from Indian companies ₹ 15,00,000

Additional information –

(i) Mr. Rishabh installed new plant and machinery for ₹ 65 lakhs on 1.10.2026 which was put to use on 1.1.2027. Depreciation (including additional depreciation) on this amount of ₹ 65 lakhs is included in the depreciation debited to profit and loss account which has been computed as per Income-tax Rules, 2026.

(ii) Mr. Rishabh took a loan from SBI of ₹ 50 lakhs on 15.9.2026 @10.5% p.a. to purchase such plant and machinery. Total interest upto 31.3.2027 has been paid on 31.3.2027 and the same has been debited to profit and loss account.

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(iii) *Advance tax paid during the year is ₹ 17,50,000*

(iv) *Rishabh purchased goods for ₹ 40 lakhs from Mr. Ram, his brother. The market value of the goods is ₹ 35 lakhs.*

(v) *He paid ₹ 40,000 as life insurance premium taken on the life of his married daughter who is not dependent on him. The sum assured is ₹ 5,00,000 and the policy was taken on 1.4.2020.*

(vi) *He paid ₹ 45,000 by cheque towards health insurance policy covering himself, his spouse and his children.*

You are required to compute the total income and net tax liability after adjusting TDS/TCS/advance tax, if any, by Mr. Rishabh for the T.Y. 2026-27, in the manner so that he can make maximum tax savings.

13. *Mr. Sunil, aged 48 years, a resident Indian has furnished the following particulars for the year ended 31.03.2027:*

(i) *He occupies ground floor of his residential building and has let out first floor for residential use at an annual rent of ₹ 2,95,000. He has paid municipal taxes of ₹ 25,000 for the current financial year. Both these floors are of equal size.*

(ii) *As per interest certificate from HDFC bank, he paid ₹ 1,50,000 as interest and ₹ 80,000 towards principal repayment of housing loan borrowed for the above residential building in the year 2020.*

(iii) *He owns an industrial undertaking established in a SEZ and which had commenced operation during the financial year 2019-20. Total turnover of the undertaking was ₹ 400 lakhs, which includes ₹ 150 lakhs from export turnover. Out of ₹ 150 lakhs, only ₹ 120 lakhs have been received in India in convertible foreign exchange on or before 30.9.2027. This industrial undertaking fulfills all the conditions of section 10AA of the Income-tax Act, 1961. Profit from this industry is ₹ 40 lakhs.*

(iv) *He employed 20 new employees for the said industrial undertaking during the tax year 2026-27. Out of 20 employees, 12 were employed on 1st May 2026 for monthly emoluments of ₹ 18,000 and remaining were employed on 1st September 2026 on monthly emoluments of ₹ 12,000. All these employees participate in recognised provident fund and they are paid their emoluments directly to their bank accounts.*

(v) *He earned ₹ 30,000 and ₹ 40,000 as interest on saving bank deposits and fixed deposits, respectively.*

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(vi) *He also sold his vacant land on 01.12.2026 for ₹ 16 lakhs. The stamp duty value of land at the time of transfer was ₹ 17 lakhs. This land was acquired by him on 15.10.1998 for ₹ 2.80 lakhs. The FMV of the land as on 1st April, 2001 was ₹ 4.8 lakhs and Stamp duty value on the said date was ₹ 4 lakhs. He had incurred registration expenses of ₹ 12,000 at that time.*

(vii) *He paid insurance premium of ₹ 40,000 towards life insurance policy of his son, who is not dependent on him.*

You are requested to compute total income of Mr. Sunil for the Tax Year 2026-27 under default tax regime.

14. *Mr. X, an individual set up a unit in Special Economic Zone (SEZ) in the financial year 2019-20 for production of washing machines. During the financial year 2025-26, he has also set up a warehousing facility in a district of Tamil Nadu for storage of agricultural produce. It fulfills all the conditions of section 46. Capital expenditure in respect of warehouse amounted to ₹ 75 lakhs (including cost of land ₹ 10 lakhs). The warehouse became operational with effect from 1st April, 2026 and the expenditure of ₹ 75 lakhs was capitalized in the books on that date.*

Relevant details for the T.Y. 2026-27 are as follows:

Particulars	***₹***
Profit of unit located in SEZ	*40,00,000*
Export turnover received in India in convertible foreign exchange on or before 30.9.2027	*80,00,000*
Domestic sales of above unit	*20,00,000*
Profit from operation of warehousing facility (before considering deduction under section 46)	*1,05,00,000*

Compute income-tax (including AMT under section 206(2)) liability of Mr. X for T.Y. 2026-27 both as per section 202(1) and as per regular provisions of the Income-tax Act, 2025 for T.Y. 2026-27. Advise Mr. X whether he should pay tax under default tax regime or normal provisions of the Act.

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ANSWERS

1. Computation of tax liability of Mr. Gupta for the T.Y.2026-27 under default tax regime

(A)	Income-tax (including surcharge) computed on total income of ₹ 1,01,50,000	
	₹ 4,00,000 – ₹ 8,00,000 @5%	₹ 20,000
	₹ 8,00,001 – ₹ 12,00,000 @10%	₹ 40,000
	₹ 12,00,001 – ₹ 16,00,000 @15%	₹ 60,000
	₹ 16,00,001 – ₹ 20,00,000 @20%	₹ 80,000
	₹ 20,00,001 – ₹ 24,00,000 @25%	₹ 1,00,000
	₹ 24,00,001 – ₹ 1,01,50,000 @30%	₹ 23,25,000
	Total	₹ 26,25,000
	Add: Surcharge @15%	₹ 3,93,750
		₹ 30,18,750
(B)	**Income-tax plus surcharge computed in (A) cannot exceed Wn**	
	Wn = Un + Vn	
	Un = Income-tax computed on total income of ₹ 1crore	
	(₹ 3,00,000 plus ₹ 22,80,000)	₹ 25,80,000
	Add: Surcharge@10%	₹ 2,58,000
		₹ 28,38,000
	Vn = Total Income - ₹ 1 crore	₹ 1,50,000
(B	**Wn = Un + Vn**	₹ 29,88,000
(C)	**Tax liability (A) or (B), whichever is lower**	₹ 29,88,000
	Add: Health and education cess @4%	₹ 1,19,520
	Tax liability (including cess)	**₹ 31,07,520**
(D)	**Marginal Relief (A – B)**	**₹ 30,750**

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2. (a) Under section 6(2), an individual shall be resident in India in a tax year, if he/she satisfies any one of the following conditions:

(i) He/she is in India for a total period of 182 days or more in that tax year, or

(ii) He/she is in India cumulatively for 60 days or more during that year and has been in India cumulatively for 365 days or more in the 4 years preceding such tax year.

If an individual satisfies any one of the conditions mentioned above, he/she is a resident. If both the above conditions are not satisfied, the individual is a non-resident.

Therefore, the residential status of Miss Charlie, an American National, for T.Y.2026-27 has to be determined on the basis of her stay in India during the T.Y.2026-27 and in the 4 years preceding tax year 2026-27.

Her stay in India during the T.Y.2026-27 and in the 4 years preceding tax year 2026-27 are as under:

T.Y. 2026-27

01.04.2026 to 19.09.2026	-	172 days
27.03.2027 to 31.03.2027	-	5 days
Total		177 days

Four years preceding tax year 2026-27

T.Y. 2025-26 [1.4.2025 to 31.3.2026]	-	16 days
T.Y. 2024-25 [1.4.2024 to 31.3.2025]	-	Nil
T.Y. 2023-24 [1.4.2023 to 31.3.2024]	-	Nil
T.Y. 2022-23 [1.4.2022 to 31.3.2023]	-	Nil
Total		16 days

The total stay of the assessee during the relevant tax year in India was less than 182 days and during the four years preceding this year was for 16 days. Therefore, due to non-fulfillment of any of the two conditions for a resident, she would be treated as non-resident for the T.Y. 2026-27.

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Computation of total income of Miss Charlie for the T.Y. 2026-27

Particulars		₹	₹
Income from house property			
Show room located in Mumbai remained on rent from 01.05.2026 to 31.03.2027@ ₹ 25,000/- p.m.		2,75,000	
Gross Annual Value [₹ 25,000 x 11] **(See Note 1 below)**			
Less: Municipal taxes		Nil	
Net Annual Value (NAV)		2,75,000	
Less: Deduction under section 22			
30% of NAV	82,500		
Interest on loan	97,500	1,80,000	95,000
Income from other sources			
Cash gifts received from non-relatives is chargeable to tax as per section 92(2)(m), if the total value of such gifts exceeds ₹ 50,000.			
- ₹ 50,000 received from parents of husband would be exempt, since parents of husband fall within the definition of 'relative' and gifts from a relative are not chargeable to tax.		Nil	
- ₹ 11,000 received from married sister of husband is exempt, since sister-in-law falls within the definition of relative and gifts from a relative are not chargeable to tax.		Nil	
- Gift received from two friends of husband ₹ 1,51,000 and ₹ 21,000 totaling to ₹ 1,72,000 is taxable under section 92(2)(m) since the total of ₹ 1,72,000 exceeds ₹ 50,000. **(See Note 2 below)**		1,72,000	1,72,000
Total income			**2,67,000**

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Computation of tax liability by Miss Charlie for the T.Y. 2026-27 under normal provisions of the Act

Particulars	₹
Tax on total income of ₹ 2,67,000	850
Add: Health and Education cess@4%	34
Total tax liability	**884**
Total tax liability (rounded off)	**880**

Notes:

1. Actual rent received has been taken as the gross annual value in the absence of other information (i.e. Municipal value, fair rental value and standard rent) in the question.

2. If the total value of taxable gifts received from non-relatives exceed ₹ 50,000 during the year, the whole amount received (i.e. the total value of taxable gifts received) is taxable. Therefore, the entire amount of ₹ 1,72,000 is taxable under section 92(2)(m).

3. Since Miss Charlie is a non-resident for the T.Y. 2026-27, rebate under section 156 would not be available to her, even though her total income does not exceed ₹ 5 lakhs.

(b) Residential status of Miss Charlie in case she is a person of Indian origin and her total income from Indian sources is ₹ 18,00,000.

If she is a person of Indian origin and her total income from Indian sources exceeds ₹ 15,00,000 (₹ 18,00,000, in her case), the condition of stay in India for a period exceeding 120 days during the tax year and 365 days in the four years preceding such tax year would be applicable for being treated as a resident. Since her stay in India exceeds 120 days in the T.Y.2026-27 but the period of her stay in India during the four years preceding such tax year is less than 365 days (only 16 days), her residential status as per section 6(2) would continue to be same i.e., non-resident in India.

Further, since she is not a citizen of India, the provisions of section 6(7) deeming an individual to be a resident in India would not get attracted

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in her case, even though she is a person of Indian origin and her total income from Indian sources exceeds ₹ 15,00,000 and she is not liable to pay tax in USA.

Therefore, her residential status would be non-resident in India for the tax year 2026-27.

3. Computation of total income of Dr. Niranjana for T.Y. 2026-27 under default tax regime

	Particulars	₹	₹	₹
I	**Income from Salary**			
	Basic Salary (₹ 7,500 x 12)		90,000	
	Less: Standard deduction u/s 19(1) (Table: Sl. No. 2)		75,000	15,000
II	**Income from house property**			
	Gross Annual Value (GAV)		27,000	
	Less: Municipal taxes paid		2,000	
	Net Annual Value (NAV)		25,000	
	Less: Deduction u/s 22@30% of ₹ 25,000		7,500	17,500
III	**Income from profession**			
	Net profit as per Income and Expenditure account		4,40,400	
	Less: Items of income to be treated separately			
	(i) Rent received (taxable under the head "Income from house property")	27,000		
	(ii) Dividend from units of UTI (taxable under the head "Income from other sources")	10,500		
	(iii) Winning from game show on T.V. (net of TDS) (taxable under the head "Income from other sources")	35,000		

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	(iv) Income tax refund	5,450	77,950	
			3,62,450	
	Less: Allowable expenditure			
	Depreciation on clinic equipments			
	on ₹ 5,00,000@15%	75,000		
	on ₹ 2,00,000 @ 7.5%	15,000	90,000	
	(On equipments acquired during the year in December 2026, she is entitled to depreciation @50% of normal depreciation, since the same are put to use for less than 180 days during the tax year)			
			2,72,450	
	Add: Items of expenditure not allowable while computing business income			
	(i) Amount paid to scientific research association approved u/s 45(3) (not allowed under default tax regime)	1,50,000		
	(i) Rent for her residential accommodation included in Income and Expenditure A/c	30,000		
	(ii) Municipal tax paid relating to residential house at Surat included in administrative expenses	2,000	1,82,000	4,54,450
IV	**Income from other sources**			
	(a) Interest on income-tax refund		450	
	(b) Dividend from UTI (taxable in the hands of unit holders)		10,500	
	(c) Winnings from TV game show (₹ 35,000 + ₹ 15,000)		50,000	60,950
	Gross Total Income			**5,47,900**

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	Less: **Deductions under Chapter VIII**:			
	(a) Section 123 [Not allowed under default tax regime]			Nil
	(b) Section 126 [Not allowed under default tax regime]			Nil
	(c) Section 129 [Not allowed under default tax regime]			Nil
	Total income			**5,47,900**

Computation of total income of Dr. Niranjana for T.Y. 2026-27 under normal provisions of the Act

Particulars	₹	₹
Gross Total Income as per default tax regime		**5,47,900**
Add: Standard deduction of ₹ 25,000, being the excess amount allowed u/s 202(1)		25,000
Less: Items of expenditure allowable while computing business income under normal provisions of the Act		
100% deduction is allowable in respect of the amount paid to scientific research association allowable under normal provisions of the Act.		1,50,000
Gross Total Income as per normal provisions of the Act		**4,22,900**
Less: **Deductions under Chapter VIII**:		
(a) Section 123 - Tuition fee paid to university for full time education of her daughter	1,00,000	
(b) Section 126 – Health insurance premium (fully allowed since she is a senior citizen)	28,000	
(c) Section 129 - Interest on loan taken for higher education is deductible	55,000	1,83,000
Total income		**2,39,900**

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Notes:

(i) The principal amount received towards income-tax refund will be excluded from computation of total income. Interest received will be taxed under the head "Income from other sources".

(ii) Winnings from game show on T.V. should be grossed up for the chargeability under the head "Income from other sources" (₹ 35,000 + ₹ 15,000). Winnings from game show are subject to tax @30% as per section 194(1) (Table: Sl. No. 1).

(iii) Dr. Niranjana would not be eligible for deduction u/s 134 under normal provisions of the Act, as she owns a house in Surat, a place where she is residing as well as carrying on her profession.

4. Computation of total income and tax liability of Ms. Purvi for the T.Y. 2026-27 under default tax regime under section 202(1)

Particulars	₹	₹
Income from house property **(See Working Note 1)**		57,820
Profit and gains of business or profession **(See Working Note 2)**		9,20,200
Income from other sources **(See Working Note 3)**		33,924
Gross Total Income		**10,11,944**
Less: Deductions under Chapter VIII [not allowable under default tax regime]		-
Total Income		**10,11,944**
Total Income (rounded off)		**10,11,940**
Tax on total income		
Upto ₹ 4,00,000	Nil	
₹ 4,00,001 - ₹ 8,00,000 @5%	20,000	
₹ 8,00,001 - ₹ 10,11,940 @10%	21,194	41,194
Less: Rebate under section 156, since the total income does not exceed ₹ 12 lakhs		41,194
Total tax liability		**Nil**

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Computation of total income and tax liability under normal provisions of the Act

Particulars	₹	₹
Gross Total Income		**10,11,944**
[Income under the "Income from house property" "Profits and gains from business or profession" and "Income from other sources" would remain the same even if Ms. Purvi opts out of the default tax regime]		
Less: Deductions under Chapter VIII **(See Working Note 4)**		10,000
Total Income		**10,01,944**
Total Income (rounded off)		**10,01,940**
Tax on total income		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 @5%	12,500	
₹ 5,00,000 - ₹ 10,00,000 @20%	1,00,000	
₹ 10,00,000 – ₹ 10,01,940 @ 30%	582	1,13,082
Add: Health and Education cess @ 4%		4,523
Total tax liability		**1,17,605**
Total tax liability (rounded off)		**1,17,610**

Since Ms. Purvi is not liable to pay any tax under default tax regime under section 202(1), it would be beneficial for her to not to exercise the option of shift out of the default tax regime for T.Y.2026-27.

Working Notes:

(1) Income from House Property

Particulars	₹	₹
Gross Annual Value under section 21(1)	85,600	
Less: Municipal taxes paid	3,000	
Net Annual Value (NAV)	82,600	
Less: Deduction u/s 22@30% of NAV	24,780	57,820

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Note - Rent received has been taken as the Gross Annual Value in the absence of other information relating to Municipal Value, Fair Rent and Standard Rent.

(2) Income under the head "Profits & Gains of Business or Profession"

Particulars	₹	₹
Net profit as per Income and Expenditure account		9,28,224
Add: Expenses debited but not allowable		
(i) Salary paid to computer specialist in cash disallowed u/s 36(4), since such cash payment exceeds ₹ 10,000	30,000	
(ii) Amount paid for purchase of car is not allowable under section 34(1) since it is a capital expenditure	80,000	
(ii) Municipal taxes paid in respect of residential flat let out	3,000	1,13,000
		10,41,224
Add: Value of benefit received from clients during the course of profession [taxable as business income under section 26(2)(f)]		10,500
		10,51,724
Less: Income credited but not taxable under this head:		
(i) Dividend on shares of X Ltd., an Indian company (taxable under the head "Income from other sources")	10,524	
(ii) Income from UTI (taxable under the head "Income from other sources")	7,600	
(iii) Honorarium for valuation of answer papers	15,800	
(iv) Rent received from letting out of residential flat	85,600	1,19,524
		9,32,200
Less: Depreciation on motor car @15% **(See Note (i) below)**		12,000
		9,20,200

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Notes:

(i) It has been assumed that the motor car was put to use for more than 180 days during the tax year and hence, full depreciation @15% has been provided for under section 33(1).

Note: *Alternatively, the question can be solved by assuming that motor car has been put to use for less than 180 days and accordingly, only 50% of depreciation would be allowable as per section 33(4).*

(ii) Incentive to articled assistants for passing CA Intermediate examination in their first attempt is deductible under section 34(1).

(iii) Repairs and maintenance paid in advance for the period 1.4.2027 to 30.9.2027 i.e. for 6 months amounting to ₹ 1,000 is allowable since Ms. Purvi is following the cash system of accounting.

(iv) ₹ 32,000 expended on foreign tour is allowable as deduction assuming that it was incurred in connection with her professional work. Since it has already been debited to income and expenditure account, no further adjustment is required.

(3) Income from other sources

Particulars	₹
Dividend on shares of X Ltd., an Indian company (taxable in the hands of shareholders)	10,524
Income from UTI (taxable in the hands of unit holders)	7,600
Honorarium for valuation of answer papers	15,800
	33,924

(4) Deduction under Chapter VIII:

Particulars	₹
Deduction under section 123 (Investment in NSC)	10,000
Deduction under section 126 (See Notes (i) & (ii) below)	Nil
Total deduction under Chapter VIII	**10,000**

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Notes:

(i) Premium paid to insure the health of brother is not eligible for deduction under section 126, even though he is a dependent, since brother is not included in the definition of "family" under section 126.

(ii) Premium paid to insure the health of major son is not eligible for deduction, even though he is a dependent, since payment is made in cash.

5. Computation of total income of Mr. Y for the T.Y. 2026-27

Particulars	₹
Profits and gains of business or profession **(See Working Note 1 below)**	11,21,500
Income from other sources **(See Working Note 2 below)**	54,500
Gross Total Income	**11,76,000**
Less: Deduction under section 123 (Investment in NSC)	15,000
Total Income	**11,61,000**

Working Notes:

1. Computation of profits and gains of business or profession

Particulars	₹	₹
Net profit as per profit and loss account		11,20,000
Add: **Expenses debited to profit and loss account but not allowable as deduction**		
Salary paid to brother disallowed to the extent considered unreasonable [Section 36(2)]	2,500	
Motor car expenses attributable to personal use not allowable (₹ 78,000 × ¼)	19,500	
Depreciation debited in the books of account	55,000	
Drawings (not allowable since it is personal in nature) **[See Note (iii)]**	10,000	

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	Investment in NSC **[See Note (iii)]**	15,000	1,02,000
			12,22,000
Add:	Under statement of closing stock		12,000
			12,34,000
Less:	Under statement of opening stock		8,000
Less:	Contribution to a University approved and notified u/s 45(3)(a) is eligible for 100% deduction. Since whole of the actual contribution (100%) has been debited to profit and loss account, no further adjustment is required.		-
			12,26,000
Less:	**Incomes credited to profit and loss account but not taxable as business income**		
	Income from UTI [taxable under the head "Income from other sources"]	22,000	
	Interest on debentures (taxable under the head "Income from other sources")	17,500	
	Winnings from horse races (taxable under the head "Income from other sources")	15,000	54,500
			11,71,500
Less:	Depreciation allowable under the Income-tax Rules, 2026		50,000
			11,21,500

Notes:

(i) Advertisement expenses of revenue nature, namely, gift of dry fruits to important customers, is incurred wholly and exclusively for business purposes. Hence, the same is allowable as deduction under section 34.

(ii) Disallowance under section 36(4) is not attracted in respect of cash payment exceeding ₹ 10,000 to A & Co., a goods transport operator, since, in case of payment made for plying, hiring or leasing goods carriages, an increased limit of ₹ 35,000 is

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applicable (i.e. payment of upto ₹ 35,000 can be made in cash without attracting disallowance under section 36(4))

(iii) Since drawings and investment in NSC have been given effect to in the profit and loss account, the same have to be added back to arrive at the business income.

(iv) In point no. 9 of the question, it has been given that depreciation as per Income-tax Rules, 2026 is ₹ 50,000. It has been assumed that, in the said figure of ₹ 50,000, only the proportional depreciation (i.e., 75% for business purposes) has been included in respect of motor car.

2. Computation of "Income from Other Sources"

Particulars	₹
Dividend from UTI	22,000
Interest on debentures	17,500
Winnings from races	15,000
	54,500

6. Computation of total income of Balamurugan for the T.Y. 2026-27

Particulars	₹	₹
Salaries	3,70,000	
Less: Loss from house property (Cannot be set off against income under any other head)	-	3,70,000
Profits and gains of business or profession		
Speculation business income	1,00,000	
Less: Business loss of ₹ 1,35,000 set-off to the extent of ₹ 1,00,000	(1,00,000)	
	Nil	
Balance current year business loss of ₹ 35,000 to be set-off against long-term capital gain		
Capital Gains		
Long term capital gain	70,000	

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Less: Balance current year business loss set-off	(35,000)	
Long term capital gain after set off of business loss		35,000
Income from other sources		
Lottery winnings (Gross)		5,00,000
Total Income		**9,05,000**

Computation of tax liability for T.Y.2026-27

Particulars	₹
On total income of ₹ 3,70,000 (excluding lottery winning and LTCG)	Nil
On LTCG of ₹ 5,000 @12.5% (balance unexhausted basic exemption limit of ₹ 30,000 can be adjusted against LTCG taxable u/s 197)	625
On lottery winnings of ₹ 5,00,000 @ 30%	1,50,000
	1,50,625
Add: Health and Education cess @ 4%	6,025
Total tax liability	**1,56,650**

The assessee need not pay advance tax since the total income (excluding lottery income) liable to tax is below the basic exemption limit. Further, in respect of lottery income, tax would have been deducted at source @ 30% under section 194(1) (Table: Sl. No. 1). If the tax has been deducted on lottery income, advance tax liability will not be attracted since the remaining tax liability of ₹ 6,650 (₹ 1,56,650 – ₹ 1,50,000) is less than ₹ 10,000.

Note – Section 425(4) provides that no interest shall be payable in respect of shortfall in the payment of advance tax where the shortfall is on account of capital gain or lottery income and the entire amount of tax payable (after considering TDS, if any) on such income has been paid in the remaining instalments of advance tax which are due. Where no such instalment is due, the entire tax has been paid by 31st March, 2027.

In this case, it has been assumed that tax deductible at source under section 194(1) (Table: Sl. No. 1) has been fully deducted from lottery income. Since the remaining tax liability of ₹ 6,650 (₹ 1,56,650 – ₹ 1,50,000) is less than ₹ 10,000, advance tax liability is not attracted.

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7. Computation of total income of Mr. Rajiv for the T.Y.2026-27

Particulars	₹	₹	₹
Income from house property			
Self-occupied			
Annual value	Nil		
Less: Deduction under section 22(1)(b)			
Interest on housing loan			
50% of ₹ 88,000 = 44,000	44,000		
Loss from self-occupied property		(44,000)	
Let out property			
Annual value (Rent receivable has been taken as the annual value in the absence of other information)	60,000		
Less: Deductions u/s 22			
30% of Net Annual Value 18,000			
Interest on housing loan (50% of ₹ 88,000) 44,000	62,000	(2,000)	
Loss from house property			(46,000)
Profits and gains of business or profession			
Fees from professional services		59,38,000	
Less: Expenses allowable as deduction			
Staff salary, bonus and stipend	21,50,000		
Other administrative expenses	11,48,000		
Office rent	30,000		
Motor car maintenance (10,000 x 4/5)	8,000		
Car loan interest – not allowable (since the same has not been paid and the assessee follows cash system of accounting)	Nil	33,36,000	
		26,02,000	
Less: Depreciation			
Motor car ₹ 4,25,000 x 7.5% x 4/5	25,500		

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Books being annual publications@40%	8,000		
Furniture and fittings@10% of ₹ 60,000	6,000		
Plant and machinery@15% of ₹ 80,000	12,000		
Computer@40% of ₹ 50,000	20,000		
Computer (New) ₹ 30,000 @ 40% x 50%	6,000	77,500	25,24,500
Gross Total income			**24,78,500**
Less: Deductions under Chapter VIII			
Deduction under section 123			
Housing loan principal repayment	1,00,000		
PPF subscription	20,000		
Life insurance premium	24,000		
Total amount of ₹ 1,44,000 is allowed as deduction since it is within the limit of ₹ 1,50,000		1,44,000	
Deduction under section 126			
Health insurance premium paid		18,000	1,62,000
Total income			**23,16,500**

8. Computation of total income and tax liability of Siddhant under default tax regime under section 202(1) for the T.Y. 2026-27

Particulars	₹	₹
Salary Income		
Salary including dearness allowance		4,35,000
Bonus		15,000
Value of perquisites:		
(i) Salary of servant	12,000	
(ii) Free gas, electricity and water	11,000	23,000
		4,73,000
Less: Standard deduction under section 19(1) (Table: Sl. No. 2)		75,000
		3,98,000
Income from house property		
Gross Annual Value (GAV) (Rent receivable is taken as	42,000	

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GAV in the absence of other information) (₹ 3,500 × 12)			
Less: Municipal taxes paid		4,300	
Net Annual Value (NAV)		37,700	
Less: Deductions under section 22			
(i) 30% of NAV	₹ 11,310		
(ii) Interest on loan from LIC @15% of ₹ 1,60,000 **[See Note 2]**	₹ 24,000	35,310	2,390
Income from speculative business			
Income from share speculation business		2,700	
Less: Loss of ₹ 4,200 from cotton speculation business set-off to the extent of ₹ 2,700		2,700	Nil
Balance loss of ₹ 1,500 from cotton speculation business has to be carried forward to the next year as it cannot be set off against any other head of income.			
Income from Other Sources			
(i) Income on account of interest earned from advancing money gifted to his minor son is includible in the hands of Siddhant as per section 99(1)(c) [Exemption under Schedule III (Table: S. No. 17) would not be available]		3,800	
(ii) Interest income earned from advancing money gifted to wife has to be clubbed with the income of the assessee as per section 99(1)(a)(ii)		5,700	
(iii) Gift received from four friends (taxable under section 92(2)(3) as the total value of gift received during the year exceeds ₹ 50,000)		1,20,000	1,29,500
Gross Total Income			**5,29,890**
Deduction under section 123 [No deduction under Chapter VIII would be allowed as per section 202(2)]			Nil
Total Income			**5,29,890**
Tax on total income [5% of ₹ 1,29,890 (₹ 5,29,890 - ₹ 4,00,000]			6,495
Less: Rebate u/s 156, since total income does not exceed ₹ 12,00,000			6,495
Tax liability			**Nil**

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Computation of total income and tax liability of Siddhant for the T.Y. 2026-27 under optional tax regime

Particulars	₹	₹
Gross total income (as per default scheme)		**5,29,890**
Add: Standard Deduction [₹ 25,000 being excess amount allowed under section 202]		25,000
Less: Exemption under Schedule III (Table: S. No. 17) in respect of interest income of minor son included in the hands of Siddhant		1,500
Gross total income (under optional tax regime)		**5,53,390**
Less: **Deductions under Chapter VIII**		
Under section 123 [Contribution to PPF]		50,000
Total Income		**5,03,390**
Tax on total income [5% of ₹ 2,50,000 + 20% of ₹ 3,390]		13,178
Add: HEC @4%		527
Tax liability		**13,705**
Tax liability (Rounded off)		**13,710**

Since his total income under optional tax regime exceeds ₹ 5,00,000, he would not be eligible for rebate under section 156.

Since Mr. Siddhant is not liable to pay any tax under default tax regime under section 202(1), it would be beneficial for him to not to exercise the option of shift out of the default tax regime for T.Y.2026-27.

Notes:

(1) It is assumed that the entire loan of ₹ 1,60,000 is outstanding as on 31.3.2027;

(2) Since Siddhant's own flat in a co-operative housing society, which he has rented out to a nationalized bank, is also in Delhi, he is not eligible for deduction under section 134 in respect of rent paid by him for his accommodation in Delhi, since one of the conditions to be satisfied for claiming deduction under section 134 is that the assessee should not own any residential accommodation in the same place.

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9. Computation of Total Income and tax liability of Mr. Ramdin for T.Y.2026-27 under optional tax regime

Particulars	₹	₹
Income from Salaries		
Basic Salary (₹ 15,000 x 12)		1,80,000
Dearness Allowance (₹ 12,000 x12)		1,44,000
Commission on Turnover (0.5% of ₹ 50 lakhs)		25,000
Bonus		50,000
Gratuity		30,000
Employer's contribution to recognized provident fund		-
Interest credited in recognized provident fund account @15% p.a.	15,000	
Less: Exempt upto 9.5% p.a.	9,500	5,500
Gift of gold ring worth ₹ 10,000 on 25th wedding anniversary by employer (Not a perquisite)		-
Perquisite value of music system given for personal use (being 10% of actual cost) i.e. 10% of ₹ 85,000		8,500
		4,43,000
Less: Standard deduction under section 19(1) (Table: Sl. No. 2)		50,000
		3,93,000
Profits and Gains of Business or Profession		
Lease of 2 light goods vehicles on contract basis against fixed charges of ₹ 6,500 p.m. In this case, presumptive tax provisions of section 58(2) (Table: Sl. No. 2) will apply i.e. ₹ 7,500 p.m. for each of the two light goods vehicle (₹ 7,500 x 2 x 12). He cannot claim lower profits and gains since he has not maintained books of account.		1,80,000

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Income from Other Sources		
Interest on bank FDRs	5,860	
Interest on debentures	7,540	13,400
Gross total Income		**5,86,400**
Less: Deductions under Chapter VIII		
Section 123		
Premium on life insurance policy	15,370	
Investment in NSC	30,000	
FDR of SBI for 5 years	50,000	
Employee's contribution to recognized provident fund	30,000	1,25,370
Section 126 – Health Insurance premium		22,500
Section 133 (See Note below)		10,600
Total Income		**4,27,930**
Tax on total income		
Income-tax [5% of ₹ 1,77,930 (i.e., ₹ 4,27,930 – ₹ 2,50,000)		8,897
Less: Rebate u/s 156, since total income does not exceed ₹ 5,00,000		8,897
Tax liability		**Nil**

Note:

Deduction under section 133 is computed as under:

Particulars	₹
Donation to PM National Relief Fund (100%)	5,100
Donation to institution approved under section 133 (50% of ₹ 11,000) (amount contributed ₹ 11,000 or 10% of Adjusted Total Income i.e. ₹ 43,853, whichever is lower)	5,500
Total deduction	10,600

Adjusted Total Income = Gross Total Income – Deductions under section 123 and 126 = ₹ 5,86,400 – ₹ 1,47,870 = ₹ 4,38,530.

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10. Computation of total income of Mr. X for T.Y.2026-27

Particulars	₹	₹
Income from Salaries		
Basic salary (₹ 25,000 x 9 months)		2,25,000
House rent allowance:		
Actual amount received (₹ 6,000 x 9 months)	54,000	
Less: Exemption under schedule III (Table: Sl. No. 11) read with Rule 279 **(Note 1)**	36,000	18,000
Gratuity		3,50,000
Gross Salary		**5,93,000**
Less: Deductions under section 19(1)		
Standard deduction	50,000	
Gratuity received under the Payment of Gratuity Act **(Note 2)**	3,50,000	4,00,000
		1,93,000
Profits and gains of business or profession		
Business loss of ₹ 80,000 to be carried forward as the same cannot be set off against salary income		Nil
Gross Total income		**1,93,000**
Less: Deduction under section 123		
Deposit in Public Provident Fund		1,00,000
Total income		**93,000**
Tax on total income (Nil, since it is lower than the basic exemption limit of ₹ 2,50,000)		**Nil**

Notes:

(1) As per schedule III (Table: Sl. No. 11) read with Rule 279, house rent allowance will be exempt to the extent of least of the following three amounts:

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		₹
(i)	HRA actually received (₹ 6,000 x 9)	54,000
(ii)	Rent paid in excess of 1/10 of salary (₹ 6,500 – ₹ 2,500) x 9 months	36,000
(iii)	50% of salary	1,12,500

(2) Deduction for gratuity of ₹ 3,50,000 is allowed under section 19(1) (Table: Sl. No. 5), being the minimum of the following amounts:

		₹
(i)	Actual amount received	3,50,000
(ii)	Half month salary for each year of completed service [(₹ 25,000 x 15/26) x 26 years]	3,75,000
(iii)	Statutory limit	20,00,000

11. Computation of total income of Mrs. Rosy and Mrs. Mary for the T.Y. 2026-27

S. No.	Particulars		Mrs. Rosy (Non-resident)	Mrs. Mary (ROR)
			₹	₹
(I)	**Salaries**			
	Pension received from State Govt.	₹ 60,000		
	Less: Standard deduction u/s 19(1) (Table: Sl. No. 2)	₹ 50,000	-	10,000
	Pension received from Canadian Government is not taxable in the case of a non-resident since it is earned and received outside India		-	-
			-	**10,000**
(II)	**Income from house property**			
	Rent received from house property at Mumbai (assumed to be the annual value in the absence of other information i.e. municipal value, fair rent and standard rent)		60,000	30,000
	Less: Deduction u/s 22(1)(a)@30%		18,000	9,000
			42,000	**21,000**

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(III)	**Capital gains**		
	Long-term capital gain on sale of land at Mumbai	1,00,000	1,00,000
	Short term capital gain on sale of shares of Indian listed companies in respect of which STT was paid	20,000	2,50,000
		1,20,000	**3,50,000**
(A)	**Gross Total Income [(I)+(II)+(III)]**	**1,62,000**	**3,81,000**
	Less: Deductions under Chapter VIII		
1.	Deduction u/s 123		
	1. LIC Premium paid	-	10,000
	2. Premium paid to Canadian Life Insurance Corporation	40,000	-
	3. Deposit in PPF	-	20,000
		40,000	**30,000**
2.	Deduction u/s 126 – Health insurance premium paid	-	25,000
		40,000	**55,000**
(B)	Total deduction under Chapter VIII is restricted to income other than capital gains taxable under sections 196 & 197	40,000	31,000
(C)	**Total income (A-B)**	**1,22,000**	**3,50,000**
	Tax liability of Mrs. Rosy for T.Y.2026-27		
	Tax on long-term capital gains @12.5% of ₹ 1,00,000	12,500	
	Tax on short-term capital gains @20% of ₹ 20,000	4,000	
	Tax on balance income of ₹ 2,000	Nil	
		16,500	
	Tax liability of Mrs. Mary for T.Y. 2026-27		
	Tax on LTCG @12.5% of ₹ 1,00,000		12,500
	Tax on STCG of ₹ 2,50,000 (unexhausted basic exemption limit of ₹ 2,50,000 is adjusted)		Nil
			12,500

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	Less: Rebate u/s 156 would be lower of ₹ 12,500 or tax liability, since total income does not exceed ₹ 5,00,000		12,500
			Nil
	Add: Health and Education cess@4%	660	Nil
	Total tax liability	**17,160**	**Nil**

Notes:

(1) In case of resident individuals, if the basic exemption limit is not fully exhausted against other income, then the long-term capital gains u/s 197/short-term capital gains u/s 196 will be reduced by the unexhausted basic exemption limit and only the balance will be taxed as per rates u/s 197/196. However, this benefit is not available to non-residents. Therefore, while Mrs. Mary can adjust unexhausted basic exemption limit against long-term capital gains taxable under section 197 and short-term capital gains taxable under section 196, Mrs. Rosy cannot do so.

(2) Since long-term capital gains is taxable at the rate of 12.5% and short-term capital gains is taxable at the rate of 20%, it is more beneficial for Mrs. Mary to exhaust her basic exemption limit of ₹ 2,50,000 against short-term capital gains of ₹ 2,50,000.

(3) Rebate under section 156 would not be available to Mrs. Rosy even though her total income does not exceed ₹ 5,00,000, since she is non-resident for the T.Y. 2026-27.

12. Computation of total income of Mr. Rishabh for T.Y. 2026-27 (under default tax regime under section 202(1))

Particulars		₹	₹	₹
I	**Income from business or profession**			
	Net profit as per profit and loss account		82,45,000	
	***Add:* Items of expenditure not allowable while computing business income**			
	(i) Interest on loan taken for purchase of plant & machinery	1,53,125		

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	[Interest from the date on which capital was borrowed for acquisition of asset till the date on which asset was first put to use, not allowable as deduction under section 32(b). Accordingly, interest of ₹ 1,53,125 [₹ 50,00,000 x 10.5% x 3.5/12] has to be added back, since the same is debited to the profit and loss account]			
	(ii) Purchase of goods at a price higher than the fair market value [The difference between the purchase price (₹ 40 lakhs) and the fair market value (₹ 35 lakhs) has to be added back as per section 36(2) since the purchase is from a specified person, i.e., his brother and at a price higher than the fair market value]	5,00,000	6,53,125	
			88,98,125	
	***Less*: Items of income to be treated separately under the respective head of income**			
	(i) Income-tax refund including interest on refund of ₹ 4,550	15,550		
	(ii) Dividend from Indian companies	15,00,000		

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	(iii) Short term capital gains on transfer of listed equity shares	10,00,000	25,15,550	
			63,82,575	
	***Less:* Depreciation on interest on loan capitalized to plant and machinery**			
	₹ 1,53,125, being the amount of interest on loan taken for purchase of plant and machinery from the date on which capital was borrowed till the date on which asset was first put to use, shall be capitalized			
	Normal depreciation @15% x 50% on such interest		11,484	
			63,71,091	
	***Add:* Additional depreciation on newly plant and machinery** [Not allowable under default tax regime] [₹ 65,00,000 x 20% x 50%]		6,50,000	
				70,21,091
II	**Capital Gains**			
	Short term capital gains on transfer of listed equity shares			10,00,000
III	**Income from Other Sources**			
	Interest on income-tax refund		4,550	
	Dividend from Indian companies		15,00,000	15,04,550
	Gross Total Income			**95,25,641**

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	Less: Deductions under Chapter VIII			
	- Deduction under section 123 [Not allowable under default tax regime]			Nil
	- Deduction under section 126 [Not allowable under default tax regime]			Nil
	Total Income			**95,25,641**
	Total Income (Rounded off)			**95,25,640**

Computation of net tax liability under default tax regime

Particulars	₹	₹
Tax on total income of ₹ 95,25,640		
Tax on STCG of ₹ 10,00,000@20% u/s 196		2,00,000
Tax on remaining total income of ₹ 85,25,640		
Upto ₹ 4,00,000	Nil	
₹ 4,00,001 – ₹ 8,00,000 [@5% of ₹ 4 lakhs]	20,000	
₹ 8,00,001 – ₹ 12,00,000 [@10% of ₹ 4 lakhs]	40,000	
₹ 12,00,001 – ₹ 16,00,000 [@15% of ₹ 4 lakhs]	60,000	
₹ 16,00,001 – ₹ 20,00,000 [@20% of ₹ 4 lakhs]	80,000	
₹ 20,00,001 – ₹ 24,00,000 [@25% of ₹ 4 lakhs]	1,00,000	
₹ 24,00,001 – ₹ 85,25,640 [@30% of ₹ 61,25,640]	18,37,692	21,37,692
		23,37,692
Add: Surcharge @10%, since total income exceeds ₹ 50,00,000 but does not exceed ₹ 1 crore		2,33,769
		25,71,461
Add: Health and education cess@4%		1,02,858
Total tax liability		26,74,319
Less: Advance tax paid		17,50,000
Net Tax liability		**9,24,319**
Net Tax Liability (rounded off)		**9,24,320**

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Computation of total income of Mr. Rishabh under optional tax regime for T.Y. 2026-27

Particulars	₹	₹
Gross Total Income as per default tax regime		95,25,641
Less: Additional depreciation on plant and machinery		
- On interest which is capitalised	15,313	
- On cost of plant and machinery [₹ 65 lakhs x 20% x 50%]	6,50,000	6,65,313
Gross Total Income under optional tax regime		**88,60,328**
- **Deduction under section 123**	40,000	
Life insurance premium for married daughter [Allowable as deduction though she is not dependent, since child of an individual whether dependent or not falls within the meaning of term "Person". Accordingly, whole of the amount of ₹ 40,000 is allowable as it does not exceed 10% of the ₹ 5, 00,000, being the sum assured]		
- **Deduction under section 126**	25,000	65,000
Health insurance premium for self, spouse and children [Allowable as deduction, since it is paid otherwise than by way of cash. However, it is to be restricted to ₹ 25,000		
Total Income		**87,95,328**
Total Income (Rounded off)		**87,95,330**

Computation of net tax liability under optional tax regime

Particulars	₹	₹
Tax on total income of ₹ 87,95,330		
Tax on short term capital gains on transfer of listed equity shares @20% u/s 196		2,00,000
Tax on other Income of ₹ 77,95,330		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 [@5% of ₹ 2.50 lakh]	12,500	
₹ 5,00,001 – ₹ 10,00,000 [@20% of ₹ 5,00,000]	1,00,000	
₹ 10,00,001- ₹ 77,95,330 [@30% of ₹ 67,95,330]	20,38,599	21,51,099
		23,51,099

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Add: Surcharge @10%, since total income exceeds ₹ 50,00,000 but does not exceed ₹ 1 crore		2,35,110
		25,86,209
Add: Health and education cess@4%		1,03,448
Total tax liability		26,89,657
Less: Advance tax paid		17,50,000
Net Tax Liability		**9,39,657**
Net Tax Liability (rounded off)		**9,39,660**

Since tax payable as per section 202(1) is lower than the tax payable under optional tax regime, it is beneficial for Mr. Rishabh to pay tax under default tax regime under section 202(1) for T.Y. 2026-27.

13. Computation of total income of Mr. Sunil for T.Y. 2026-27 (under default tax regime under section 202(1))

	Particulars	₹	₹	₹
I	**Income from house property**			
	Let out portion [First floor]			
	Gross Annual Value [Rent received is taken as GAV, in the absence of other information]		2,95,000	
	Less: Municipal taxes paid by him in the T.Y. 2026-27 pertaining to let out portion [₹ 25,000/2]		12,500	
	Net Annual Value (NAV)		2,82,500	
	Less: Deduction u/s 22(1)			
	(a) 30% of ₹ 2,82,500	84,750		
	(b) Interest on housing loan [₹ 1,50,000/2]	75,000	1,59,750	
			1,22,750	
	Self-occupied portion [Ground Floor]			
	Annual Value		Nil	

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	[No deduction is allowable in respect of municipal taxes paid]			
	Less: Interest on housing loan [Not allowable under section 202]		Nil	
			Nil	
	Income from house property			1,22,750
II	**Profits and gains of business or profession**			
	Income from SEZ unit			40,00,000
III	**Capital Gains**			
	Long-term capital gains on sale of land (since held for more than 24 months)			
	Full Value of Consideration [Actual consideration of ₹ 16 lakhs, since stamp duty value of ₹ 17 lakhs does not exceed 110% of actual consideration of ₹ 16 lakhs]		16,00,000	
	Less: Cost of acquisition [₹ 4,00,000]		4,00,000	12,00,000
	Cost of acquisition			
	Higher of -			
	- Actual cost ₹ 2.80 lakhs + ₹ 0.12 lakhs = ₹ 2.92 lakhs and			
	- Fair Market Value (FMV) as on 1.4.2001 = ₹ 4.8 lakhs but cannot exceed stamp duty value of ₹ 4 lakhs.			
IV	**Income from Other Sources**			
	Interest on savings bank deposits		30,000	
	Interest on fixed deposits		40,000	70,000
	Gross Total Income			**53,92,750**

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	***Less*: Deduction under Chapter VIII**			
	Deduction under section 146			7,12,800
	30% of the employee cost of the new employees employed during the T.Y. 2026-27 for 240 days or more during the T.Y. 2026-27 allowable as deduction [30% of ₹ 23,76,000 (12 x 18,000 x 11)]			
	As per section 202(2), no deduction under Chapter VIII is allowable except u/s 146			
	Total Income			**46,79,950**

14. Computation of total income and tax liability of Mr. X for T.Y.2026-27 (under default tax regime under section 202(1))

Particulars	₹	₹
Profits and gains of business or profession		
Profit from unit in SEZ		40,00,000
Profit from operation of warehousing facility	1,05,00,000	
Less: Depreciation under section 33		
On building @10% of ₹ 65 lakhs[4] (normal depreciation under section 33 is allowable)	6,50,000	98,50,000
Total Income		**1,38,50,000**
Computation of tax liability as per section 202(1)		
Tax on ₹ 1,38,50,000		37,35,000
Add: Surcharge@15% (since the total income exceeds ₹ 1 crore but does not exceed ₹ 2 cores)		5,60,250
		42,95,250
Add: Health and Education cess@4%		1,71,810
Total tax liability		**44,67,060**

[4] *Assuming the capital expenditure of ₹65 lakhs is incurred entirely on buildings*

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Notes:

(1) Deductions u/s 144 and 46 are **not** allowable as per section 202(2). However, normal depreciation u/s 33 is allowable.

(2) Mr. X is **not** liable to alternate minimum tax u/s 206(2) under default tax regime under section 202(1).

Computation of total income and tax liability of Mr. X for T.Y.2026-27 (under the regular provisions of the Income-tax Act, 2025)

Particulars	₹	₹
Profits and gains of business or profession		
Profit from unit in SEZ	40,00,000	
Less: Deduction u/s 144 **[See Note (1) below]**	16,00,000	
Business income of SEZ unit chargeable to tax		24,00,000
Profit from operation of warehousing facility	1,05,00,000	
Less: Deduction u/s 46 **[See Note (2) below]**	65,00,000	
Business income of warehousing facility chargeable to tax		40,00,000
Total Income		**64,00,000**
Computation of tax liability (under the normal/ regular provisions)		
Tax on ₹ 64,00,000		17,32,500
Add: Surcharge @ 10% (since the total income exceeds ₹ 50 lakhs but does not exceed ₹ 1 core)		1,73,250
		19,05,750
Add: Health and Education cess@4%		76,230
Total tax liability		**19,81,980**

Computation of adjusted total income and AMT liability of Mr. X

Particulars	₹	₹
Total Income (computed above as per regular provisions of income tax)		**64,00,000**
Add: Deduction under section 144		16,00,000
		80,00,000

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Add: Deduction under section 46	65,00,000	
Less: Depreciation under section 33		
On building @10% of ₹65 lakhs[5]	6,50,000	58,50,000
Adjusted Total Income		**1,38,50,000**
Alternate Minimum Tax@18.5%		25,62,250
Add: Surcharge@15% (since adjusted total income > ₹ 1 crore)		3,84,338
		29,46,588
Add: Health and Education cess@4%		1,17,863
		30,64,451
Tax liability u/s 206(2) (rounded off)		**30,64,450**

Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof *plus* surcharge@15% and cess@4%. Therefore, tax liability as per section 206(2) is ₹ 30,64,450.

Since the tax liability of Mr. X under section 206(2) is lower than the tax liability as computed u/s 202(1), it would be beneficial for him **to opt out of the default tax regime for T.Y. 2026-27**. Moreover, benefit of alternate minimum tax credit is also available to the extent of tax paid in excess over regular tax.

AMT Credit to be carried forward under section 206(2)

	₹
Tax liability under section 206(2)	30,64,450
Less: Tax liability under the regular provisions of the Income-tax Act, 2025	19,81,980
	10,82,470

Notes:

(1) Deduction under section 144 in respect of Unit in SEZ =

$$\text{Profit of the Unit in SEZ} \times \frac{\text{Export turnover of the Unit in SEZ}}{\text{Total turnover of the Unit in SEZ}} \times 50\%$$

$$40,00,000 \times \frac{80,00,000}{1,00,00,000} \times 50\% = ₹\ 16,00,000$$

[5] *Assuming the capital expenditure of ₹65 lakhs is incurred entirely on buildings*

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(2) Deduction for whole of the capital expenditure is available under section 46 for T.Y.2026-27 in respect of specified business of setting up and operating a warehousing facility for storage of agricultural produce which commences operation on or after 01.04.2009.

Further, the expenditure incurred, wholly and exclusively, for the purposes of such specified business, shall be allowed as deduction during the tax year in which he commences operations of his specified business if the expenditure is incurred prior to the commencement of its operations and the amount is capitalized in the books of account of the assessee on the date of commencement of its operations.

Deduction under section 46 would, however, **not** be available on expenditure incurred on acquisition of land.

In this case, since the capital expenditure of ₹ 65 lakhs (i.e., ₹ 75 lakhs – ₹ 10 lakhs, being expenditure on acquisition of land) has been incurred in the F.Y.2025-26 and capitalized in the books of account on 1.4.2026, being the date when the warehouse became operational, ₹ 65,00,000, being 100% of ₹ 65 lakhs would qualify for deduction under section 46.

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CHAPTER 1

GST IN INDIA – AN INTRODUCTION



Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

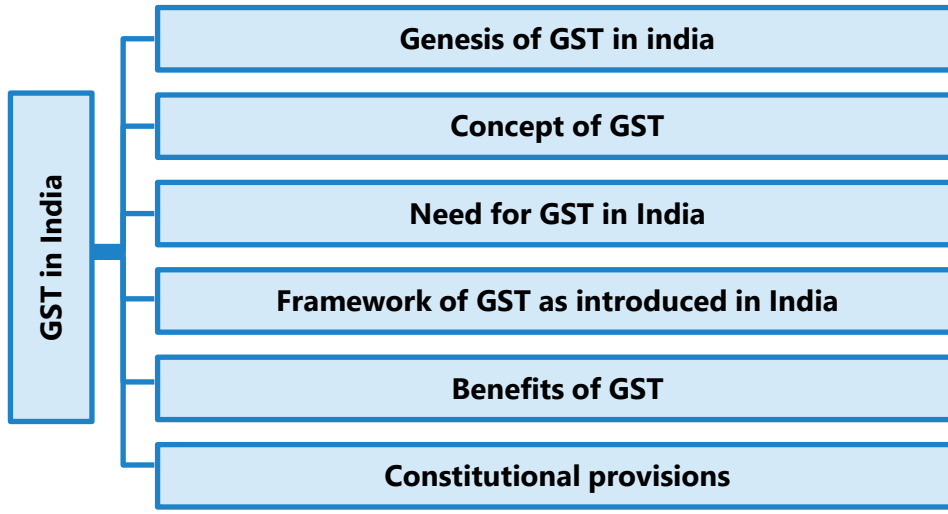
LEARNING OUTCOMES

After studying this Chapter, you will be able to:

- explain the concept of GST and the need for GST in India.
- discuss the framework of GST as introduced in India and comprehend the various benefits to be accrued from implementation of GST.
- explain the constitutional provisions pertaining to levy of various taxes
- appreciate the need for constitutional amendment paving way for GST.
- discuss the significant amendments made by the Constitution (101st Amendment) Act, 2016.

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CHAPTER OVERVIEW



1. OVERVIEW OF TAXATION SYSTEM IN INDIA

In any Welfare State, it is the prime responsibility of the Government to fulfill the increasing developmental needs of the country and its people by way of public expenditure.

India, being a developing economy, has been striving to fulfill the obligations of a Welfare State with its limited resources; the primary source of revenue being the levy of taxes.

Though the collection of tax is to augment as much revenue as possible to the Government to provide public services, over the years it has been used as an instrument of fiscal policy to stimulate economic growth. Thus, taxes are collected to fulfill the socio-economic objectives of the Government.

> ***Collect taxes from the citizens as honeybees collect nectar from the flowers, gently and without inflicting pain.***
>
> ***-Chanakya***

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Now, the question arises, what is tax? A tax is defined as a "pecuniary burden laid upon individuals or property owners to support the Government, a payment exacted by legislative authority. A tax "is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority".

In simple words, tax is nothing but money that people pay to the Government, which is used to provide public services.

> ***Taxes, after all, are dues that we pay for the privileges of membership in an organized society.***
>
> ***-Franklin D. Roosevelt***

A direct tax is a kind of charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons (juristic or natural) on whom it is imposed. A direct tax cannot be shifted by the taxpayer to someone else. A significant direct tax imposed in India is income tax.

If the taxpayer is just a conduit and at every stage the tax-incidence is passed on till it finally reaches the consumer, who really bears the brunt of it, such tax is indirect tax. An indirect tax can be shifted by the taxpayer to someone else.

Its incidence is borne by the consumers who ultimately consume the product or the service, while the immediate liability to pay the tax may fall upon another person such as a manufacturer or provider of service or seller of goods.

Also called consumption taxes, they are regressive in nature because they are not based on the principle of ability to pay. All the consumers, including the economically challenged bear the brunt of the indirect taxes equally.

Indirect taxes are levied on consumption, expenditure, privilege, or right but not on income or property. Earlier, a number of indirect taxes were levied in India, namely, excise duty, customs duty, service tax, central sales tax (CST), value added

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tax (VAT), entry tax, purchase tax, entertainment tax, tax on lottery, betting and gambling, luxury tax, tax on advertisements, etc.

However, indirect taxation in India witnessed a paradigm shift on July 01, 2017 with usherance into a unified indirect tax regime wherein a large number of Central and State indirect taxes were amalgamated into a single tax – Goods and Services Tax (GST).

The introduction of GST has been a very significant step in the field of indirect tax reforms in India. Customs duty continues in post-GST regime.

Economists world over agree that direct and indirect taxes are complementary and therefore, a rational tax structure should incorporate in itself both types of taxes.

According to the renowned physicist Albert Einstein, "*The hardest thing in the world is to understand income tax." Nevertheless, we are committed to ensure that your journey to India's historic indirect tax system is effortless, engaging, and enjoyable!*

At Intermediate level, we will study the select provisions of substantive and procedural law of GST - concept of supply, charge of GST, exemptions, basic concepts of time, value and place of supply, input tax credit, registration, tax invoice, credit and debit notes, accounts and records, e-way bill, returns & payment. Remaining provisions of the GST law and entire Customs law will be discussed at Final level.

2. GENESIS OF GST IN INDIA



In the year 2000, the then Prime Minister mooted the concept of GST and set up a committee to design a Goods and Services Tax (GST) model for the country. In 2003, the Central Government formed a task force on Fiscal Responsibility and Budget Management, which in 2004 strongly recommended fully integrated 'GST' on national basis.



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Subsequently, the then Union Finance Minister, Shri P. Chidambaram, while presenting the Union Budget (2006-2007), announced that GST would be introduced from April 1, 2010. Since then, GST missed several deadlines and continued to be shrouded by clouds of uncertainty.



The talks of ushering in GST, however, gained momentum in the year 2014 when the NDA Government tabled the Constitution (122nd Amendment) Bill, 2014 on GST in the Parliament on 19th December, 2014. The Lok Sabha passed the Bill on 6th May, 2015 and Rajya Sabha on 3rd August, 2016.

Subsequent to ratification of the Bill by more than 50% of the States, Constitution (122nd Amendment) Bill, 2014 received the assent of the President on 8th September, 2016 and became the **Constitution (101st Amendment) Act, 2016,** which paved the way for introduction of GST in India.



In the following year, on 27th March, 2017, the Central GST legislations - Central Goods and Services Tax Bill, 2017, Integrated Goods and Services Tax Bill, 2017, Union Territory Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in Lok Sabha.

Lok Sabha passed these bills on 29th March, 2017 and with the receipt of the President's assent on 12th April, 2017, the Bills were enacted.

> ***It's a win for democratic ethos of India and a victory for everyone, GST will improve the way of doing business.***
>
> ***-Narendra Modi***

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The enactment of the Central Acts was followed by the enactment of the State GST laws by various State Legislatures. With effect from 1st July, 2017, the historic indirect tax reform - GST was introduced. GST law was extended to Jammu and Kashmir on 8th July, 2017.

> ***It is not the end but start of the Journey.***
>
> ***-Arun Jaitely***

GST is a path breaking indirect tax reform which attempts to create a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc.

VAT and GST are often used inter-changeably as the latter denotes comprehensiveness of VAT by coverage of goods and services. **France was the first country to implement VAT/GST in 1954.** Presently, more than 160 countries have implemented VAT/GST in some form or the other because this tax has the capacity to raise revenue in the most transparent and neutral manner. Most of the countries follow unified GST i.e., a single tax applicable throughout the country. However, in federal polities like Brazil and Canada, a dual GST system is prevalent. Under dual system, GST is levied by both the federal and the State Governments. India has adopted dual GST model because of its unique federal nature.



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3. CONCEPT OF GST



Before we proceed with the finer nuances of Indian GST, let us first understand the basic concept of GST.

- GST is a value added tax levied on supply i.e., manufacture or sale of goods and provision of services.

VALUE ADDED TAX

- GST offers comprehensive and continuous chain of tax credits from the producer's point/service provider's point upto the retailer's level/consumer's level thereby taxing only the value added at each stage of supply chain.

CONTINUOUS CHAIN OF TAX CREDITS

- The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.

BURDEN BORNE BY FINAL CONSUMER

- Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system.

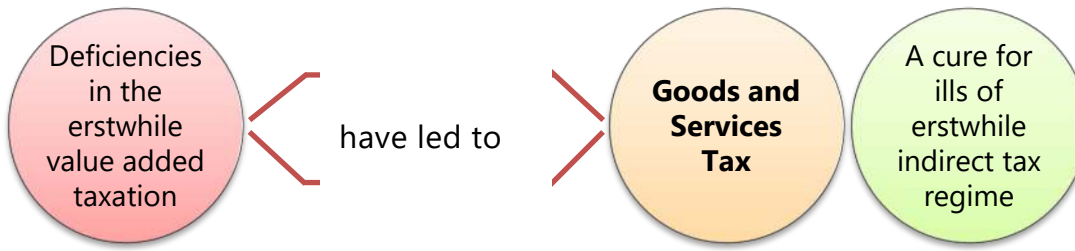
NO CASCADING OF TAXES

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- The same can be understood better with the help of the following **example**:

Manufacturer (₹) →	**Distributor (₹)** →	**Retailer (₹)** →	**Consumer (₹)**
Cost: 1,00,000 GST @ 18%= 18,000	Cost: 1,00,000 Profit: 11,200 Sale Price: 1,11,200 **GST @ 18% 20,016**	Cost: 1,11,200 Profit: 24,640 Sale Price: 1,35,840 **GST@ 18% 24,451.20**	Cost: 1,60,291.2 (1,35,840+24,451.20)
Input Tax Credit= NIL	Input Tax Credit= 18,000	Input Tax Credit= 20,016	Input Tax Credit= NIL
Paid to Government GST = 18,000	**Paid to Government** GST = 2,016 (Output tax – Input tax)	**Paid to Government** GST= 4,435.20 (Output tax – Input tax)	**Tax Borne by the Consumer** 18,000+2,016+4,435.20= 24,451.20
Value Addition = 1,00,000 GST @ 18% = 18,000	Value Addition= 11,200 GST @ 18%= 2,016	Value Addition= 24,640 GST @ 18%= 4,435.20	Value Addition= NIL

4. NEED FOR GST IN INDIA



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Deficiencies in the value added taxation system

Under the earlier indirect tax regime, despite the introduction of the principle of taxation of value added in India – at the Central level in the form of CENVAT (Central Excise) and at the State level in the form of State VAT - its application always remained piecemeal and fragmented on account of the following reasons:

- Certain transactions were subject to double taxation and were taxed as both goods and services, since under the earlier regime, distinction between goods and services was often blurred.



(1) Under the earlier tax regime, software was subject to both service tax and VAT. This was so because both sale of goods and provision of service were involved and therefore taxable event under both the Statutes i.e. respective VAT law and service tax law got triggered. This aspect has been taken care of under GST law.

- CENVAT did not include chain of value addition in the distributive trade after the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed. This led to the cascading of taxes. Below mentioned example illustrates that under the earlier indirect tax regime, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied.



(2) Under the earlier tax regime, if goods were manufactured for ₹ 1000/- and excise duty was payable @ 12.5% and VAT was payable @ 14.30%, the billing was being done as under:

Assessable value of goods under excise law	₹ 1,000
Excise duty @ 12.5%	₹ 125
Taxable value for VAT	₹ 1,125
VAT @ 14.30%	₹ 160.88
Total invoice value	₹ 1,285.88

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- Though CENVAT and State-Level VAT were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.
- There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT. Hence for a single transaction, multiple taxes in multiple forms were required to be paid.
- VAT on goods was not integrated with tax on services, at the State level, to remove the cascading effect of service tax. With service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax- buoyancy.
- CST was another source of distortion in terms of its cascading nature since it was non-VATABLE. Being an origin-based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.



(3) Under the earlier tax regime, if a dealer in Delhi purchases goods from a manufacturer in Punjab for ₹ 1000 + ₹ 20 (2% CST) = ₹ 1020/- and sells such goods within Delhi for ₹ 1200/-. The tax rate on sales is 12.5% and hence output tax liability is ₹ 150/-. Credit of ₹ 20/- is not allowed while making payment of ₹ 150/- and hence the dealer has to pay ₹ 150 as VAT.



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A comprehensive tax structure covering both goods and services viz. Goods and Services Tax (GST) addresses most of the above stated issues. Simultaneous introduction of GST at both Centre and State levels has integrated taxes on goods and services for the purpose of set-off relief and ensures that both the cascading effects of CENVAT and service tax are removed and a continuous chain of set-off from the original producer's point/ service provider's point upto the retailer's level/ consumer's level is established.



In the GST regime, the major indirect taxes have been subsumed in the ambit of GST. The erstwhile concepts of manufacture or sale of goods or rendering of services are no longer applicable since the tax is now levied on "Supply of Goods and/or services".

5. FRAMEWORK OF GST AS INTRODUCED IN INDIA

I. Dual GST:

India has a unique federal structure. In view of the same, India has adopted a **Dual GST Model**. Under Dual GST Model, the Centre and States simultaneously levy GST on complete supply chain, i.e. starting from production to distribution stage.

Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services.

Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services. GST extends to whole of India including the Union Territory of Jammu and Kashmir.

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Dual GST





II. CGST/SGST/UTGST/IGST

CGST/SGST/UTGST/IGST

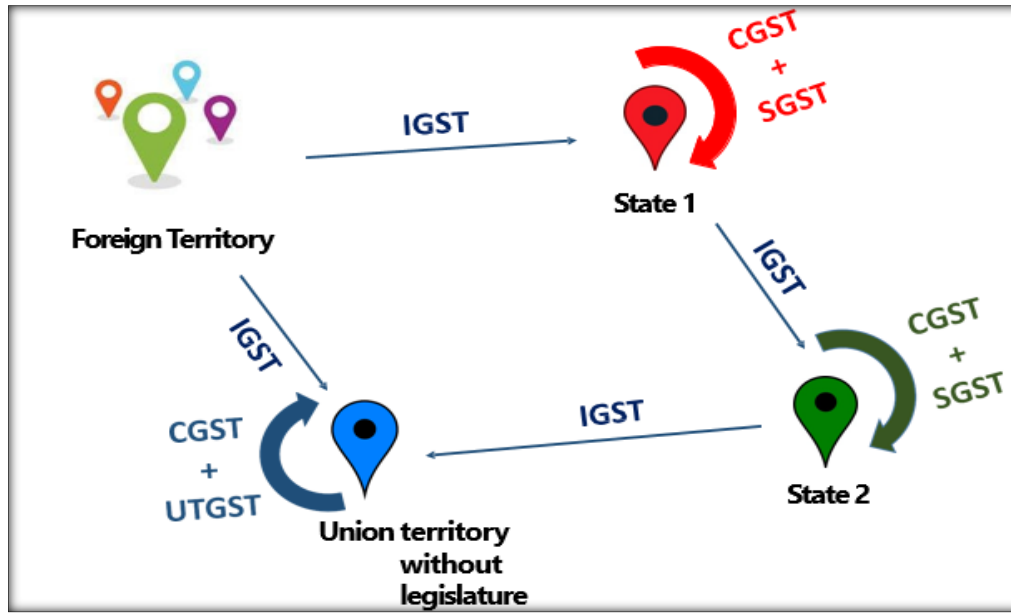
GST is a destination-based tax applicable on all transactions involving supply of goods or services or both for a consideration subject to exceptions thereof. GST in India comprises of Central Goods and Services Tax (CGST) - levied and collected by Central Government, State Goods and Services Tax (SGST) - levied and collected by State Governments/Union Territories with Legislatures and Union Territory Goods and Services Tax (UTGST) - levied and collected by Union Territories without Legislatures, on intra-State supplies of taxable goods and/or services.

As a general rule, where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as intra-State supply of goods or services respectively.

Further, where the location of the supplier and the place of supply of goods or services are in (i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory, it is treated as inter-State supply of goods or services respectively. Inter-State supplies of taxable goods and/or services are subject to Integrated Goods and Services Tax (IGST). IGST is the sum total

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of CGST and SGST/UTGST and is levied by the Centre on all inter-State supplies.



III. Legislative Framework

Legislative Framework

There is single legislation – CGST Act, 2017 - for levying CGST. Similarly, Union Territories without Legislatures [i.e. Andaman and Nicobar Islands, Lakshadweep, Ladakh, Dadra and Nagar Haveli & Daman and Diu and Chandigarh] are governed by UTGST Act, 2017 for levying UTGST. States and Union territories with their own legislatures [i.e. Delhi, Jammu and Kashmir and Puducherry] have their own GST legislation for levying SGST.

example

(4) In Ladakh, CGST and UTGST is levied on supply of goods or services or both. In Delhi, CGST and SGST is levied on supply of goods or services or both.

Though there are multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like are uniform in all the SGST legislations, as far as feasible. This is necessary to preserve the essence of dual GST.

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IV. Classification of goods and services



Classification determines the rate of tax applicable on a particular supply of goods/services. HSN (Harmonised System of Nomenclature) is used for classifying the goods under the GST. Chapters referred to in the Rate Schedules for goods are the Chapters of the First Schedule to the Customs Tariff Act, 1975.

A new **Scheme of Classification of Services** is devised wherein the services of various descriptions have been classified under various sections, headings and groups. Each group consists of various Service Codes (Tariff). SAC (Services Accounting Code) is used for classifying the services under the GST like HSN for goods.

V. Composition Scheme



In GST regime, tax (i.e. CGST and SGST/UTGST for intra-State supplies and IGST for inter-State supplies) is payable by every taxable person and in this regard provisions have been prescribed in the law.

However, for providing relief to small businesses, manufacturers, service providers, suppliers of food articles, traders, etc., making intra-State supplies, a simpler method of paying taxes is prescribed, known as composition levy.

VI. Registration



Every supplier of goods and/ or services is required to obtain registration in the State/UT from where he makes the taxable supply if his aggregate turnover exceeds the threshold limit during a FY. Different threshold limits have been prescribed for various States and Union Territories depending upon the fact whether the supplier is engaged exclusively in supply of goods, or exclusively in supply of services or in supply of both goods and services. The threshold limit of aggregate turnover prescribed for various States/UTs are as follows:

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States with threshold limit of ₹ 10 lakh for supplier of goods and/or services	States with threshold limit of ₹ 20 lakh for supplier of goods and/or services	States with threshold limit of ₹ 20 lakh for exclusive supplier of services/both goods and services and threshold limit of ₹ 40 lakh for exclusive supplier of goods making only intra-State supplies
❑ Manipur ❑ Mizoram ❑ Nagaland ❑ Tripura	❑ Arunachal Pradesh ❑ Meghalaya ❑ Sikkim ❑ Uttarakhand ❑ Puducherry ❑ Telangana	❑ All other States

However, in certain specified cases mandatory registration is required under GST irrespective of the quantum of aggregate turnover.

VII. Exemptions



Apart from providing relief to small-scale business, the law also contains provisions for granting exemption from payment of tax on essential goods and/or services.

VIII. Seamless flow of credit



Since GST is a destination-based consumption tax, revenue of SGST ordinarily accrues to the consuming States.

The inter-State supplier in the exporting State is allowed to set off the available credit against the IGST payable on inter-State supply made by him (*order of utilisation of credit is explained in brief below*).

The buyer in the importing State is allowed to avail the credit of IGST paid on inter-State purchases made by him.

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Thus, unlike the earlier scenario where the credit chain used to break in case of inter-State sales on account of non-VATable CST, under GST regime there is a seamless credit flow in case of inter-State supplies too.

The revenue of inter-State sale does not accrue to the exporting State and the exporting State transfers to the Centre the credit of SGST/UTGST used in payment of IGST.

The Centre transfers to the importing State the credit of IGST used in payment of SGST/UTGST.

Order of utilization of credit - There is a specified order in which ITC should be utilized. First, IGST credit should be utilized towards IGST payment, and then towards payment of CGST and SGST/UTGST in any order and in any proportion.

After entire ITC of IGST is utilized, ITC of CGST should be utilized for payment of CGST and IGST in that order. Thereafter, ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order.

It may be noted that ITC of CGST cannot be utilized for payment of SGST/UTGST and vice versa. Also, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully.

The seamless flow of credit under GST, in case of intra-State and inter-State supplies, can be better understood with the help of the following illustrations:

Intra-State Supply

ILLUSTRATION 1

In case of local supply of goods/ services, the supplier would charge dual GST i.e., CGST and SGST at specified rates on the supply.

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(i) Supply of goods/ services by A to B

	Amount (in ₹)
Value charged for supply of goods/ services	10,000
Add: CGST @ 9%	900
Add: SGST @ 9%	900
Total price charged by A from B for local supply of goods/ services	11,800

The CGST & SGST charged on B for supply of goods/services will be remitted by A to the appropriate account of the Central and State Government respectively.

A is the first stage supplier of goods/services and hence, does not have credit of CGST, SGST or IGST.

(ii) Supply of goods/services by B to C – Value addition @ 20%

B will avail credit of CGST and SGST paid by him on the purchase of goods/ services and will utilise such credit for being set off against the CGST and SGST payable on the supply of goods/services made by him to C.

	Amount (in ₹)
Value charged for supply of goods/ services (₹ 10,000 x 120%)	12,000
Add: CGST @ 9%	1,080
Add: SGST @ 9%	1,080
Total price charged by B from C for local supply of goods/ services	14,160

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Computation of CGST, SGST payable by B to Government

	Amount (in ₹)
CGST payable	1,080
Less: Credit of CGST	900
CGST payable to Central Government	180
SGST payable	1,080
Less: Credit of SGST	900
SGST payable to State Government	180

Note: Rates of CGST and SGST have been assumed to be 9% each for the sake of simplicity.

Statement of revenue earned by Central and State Government

Transaction	Revenue to Central Government (₹)	Revenue to State Government (₹)
Supply of goods/services by A to B	900	900
Supply of goods/services by B to C	180	180
Total	1080	1080

Inter-State Supply

ILLUSTRATION 2

In case of inter-State supply of goods/ services, the supplier would charge IGST at specified rates on the supply.

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(i) Supply of goods/services by X of State 1 to A of State 1

	Amount (in ₹)
Value charged for supply of goods/services	10,000
Add: CGST @ 9%	900
Add: SGST @ 9%	900
Total price charged by X from A for intra-State supply of goods/services	11,800

X is the first stage supplier of goods/services and hence, does not have any credit of CGST, SGST or IGST.

(ii) Supply of goods/services by A of State 1 to B of State 2 – Value addition @ 20%

	Amount (in ₹)
Value charged for supply of goods/services (₹ 10,000 x 120%)	12,000
Add: IGST @ 18%	2,160
Total price charged by A from B for inter-State supply of goods/services	14,160

Computation of IGST payable to Government

	Amount (in ₹)
IGST payable	2,160
Less: Credit of CGST	900
Less: Credit of SGST	900
IGST payable to Central Government	360

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The IGST charged on B of State 2 for supply of goods/services will be remitted by A of State 1 to the appropriate account of the Central Government. State 1 (Exporting State) will transfer SGST credit of ₹ 900 utilised in the payment of IGST to the Central Government.

(iii) Supply of goods/services by B of State 2 to C of State 2 – Value addition @ 20%

B will avail credit of IGST paid by him on the purchase of goods/services and will utilise such credit for being set off against the CGST and SGST payable on the local supply of goods/services made by him to C.

	Amount (in ₹)
Value charged for supply of goods/ services (₹ 12,000 x 120%)	14,400
Add: CGST @ 9%	1,296
Add: SGST @ 9%	1,296
Total price charged by B from C for local supply of goods/services	16,992

Computation of CGST, SGST payable to Government

	Amount (in ₹)
CGST payable	1,296
Less: Credit of IGST	1,296
CGST payable to Central Government	Nil
SGST payable	1,296
Less: Credit of IGST (₹ 2,160 - ₹ 1,296)	864
SGST payable to State Government	432

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Central Government will transfer IGST credit of ₹ 864 utilised in the payment of SGST to State 2 (Importing State).

Note: Rates of CGST, SGST and IGST have been assumed to be 9%, 9% and 18% respectively for the sake of simplicity.

Statement of revenue earned by Central and State Governments

Transaction	Revenue to Central Government (₹)	Revenue to Government of State 1 (₹)	Revenue to Government of State 2 (₹)
Supply of goods/services by X to A	900	900	
Supply of goods/services by A to B	360		
Transfer by State 1 to Centre	900	(900)	
Supply of goods/services by B to C			432
Transfer by Centre to State 2	(864)		864
Total	1,296	Nil	1,296

IX. GST Common Portal

Before GST, since the Centre and State indirect tax administrations worked under different laws, regulations, procedures and formats, their IT infrastructure and systems were also independent of each other. Integrating them for GST implementation was complex since it required integrating the entire indirect tax ecosystem so as to bring all the tax administrations (Centre, State and Union Territories) to the same level of IT maturity with uniform formats and interfaces for taxpayers and other external stakeholders.

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Besides, GST being a **destination-based tax**, the inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre. A Common Portal was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT infrastructure.

Resultantly, Common GST Electronic Portal – **www.gst.gov.in** – a website managed by Goods and Services Network (GSTN) [a wholly owned Government Company] is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.

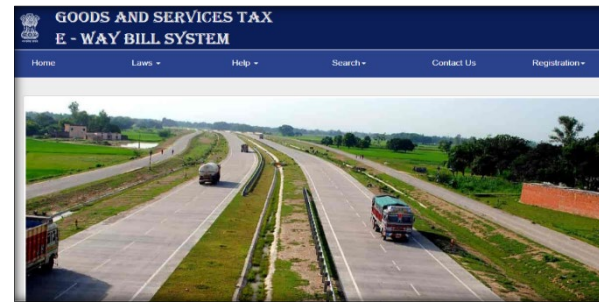
The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates etc.) and Intranet by Tax Officials etc. The portal is one single common portal for all GST related services.

GST Common Portal

A common GST system provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders. The eco-system consists of all stakeholders starting from taxpayer to tax professional to tax officials to GST portal to Banks to accounting authorities.



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The functions of the GSTN include facilitating registration; forwarding the returns to Central and State authorities; computation and settlement of IGST; matching of tax payment details with banking network; providing various MIS reports to the Central and the State Governments based on the taxpayer return information; providing analysis of taxpayers' profile.

However, it is important to note that the Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in [managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India]. E-way bill is an electronic document generated on the GST portal evidencing movement of goods.



Further, Invoice Registration Portal (IRP) is the website for uploading/reporting of e-invoices by the notified persons*. It is managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India.

**All registered businesses with an aggregate turnover (based on PAN) in any preceding financial year from 2017-18 onwards greater than ₹ 5 crore are required to issue e-invoices.*

X. GSPs/ASPs



GSTN has selected certain Information Technology, Information Technology enabled Services and financial technology companies, to be called GST Suvidha Providers (GSPs). GSPs have access to GST System and have the capability to develop applications to be used by taxpayers for interacting with the GSTN.

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GSP develops applications having features like return filing, reconciliation of purchase register data with auto populated data for acceptance/rejection/modification, dashboards for taxpayers for quick monitoring of GST compliance activities. They may also provide role-based access to divide various GST related activities like uploading invoice, filing returns etc., among different set of users inside a company (medium or large companies will need it), applications for tax professional to manage their client's GST compliance activities, integration of existing accounting packages/ERP with GST System, etc.

GSP is an additional channel being made available for facilitating the taxpayers for performing some of the functions and use of their services is optional. GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.

XI. Compensation Cess



A GST Compensation Cess at specified rate is imposed under the Goods and Services Tax (Compensation to States) Cess Act, 2017 on the specified luxury items or demerit goods, like pan masala, tobacco, aerated waters, motor cars etc., computed on value of taxable supply. Compensation cess is leviable on intra-State supplies and inter-State supplies with a view to provide for compensation to the States for the loss of revenue arising on account of implementation of the GST. Initially, it was levied for a period of 5 years upto 30th June, 2022. However, its levy and collection is extended till **31st March, 2026**.



Compensation is to be provided to a State for a period of 5 years from the date on which the State brings its SGST Act into force.

XII. GST – A tax on goods and services

GST is levied on all goods and services, except alcoholic liquor for human consumption and petroleum crude, diesel, petrol, ATF and natural gas.

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- **Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to **State excise duty** and inter-State/intra-State sale of the same is subject to **CST/VAT** respectively.



- **Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.

  Till such date, **central excise duty** continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to **CST/ VAT** respectively.

- **Tobacco:** Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, **tobacco is subject to GST as well as central excise duty.**

- **Opium, Indian hemp and other narcotic drugs and narcotics:** Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are **subject to GST as well as State excise duties.**

- Further, **real estate sector** has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property.

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Taxes subsumed in GST

The various central, State and local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

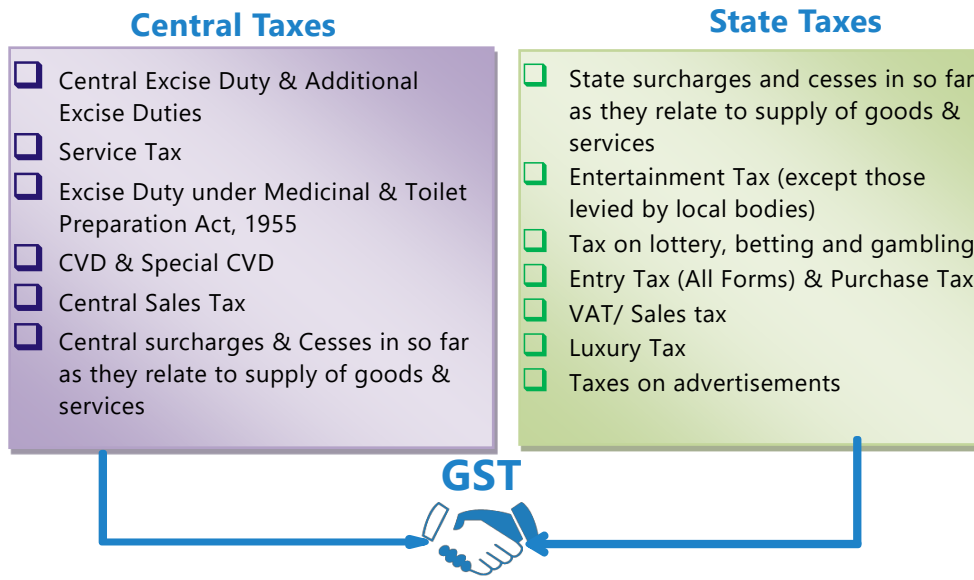
(i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.

(ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.

(iii) The subsuming of taxes should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that were not specifically related to supply of goods & services would not be subsumed under GST.

(iv) Revenue fairness for both the Union and the States individually would need to be attempted.

Taking the above principles into account, following taxes were subsumed in the GST:



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Which of the following statements is incorrect?

(a) Alcoholic liquor for human consumption is outside the realm of GST	(b) Manufacture/ production of alcoholic liquor is subject to State excise duty.	(c) Inter-State/intra-State sale of the alcohol is subject to CST/ VAT respectively.	(d) Alcoholic liquor for human consumption is subject to GST.

6. BENEFITS OF GST



GST is introduced with a vision to bring benefits to all the stakeholders of industry, Government and the citizens. GST is a win-win situation for the entire country. It is envisaged that GST will accrue following significant benefits to the stake holders:

Benefits to economy

- **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.



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- **Boost to 'Make in India' initiative:** GST has given a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.



Further, all imported goods are being charged integrated tax (IGST) which is more or less equivalent to CGST + SGST. This brings parity in taxation on local and imported goods or services.

- **Boost to investments and employment:** The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of Indian goods and services in the international market may increase to give boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase.



Simplified tax structure

- **Ease of doing business:** Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity in tax structure. The uniformity in laws, procedures and tax rates across the country makes doing business easier.





Common definitions, common forms/ formats, common interface through GST portal result in efficiencies and synergies across the board.

- **Certainty in tax administration:** Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base,

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common system of classification of goods or services along with timelines for every activity ensures certainty in tax administration across India.

Easy tax compliance

- **Automated procedures with greater use of IT:** GST is largely technology driven. The interface of the taxpayer with the tax authorities is through the common portal (GSTN). There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All processes, like applying for registration, filing of returns, payment of taxes, filing of refund claims etc., are online through GSTN. The human interface between the taxpayer and the tax administration has greatly reduced thereby leading to speedy decisions. The measures like e-Invoice and auto populated returns has eased the compliance for the registered person.

- **Easier tax compliance:** Harmonization of laws, procedures and rates of tax has made compliance easier and simple. There are common definitions, common forms/ formats, common interface through common portal (GSTN) resulting in efficiencies and synergies across the board. All this has also helped in reduction in compliance costs, alleviate the need for multiple record keeping for a variety of taxes leading to lesser investment of resources and manpower in maintaining records to the registered person.

Advantages for trade and industry

- **Benefits to industry:** Average tax burden on trade and industry has come down, which has resulted in reduction in prices of goods and services. This has resulted in more consumption, which in turn means more production and thereby boosting the growth of the industries.



- **Mitigation of ill effects of cascading:** GST is a destination-based consumption tax. It has been designed in a manner so that tax is collected at every stage and the credit of tax paid at the previous stage is available to set off the tax to be paid at the next stage of transaction. This eradicates **"tax on tax"** and allows cross utilization of input tax credits which benefit the industry by making the entire supply chain tax neutral.

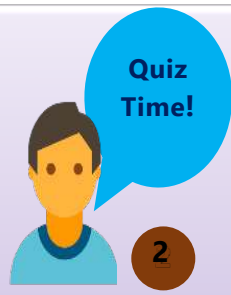
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Thus, GST prevents cascading of taxes by providing a comprehensive input tax credit mechanism across the entire supply chain. Such a seamless availability of input tax credit across goods or services at every stage of supply helps in mitigating the ill effects of cascading, enables streamlining of business operations, improving competitiveness in the markets in India and across globe.



- **Benefits to small traders and entrepreneurs:** GST has increased the threshold limit for GST registration for small businesses. Small businesses have also been provided the benefit of a composition scheme. With the creation of a seamless national market across the country, small enterprises will have an opportunity to expand their national footprint with minimal investment.





Presently, _____ is leviable on _____ of petroleum and diesel.

(i) GST; supply

(ii) Central excise duty; manufacture/production

(iii) Central sales tax; inter-State sale

(iv) Value Added Tax; intra-State sale

(v) State excise duty; manufacture

Choose the most appropriate option.

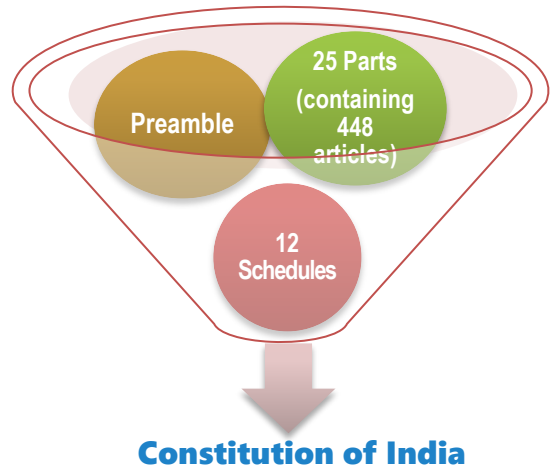
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7. CONSTITUTIONAL PROVISIONS

India has a three-tier federal structure, comprising the Union Government, the State Governments and the Local Government. The power to levy taxes and duties is distributed among the three tiers of Governments, in accordance with the provisions of the Indian Constitution.

The Constitution of India is the supreme law of India. It consists of a Preamble, 25 parts containing 448 Articles and 12 Schedules.



Power to levy and collect taxes whether, direct or indirect emerges from the Constitution of India. In case any tax law, be it an act, rule, notification or order is not in conformity with the Constitution, it is called *ultra vires* the Constitution and is illegal and void.

> ***Those of us who understand human history know the role taxation has played in shaping the destiny of mankind. The matter of taxes – more specifically, the right to tax – is clearly no stranger to controversy and has frequently served as the catalyst for revolutionary change.***
>
> ***-Owen Arthur***

Thus, a study of the basic provisions of the Constitution is essential for understanding the genesis of the various taxes being imposed in India. The significant provisions of the Constitution relating to taxation are:

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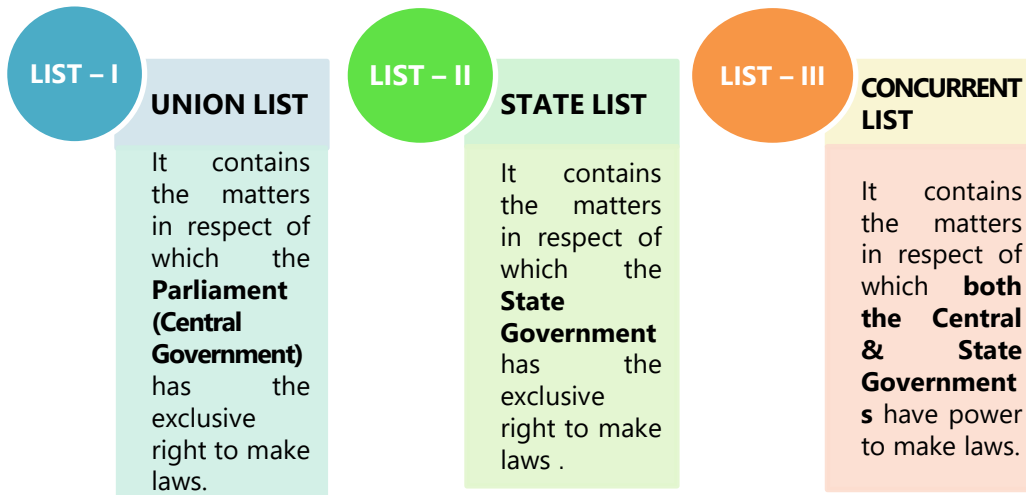
I. **Article 265:** Article 265 of the Constitution of India prohibits arbitrary collection of tax. It states that **"no tax shall be levied or collected except by authority of law".** The term "authority of law" means that tax proposed to be levied must be within the legislative competence of the Legislature imposing the tax.

II. **Article 245:** Part XI of the Constitution deals with relationship between the Union and States. The power for enacting the laws is conferred on the Parliament and on the Legislature of a State by Article 245 of the Constitution. The said Article provides as under:

- Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the legislature of a State may make laws for the whole or any part of the State.
- No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

III. **Article 246:** It gives the respective authority to Union and State Governments for levying tax.

IV. **Seventh Schedule to Article 246:** It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.



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Entries 82 to 91 of List I enumerate the subjects where the Central Government has power to levy taxes. Entries 45 to 63 of List II enumerate the subjects where the State Governments have the power to levy taxes. Parliament has a further power to make any law for any part of India not comprised in a State even if such matter is included in the State List.



Income tax is levied by virtue of Entry 82 - Taxes on income other than agricultural income and customs duty vide Entry 83 - Duties of customs including export duties of the Union List.

Power to levy Goods and Services Tax (GST) has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101st Amendment) Act, 2016. Before discussing the significant provisions of the Constitution (101st Amendment) Act, 2016, let us first understand why there arose a need for such constitutional amendment.

Need for constitutional amendment

The Constitutional provisions hitherto had delineated separate powers for the Centre and the States to impose various taxes. Whereas the Centre levied excise duty on all goods produced or manufactured in India, the States levied Value Added Tax once the goods entered the stream of trade upon completion of manufacture.

In the case of inter-State sales, the Centre had the power to levy a tax (the Central Sales Tax), but the tax was collected and retained entirely by the States (from where the movement of goods start). Services were exclusively taxed by the Centre together with applicable cesses, if any.

Besides, there were State specific levies like entry tax, Octroi, luxury tax, entertainment tax, lottery and betting tax, local taxes levied by Panchayats etc.

With respect to goods imported from outside the country into India, Centre levied basic customs duty and additional duties of customs together with applicable cesses, if any.

Introduction of the GST required amendment in the Constitution to enable integration of the central excise duty, additional duties of customs, State VAT

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and certain State specific taxes and service tax into a comprehensive Goods and Services Tax and to empower both Centre and the States to levy and collect it.

Consequently, Constitution (101st Amendment Act), 2016 (hereinafter referred to as CAA) was passed. It has 20 sections. Newly inserted Article 279A empowering President to constitute GST Council was notified on 12.09.2016. Remaining provisions were notified with effect from 16.09.2016.

CAA also provides for compensation to States for loss of revenue on account of introduction of goods and services tax. Parliament shall, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years.

Significant provisions of Constitution (101st Amendment) Act, 2016

Key changes in brief

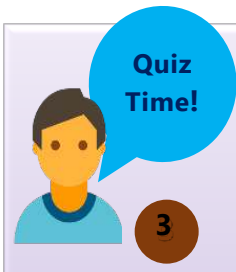
- Concurrent powers on Parliament and State Legislatures to make laws governing taxes on goods and services.
- Levy of integrated goods and services tax on inter-State transactions of goods and services to be levied and collected by the Central Government and apportioned between the Union and the States in the manner provided by Parliament by Law as per the recommendation of the GST Council.
- Principles for determining the place of supply and when a supply takes place in the course of inter-State trade or commerce shall be formulated by the Parliament, by law.
- GST will be levied on all supply of goods and services except alcoholic liquor for human consumption.
- On the following products GST shall not be levied, till a date to be notified on the recommendations of the GST Council:
  - ☑ Petroleum Crude

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- ☑ High Speed Diesel
- ☑ Motor Spirit (commonly known as Petrol)
- ☑ Natural Gas
- ☑ Aviation Turbine Fuel

- The Union Government shall retain the power to levy duties of excise on the aforesaid products besides tobacco and tobacco products manufactured or produced in India.
- Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- The provisions relating to GST Council came into force on 12th September, 2016. President constituted the GST Council on 15th September, 2016.
- The Union Finance Minister is the Chairman of this Council and Ministers in charge of Finance/ Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of Revenue or Finance is also its member. The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- The concept of 'declared goods of special importance' under the Constitution is done away with. Earlier, certain restrictions were placed on the powers of States in regard to tax on such goods.
- Transitional provisions to take care of any inconsistency with respect to any law relating to tax on goods or services or both, in force in any State. Such tax to continue to be in force until amended or repealed or until expiration of one year from commencement of GST, whichever is earlier.

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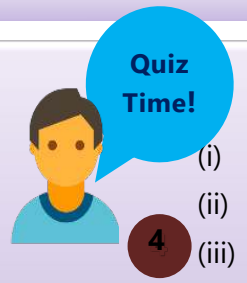


_____ is leviable on _____ of Tobacco

(i) GST; supply
(ii) Central excise duty; manufacture
(iii) Central sales tax; inter-State sale
(iv) Value Added Tax; intra-State sale
(v) State excise duty; manufacture

Choose the most appropriate option.

(a)	(ii), (iii) and (iv)	(b)	(i)	(c)	(i) and (ii)	(d)	(i) and (v)



_____ is leviable on _____ of opium and Indian hemp.

(i) GST; supply
(ii) Central excise duty; manufacture
(iii) Central sales tax; inter-State sale
(iv) Value Added Tax; intra-State sale
(v) State excise duty; manufacture

Choose the most appropriate option.

(a)	(ii), (iii) and (iv)	(b)	(i)	(c)	(i) and (v)	(d)	(i) and (ii)

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Key changes in detail

Significant amendments made by Constitution Amendment Act are discussed below in detail:

V. Article 246A: Power to make laws with respect to Goods and Services Tax:

Newly inserted Article 246A

(1) Notwithstanding anything contained in Articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.

- This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State.

Article 246A

- Centre has the exclusive power to make laws with respect to GST in case of inter-State supply of goods and/or services.
- However, in respect to the following goods, the aforesaid provisions shall apply from the date recommended by the GST Council:



- The provisions of Article 246A are notwithstanding anything contained in Articles 246 and 254. Article 254 deals with the supremacy of the laws made by Parliament.

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VI. Article 248 amended: Residuary powers of legislation amended

- Article 248 grants the residuary powers to Parliament to make laws with respect to any matter not enumerated in the Concurrent List or State List. Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

Article 248

- This article has been amended. Now, this power has been subjected to Article 246A, namely the power to make laws with respect to goods and service tax to be imposed by the Centre and States.

VII. Power of Parliament to legislate with respect to a matter in the State List, in the national interest/in case of emergency, extended to GST provided under Article 246A

- Article 249 grants the Parliament the power to make laws with respect to a matter in the State list in national interest in a case where the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting on any matter enumerated in the State List.

Article 249

- Similarly, Article 250 grants the Parliament the power to make laws with respect to any of the matters enumerated in the State List if a proclamation of Emergency is in operation.

Article 250

- Articles 249 and 250 have been amended to grant power to Parliament to make laws with respect to the Goods and Services Tax provided under Article 246A also alongwith the matters in the State list, in the national interest/in case of emergency.

VIII. Article 268: Duties levied by the Centre but collected and appropriated by the States

- Article 268 pertains to the duties levied by the Centre but collected and appropriated by the

Article 268

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States. It stipulates that such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected in the case where such duties are leviable within any Union territory, by the Government of India, and in other cases, by the States within which such duties are respectively leviable.

- The CAA omits "and such duties of excise on medicinal and toilet preparations" from Article 268.
- Duties of excise on medicinal and toilet preparations have been subsumed into the goods and service tax to be levied by the Centre and States.

IX. Article 268A: Article 268A empowering Union to levy service tax omitted

Article 268A

Service tax was levied in 1994 under the residual Entry 97 of the Union list. Article 268A was inserted by the Constitution (88th) Amendment Act, 2003 to usher in service tax under a separate entry 92C in the Union List. However, it was not notified ever since. This article has been omitted by the CAA.

X. Article 269A: Levy and collection of GST on inter-State supply

Newly inserted article 269A.

Levy and collection of goods and services tax in course of inter-State trade or commerce

(1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Explanation — For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of

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India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

(3) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.

(4) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.

(5) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Article 269A

- Article 269A stipulates that GST on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.
- Further, import of goods or services or both into India will also be deemed to be supply of goods and/ or services in the course of Inter-State trade or Commerce. This will give power to Central Government to levy IGST on the import transactions which were earlier subject to Countervailing duties under the Customs Tariff Act, 1975.
- Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund

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of India/State[1] respectively. This is to facilitate transfer of funds between the Centre and the States.

- Parliament is empowered to formulate the principles regarding place of supply and when supply of goods, or of services, or both occurs in inter-State trade or commerce.

XI. Article 270: Distribution of the goods and services tax (GST) between the Centre and the States

Article 270

- Article 270 is amended to provide for distribution of the goods and services tax between the Centre and the States, by order of the President after considering recommendations of the Finance Commission.
- This applies for those tax amounts apportioned or payable to the Central Government for taxes levied by it under articles 246A(1) and (2) and Clause (1) of 269A.

XII. Article 271 amended

Article 271

Article 271 empowers Parliament to increase any of the duties, or taxes referred to in articles 269 or 270. It further provides that such surcharge is not shareable and remains with the Centre. Now this article is amended to exclude GST from its purview.

XIII. Definitions of 'Goods and Services Tax', 'Services' and 'State' incorporated under Article 366

- The terms **Goods and Services Tax, services** and **State** have been defined under respective clauses of Article 366 as follows:

---

[1] *All revenues received and loans raised by the Government of India are credited to the Consolidated Fund of India and all expenditure of the Government are incurred from this Fund. All revenues received and loans raised by the Government of a State are credited to the Consolidated Fund of the State and all expenditure of that Government are incurred from this Fund.*

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- ✓ **Goods and services tax** means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption. Consequently, GST can be levied on supply of all goods and services except alcoholic liquor for human consumption.

Article 366(12A)

- ✓ **Services** means anything other than goods.

Article 366(26A)

- ✓ **State,** with reference to articles 246A, 268, 269, 269A and article 279A, includes a Union territory with Legislature.

Article 366(26B)

- ❑ **Definition of "goods":** The term goods has already been defined under clause (12) of Article 366 in an inclusive manner to provide that **"goods includes all materials, commodities, and articles"**.

XIV. Article 286: Article 286 imposing restrictions as to imposition of tax on the sale or purchase of goods amended

- ❑ Article 286 which restrains the States from framing laws for imposition of any tax on the sale or purchase of goods where such sale or purchase takes place outside the State or in course of the import of the goods into, or export of the goods out of, the territory of India.

Article 286

- ❑ This article has been amended to incorporate the changes arising out of GST by substituting the words "sale or purchase" with "supply" and words "goods" with "goods or services or both".
- ❑ Consequently, States have no right to impose GST on inter-State supply of goods or services or both. It will be levied by Union Government under Article 269A as mentioned earlier.
- ❑ Further, clause (3) of Article 286 which stipulates that any law of a State shall, in so far as it imposes, or authorises the imposition, of a tax on

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the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subjected to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax, as Parliament may, by law, specify, has been omitted.

XV. GST Council: Article 279A



- Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- The provisions relating to GST Council came into force on 12th September, 2016. President constituted the GST Council on 15th September, 2016.
- The GST Council shall consist of the following members, namely:—
  - (a) the Union Finance Minister is the Chairperson;
  - (b) the Union Minister of State in charge of Revenue or Finance is the Member;
  - (c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government are the Members.
- The Members of the GST Council referred to clause (c) above shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.
- The GST Council shall make recommendations to the Union and the States on—
  - (a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
  - (b) the goods and services that may be subjected to, or exempted from the goods and services tax;

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(c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;

(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

(e) the rates including floor rates with bands of goods and services tax;

(f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;

(g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand *[Such States are referred as **Special Category States**]*; and

(h) any other matter relating to the goods and services tax, as the Council may decide.

- GST Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.
- While discharging the functions conferred by this article, the GST Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.



- One-half of the total number of Members of the GST Council shall constitute the quorum at its meetings.
- The GST Council shall determine the procedure in the performance of its functions.

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- Every decision of the GST Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:

  (a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

  (b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.

- No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—

  (a) any vacancy in, or any defect in, the constitution of the Council; or

  (b) any defect in the appointment of a person as a Member of the Council; or

  (c) any procedural irregularity of the Council not affecting the merits of the case.

- The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute —

  (a) between the Government of India and one or more States; or

  (b) between the Government of India and any State or States on one side and one or more other States on the other side; or

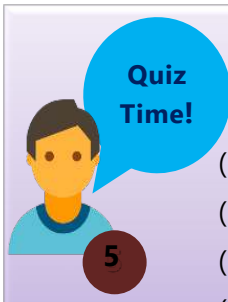
  (c) between two or more States, arising out of the recommendations of the Council or implementation thereof.

XVI. Article 368 amended

Article 368

Article 368 has been amended to include Article 279A also within its purview. Consequently, at least two-thirds of the majority in each House of the Parliament and ratification by at least half of the States is specifically required to make any amendment in Article 279A relating to GST Council.

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Which of the following taxes is/are not subsumed in GST?

(i) Service tax

(ii) Customs duty

(iii) Luxury tax

(iv) Tax on lottery, betting and gambling

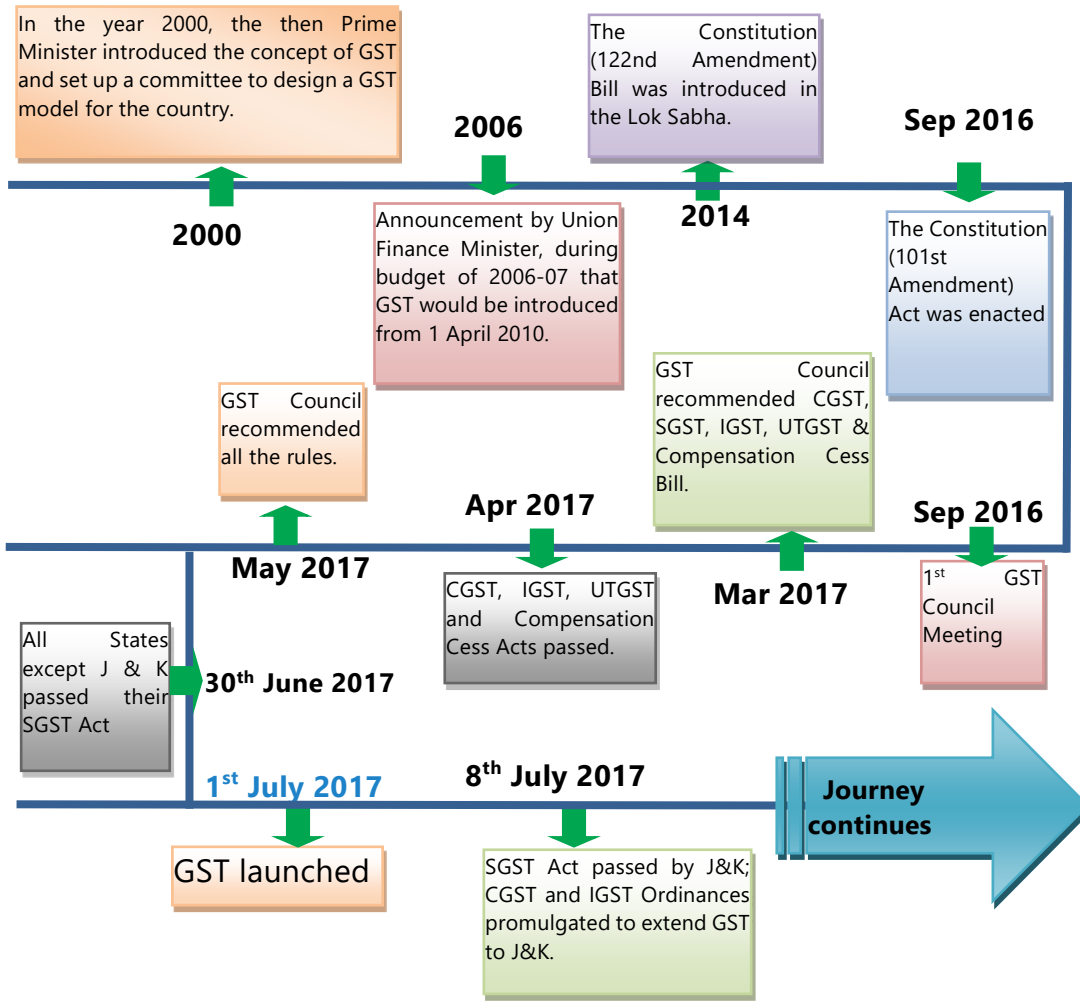
(v) Entertainment tax levied by local bodies

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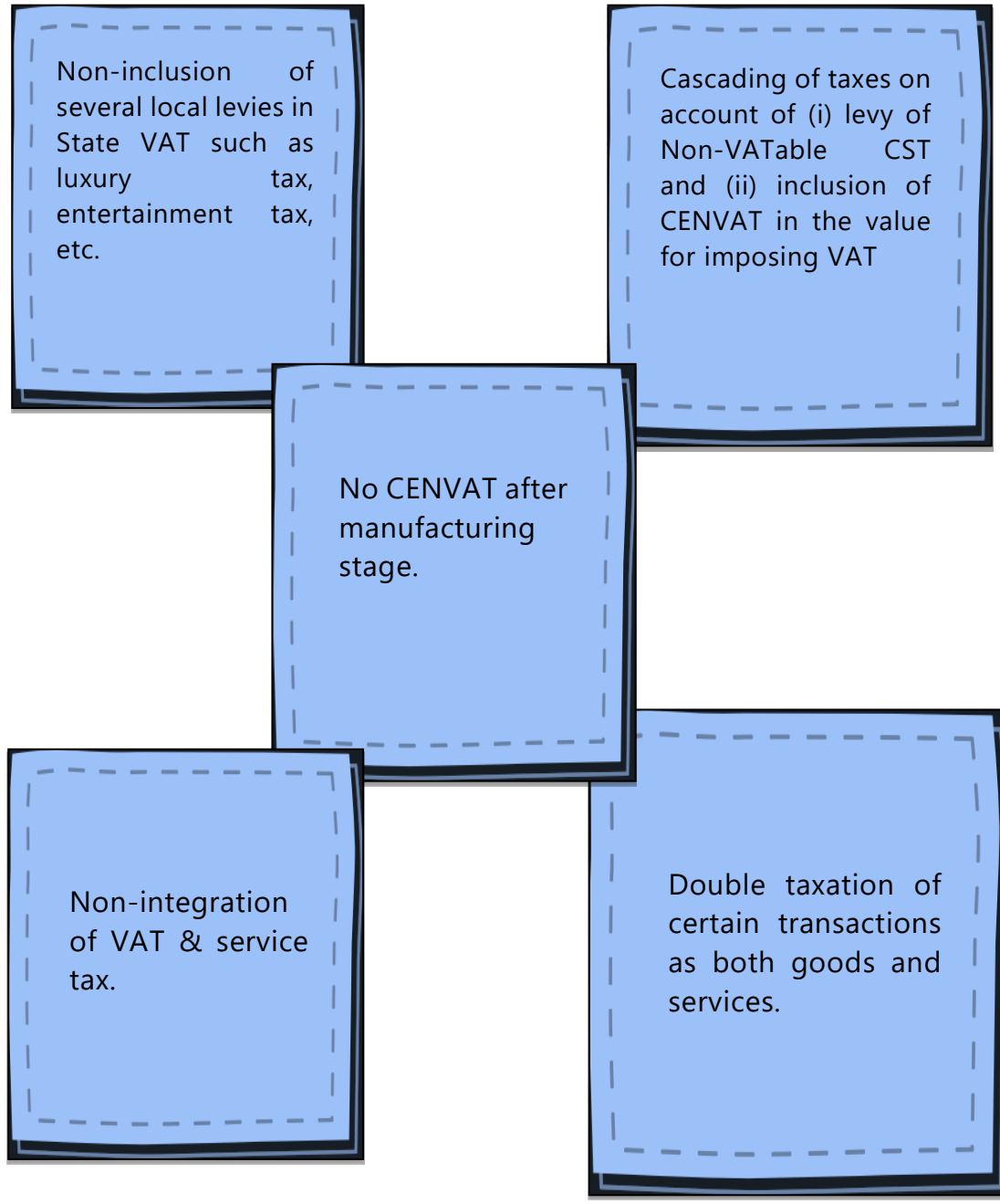
LET US RECAPITULATE

1. Genesis of GST in India



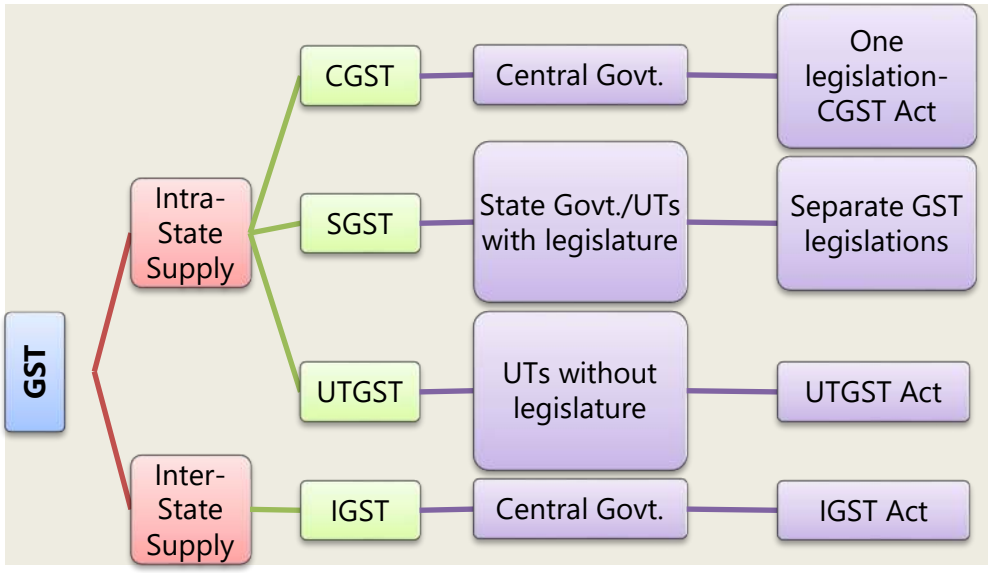
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2. Deficiencies in the Value added Taxation system

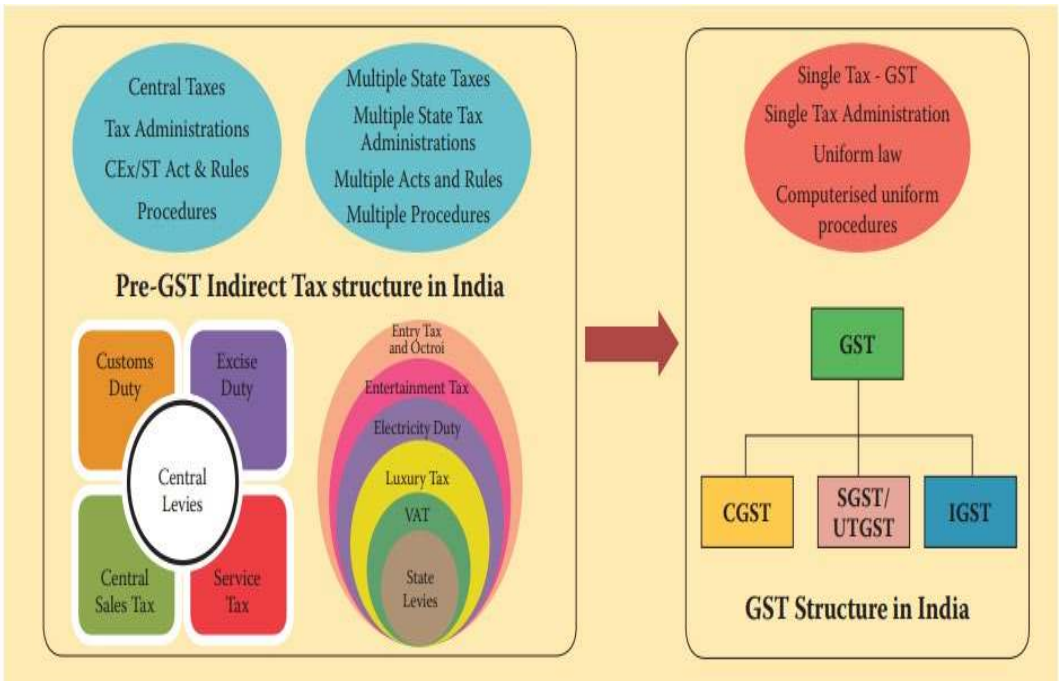


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3. Legislative Framework of GST

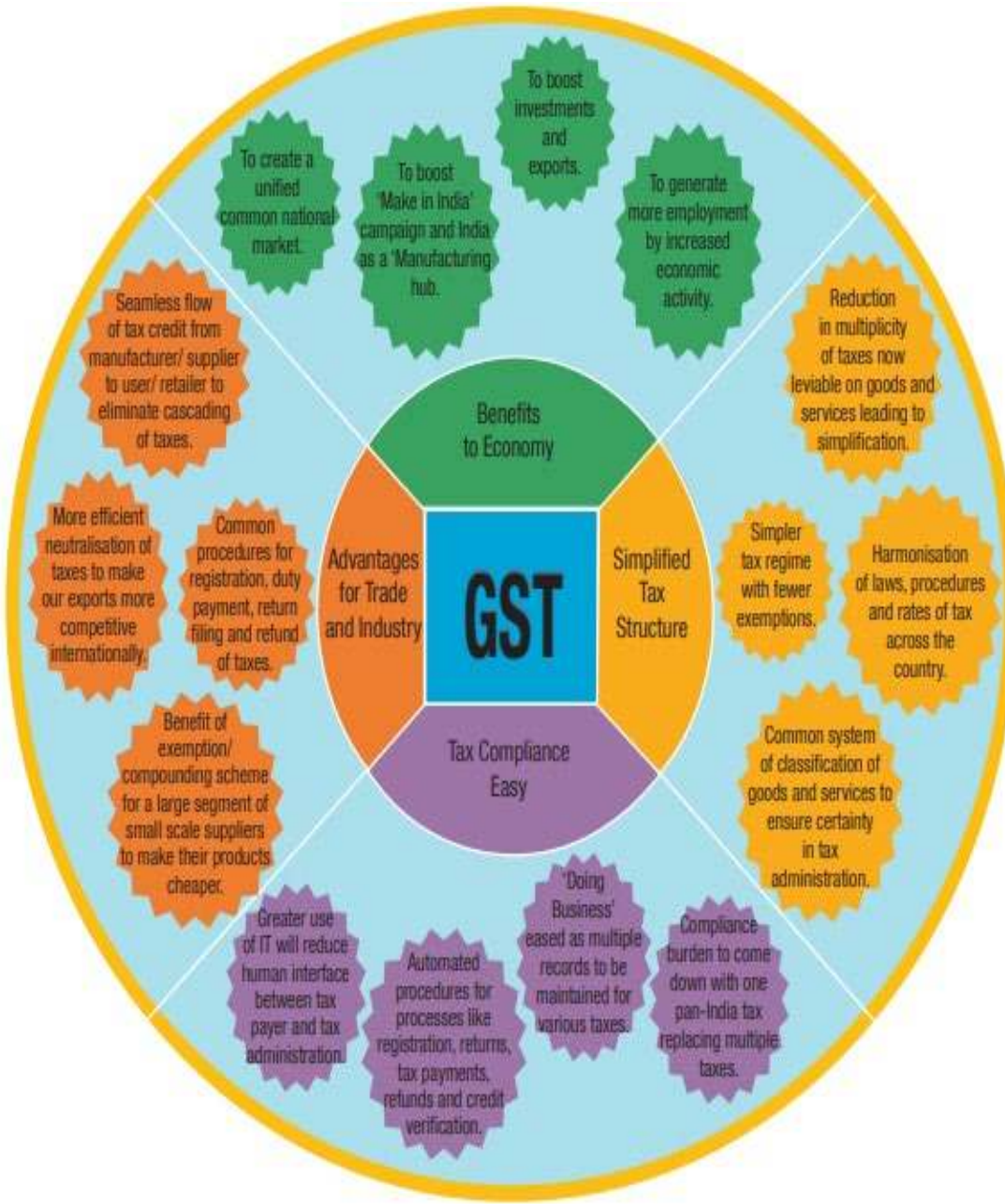


4. GST Sturucture in India



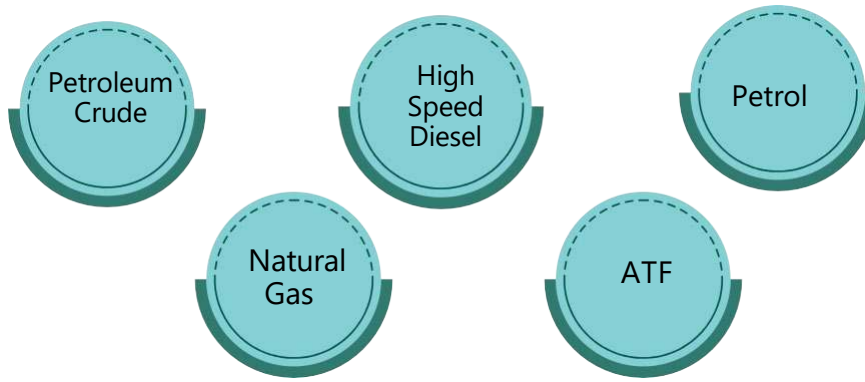
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5. Benefits of GST



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6. Products on which GST Council to decide the date from which GST will be applicable



7. Within GST or Outside GST?



Alcohol for human consumption

Power to tax remains with the State.



Five petroleum products -crude oil, diesel, petrol, natural gas and ATF.

GST Council to decide the date from which GST will be applicable



Entertainment tax levied by local bodies

Power to tax remains with the local bodies

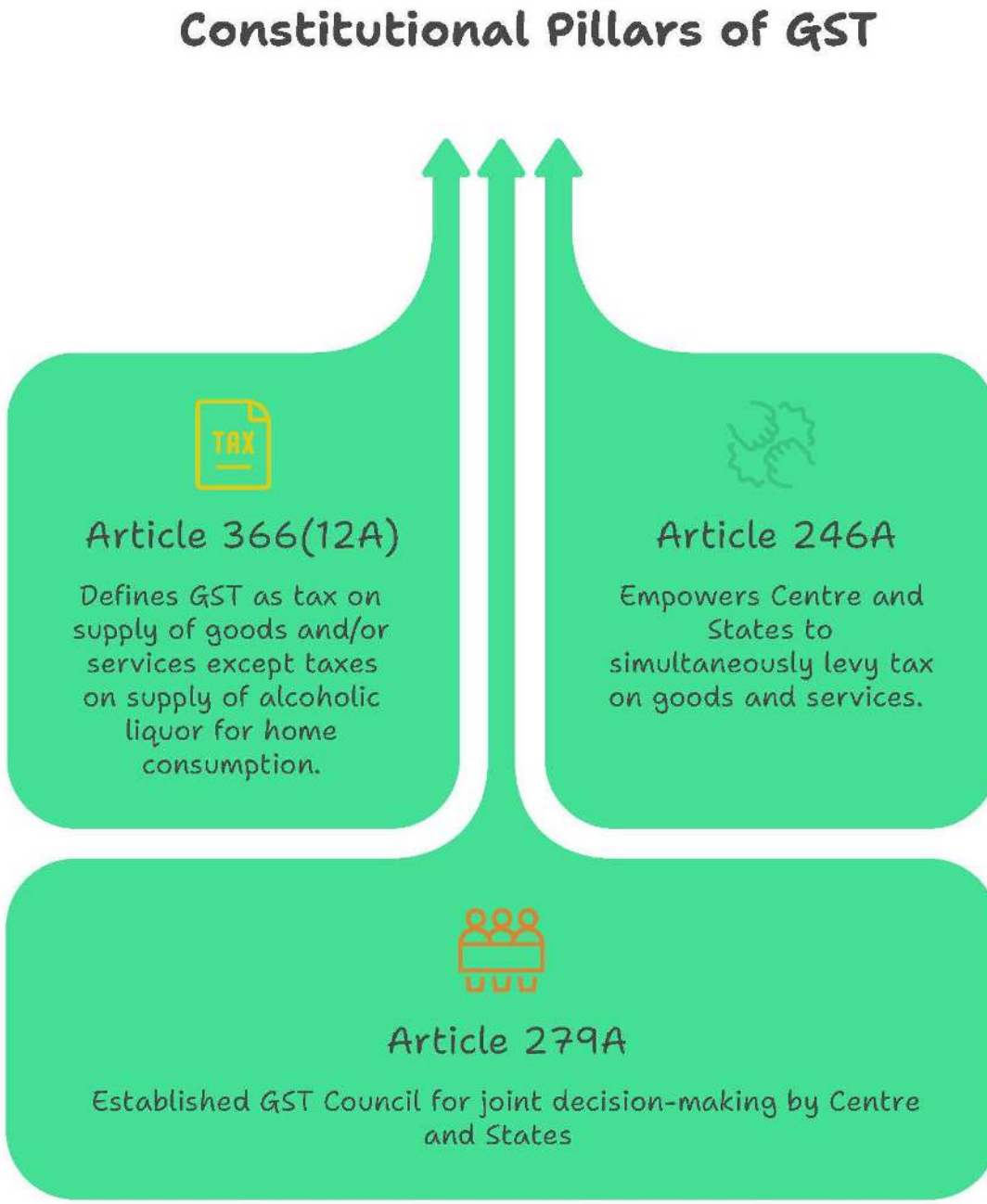


Tobacco

Within the purview of GST. Power to levy excise duties, also retained.

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8. Constitutional Pillars of GST



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TEST YOUR KNOWLEDGE

1. *List some of the benefits that GST may accrue to the economy.*
2. *Explain with the help of examples how a particular transaction of goods and services is taxed simultaneously under Central GST (CGST) and State GST (SGST)?*
3. *Why was the need to amend the Constitution of India before introducing the GST?*
4. *GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement.*
5. *Discuss the leviability of GST or otherwise on the following:*
   - *(a) Alcoholic liquor for human consumption*
   - *(b) Petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas*
   - *(c) Tobacco*
   - *(d) Opium, Indian hemp and other narcotic drugs and narcotics*
6. *Under Goods and Services Tax (GST), only value addition is taxed and burden of tax is to be borne by the final consumer. Examine the validity of the statement.*
7. *Which are the commodities which have been kept outside the purview of GST? Examine the status of taxation of such commodities after introduction of GST.*
8. *A dual GST has been implemented in India. Elaborate.*
9. *Discuss Article 269A pertaining to levy and collection of GST on inter-State supply.*
10. *Discuss Article 246A which grants the power to make laws with respect to Goods and Services Tax.*

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ANSWERS

1. GST may accrue following benefits to the economy:

(a) **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.

(b) **Boost to 'Make in India' initiative:** GST may give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market. This would make India a manufacturing hub.

(c) **Boost to investments, exports and employment:** Under the GST regime, the principle of exporting only the cost of goods or services and not taxes is being followed. This may boost Indian exports thereby improving the balance of payments position. Exporters are being facilitated by grant of provisional refund of 90% of their claims within 7 days of issue of acknowledgement of their application, thereby resulting in the easing of position with respect to cash flows.

Further, the subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of Central Sales Tax (CST) may reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of Indian goods and services in the international market may increase to give boost to investments and Indian exports.

With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase.

2. The Central GST and the State GST is levied simultaneously on every intra-State supply of goods or services or both made by registered persons except the exempted goods and services as well as goods and services which are outside the purview of GST. Further, both are levied on the same price or

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transaction value. The same can be better understood with the help of following examples:

Example I: Suppose that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a construction company which is also located within the same State for, say ₹ 100, the dealer would charge CGST of ₹ 10 and SGST of ₹ 10 in addition to the basic price of the goods. The CGST component will go into a Central Government account while the SGST portion into the account of the concerned State Government (viz. U.P.).

It is important to note that he might not actually pay ₹ 20 (₹ 10 + ₹ 10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (inputs, input services and capital goods) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. CGST credit cannot be used for payment of SGST and *vice versa*.

Example II: Suppose, again the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say ₹ 100, the ad company would charge CGST of ₹ 10 as well as SGST of ₹ 10 at the basic value of the service. The CGST component will go into a Central Government account while the SGST portion into the account of the Maharashtra Government.

He might not actually pay ₹ 20 (₹ 10+₹ 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (say, of inputs such as stationery, office equipment, services of an artist etc.) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on its purchase while for SGST, he can utilise the credit of SGST alone. CGST credit cannot be used for payment of SGST and *vice versa*.

3. Earlier, the fiscal powers between the Centre and the States were clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre had the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption,

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opium, narcotics etc.) while the States had the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre had the power to levy the Central Sales Tax but the tax was collected and retained entirely by the States. As for services, it was the Centre alone that was empowered to levy service tax.

Introduction of the GST necessitated the amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India was amended by the Constitution (101st Amendment) Act, 2016 for this purpose. Article 246A of the Constitution introduced thereby empowered the Centre and the States to simultaneously levy and collect the GST.

4. The given statement is valid. GST is a destination-based tax on consumption of goods or services or both. GST is known as destination-based tax since the tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.

For example, if A in Delhi produces the goods and sells the goods to B in Haryana. In this case, the tax would accrue to the State of Haryana and not to the State of Delhi. On the other hand, under pre-GST regime, origin-based taxation was prevailing in such cases.

Under origin-based taxation, the tax used to accrue to the State from where the transaction originated. In the given case, under origin-based taxation, the central sales tax would have been levied by Centre and collected by the State of Delhi and not by the State of Haryana.

5. **(a)** **Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.

(b) **Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.

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Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

(c) **Tobacco:** Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.

(d) **Opium, Indian hemp and other narcotic drugs and narcotics:** Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.

6. The statement is correct. Goods and Services Tax is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and burden of tax is to be borne by the final consumer.

7. Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out of the purview of GST; GST Council shall decide the date from which they shall be included in GST. The erstwhile taxation system (CST/VAT & central excise) still continues in respect of the said commodities.

8. A dual GST has been implemented in India with the Centre and States simultaneously levying it on a common tax base. The GST levied by the Centre on intra-State supply of goods and / or services is called the Central GST (CGST) and that levied by the States/ Union territory is called the State GST

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(SGST)/ Union GST (UTGST). Similarly, Integrated GST (IGST) is levied and administered by Centre on every inter-State supply of goods and/or services.

India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST, therefore, keeps with the Constitutional requirement of fiscal federalism.

9. Article 269A of the Constitution stipulates that Goods and Services Tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Here, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

The amount so apportioned to a State shall not form part of the Consolidated Fund of India. Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India/State respectively. This is to facilitate transfer of funds between the Centre and the States.

Parliament is empowered to formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

10. Article 246A stipulates that Parliament, and, the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

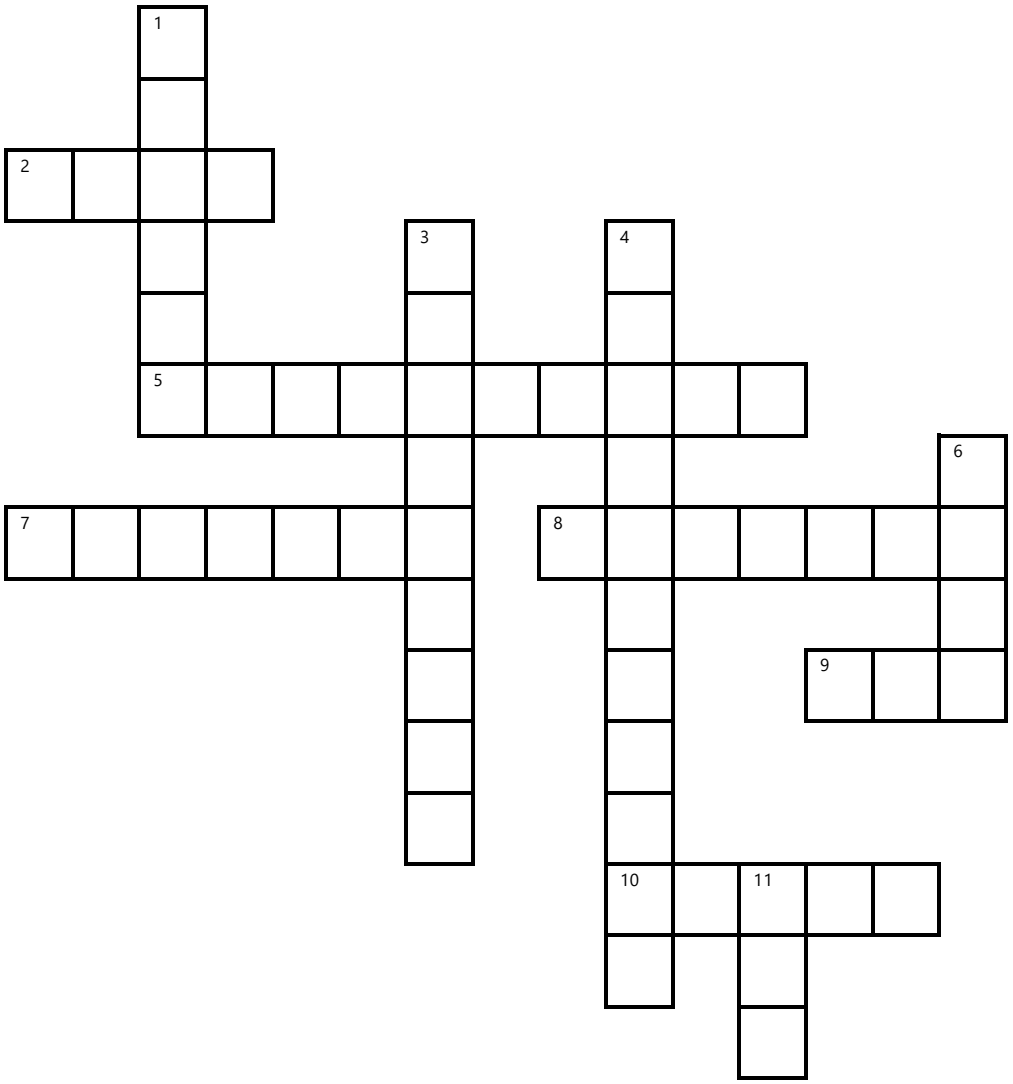
Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

However, in respect to petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, the aforesaid provisions shall apply from the date to be notified by the Government on the recommendations by the GST Council.

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CROSSWORD



ACROSS

2. India has adopted _____ GST model because of its unique federal nature.

5. Common GST Electronic Portal for furnishing _____way bill is www.ewaybillgst.gov.in

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7. _____ is subject to GST as well as central excise duty.

8. _____ duty is not subsumed in GST.

9. _____is used for classifying the goods under the GST. (acronym)

10. _____ is subject to GST as well as State excise duties.

DOWNWARDS

1. _____ was the first country to implement VAT/GST in 1954.

3. Article 265 of the Constitution of India states that "no tax shall be levied or collected except by _____ of law".

4. GST is a _____ based tax.

6. Common GST Electronic Portal – www.gst.gov.in is a website managed by _____. (acronym)

11. _____ is the website for uploading/reporting of e-invoices by the notified persons. (acronym)

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



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CHAPTER 2

SUPPLY UNDER GST



The section numbers referred to in the Chapter pertain to the CGST Act, 2017, unless otherwise specified. Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

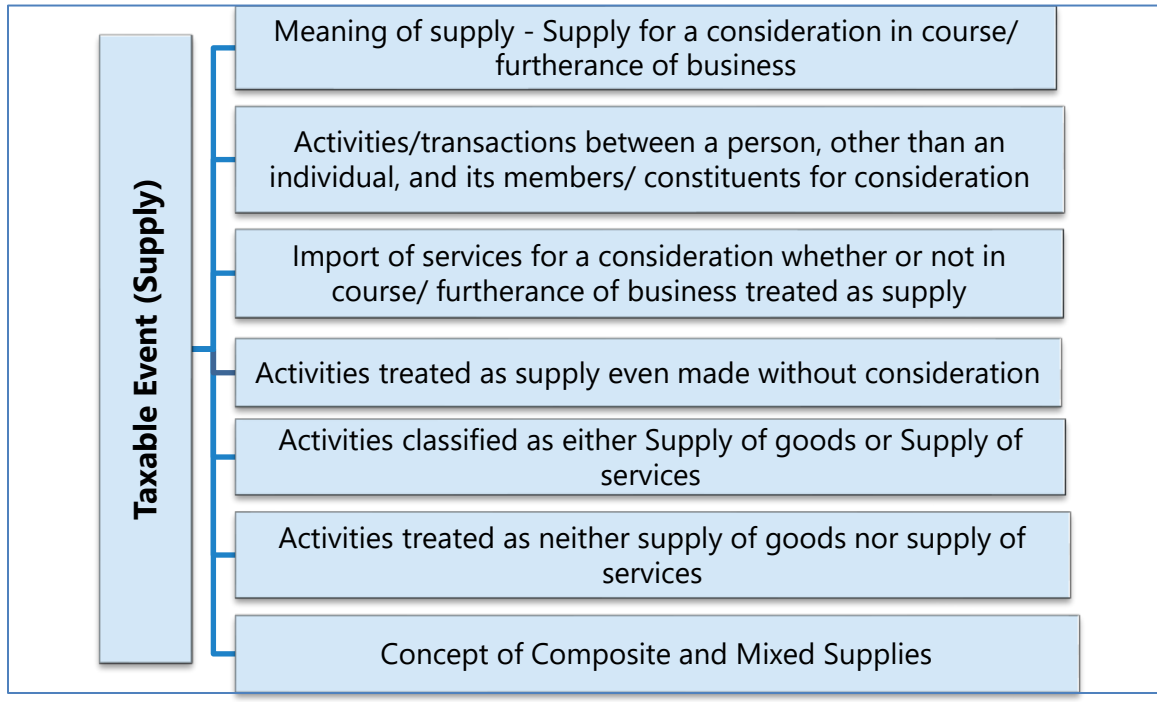
LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- comprehend the taxable event under GST
- analyse the taxable event – Supply – its meaning and scope.
- identify the transactions that will amount to supply even without any consideration.
- identify the transactions which will be neither the supply of goods nor the supply of services.
- classify the specified transactions either as supply of goods or as supply of services.
- explain the composite and mixed supplies and their taxability under GST.

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CHAPTER OVERVIEW

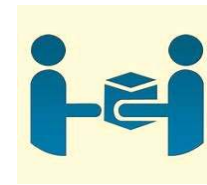


1. INTRODUCTION

A taxable event is any transaction or occurrence that results in a tax consequence. Before levying any tax, taxable event needs to be ascertained. It is the foundation stone of any taxation system; it determines the point at which tax would be levied.



Under the earlier indirect tax regime, the framework of taxable event in various statutes was prone to catena of interpretations resulting in litigation since decades. The controversies largely related to issues like whether a particular process amounted to manufacture or not, whether the sale was



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pre-determined sale, whether a particular transaction was a sale of goods or rendering of services etc.

The GST laws resolve these issues by laying down one comprehensive taxable event i.e. "Supply" - Supply of goods or services or both.

Various taxable events namely manufacture, sale, rendering of service, purchase, entry into a territory of State etc. that existed prior to introduction of GST have been done away with in favour of just one event i.e. **Supply**.

The GST Law, by levying tax on the 'supply' of goods and/or services, departs from the historically understood concepts of 'taxable event' under the State VAT Laws, Excise Laws and Service Tax Law i.e. sale, manufacture and provision of services respectively.

In the GST regime, the entire value of supply of goods and/or services is taxed in an integrated manner, unlike the earlier indirect taxes, which were charged independently either on the manufacture or sale of goods, or on the provision of services.

2. RELEVANT DEFINITIONS

- **Goods:** means every kind of movable property other than money and securities **but includes** actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. [Section 2(52)].
- **Services:** means anything **other than** goods, money and securities but **includes** activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

  Explanation: It is clarified that the expression "services" includes facilitating or arranging transactions in securities [Section 2(102)].
- **Principal:** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both [Section 2(88)].

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- **Competent authority:** means such authority as may be notified by the Government [Section 2(29)].
- **Family:** means, —
  - (i) the spouse and children of the person, and
  - (ii) the parents, grand-parents, brothers and sisters of the person if they are **wholly or mainly dependent** on the said person [Section 2(49)].
- **Government:** means the Central Government [Section 2(53)].
- **Local authority:** means —
  - (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution.
  - (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution.
  - (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund.
  - (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006.
  - (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution.
  - (f) a Development Board constituted under article 371 and article 371J of the Constitution.
  - (g) a Regional Council constituted under article 371A of the Constitution [Section 2(69)].
- **Consideration:** in relation to the supply of goods or services or both includes:
  - ♦ any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other

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person but shall **not include** any subsidy given by the Central Government or a State Government,

- the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the **supply** of goods or services or both, whether by the recipient or by any other person but shall **not include** any subsidy given by the Central Government or a State Government.

However, a **deposit** given in respect of the supply of goods or services or both shall **not be considered** as payment made for such supply unless the supplier applies such deposit as consideration for the said supply. [Section 2(31)].

- **Actionable claim:** means a claim to any debt, **other than** a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent [Section 2(1) of CGST Act read with section 3 of the Transfer of Property Act, 1882].
- **Manufacture:** means processing of raw material or inputs in any manner that results in **emergence of a new product** having a distinct name, character and use and the term "manufacturer" shall be construed accordingly [Section 2(72)].
- **Money:** means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value [Section 2(75)].
- **Taxable supply:** means a **supply** of goods or services or both which is leviable to tax under this Act [Section 2(108)].
- **Taxable territory:** means the territory to which the provisions of this Act apply [Section 2(109)].

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- **Non-taxable territory:** means the territory which is outside the taxable territory [Section 2(79)].

- **India:** means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters. [Section 2(56)].

- **Supplier**: in relation to any goods or services or both, shall mean the person supplying the said goods or services or both **and shall include** an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

  However, a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims [Section 2(105)].

- **Recipient**: of supply of goods and/or services means-

  (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration,

  (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and

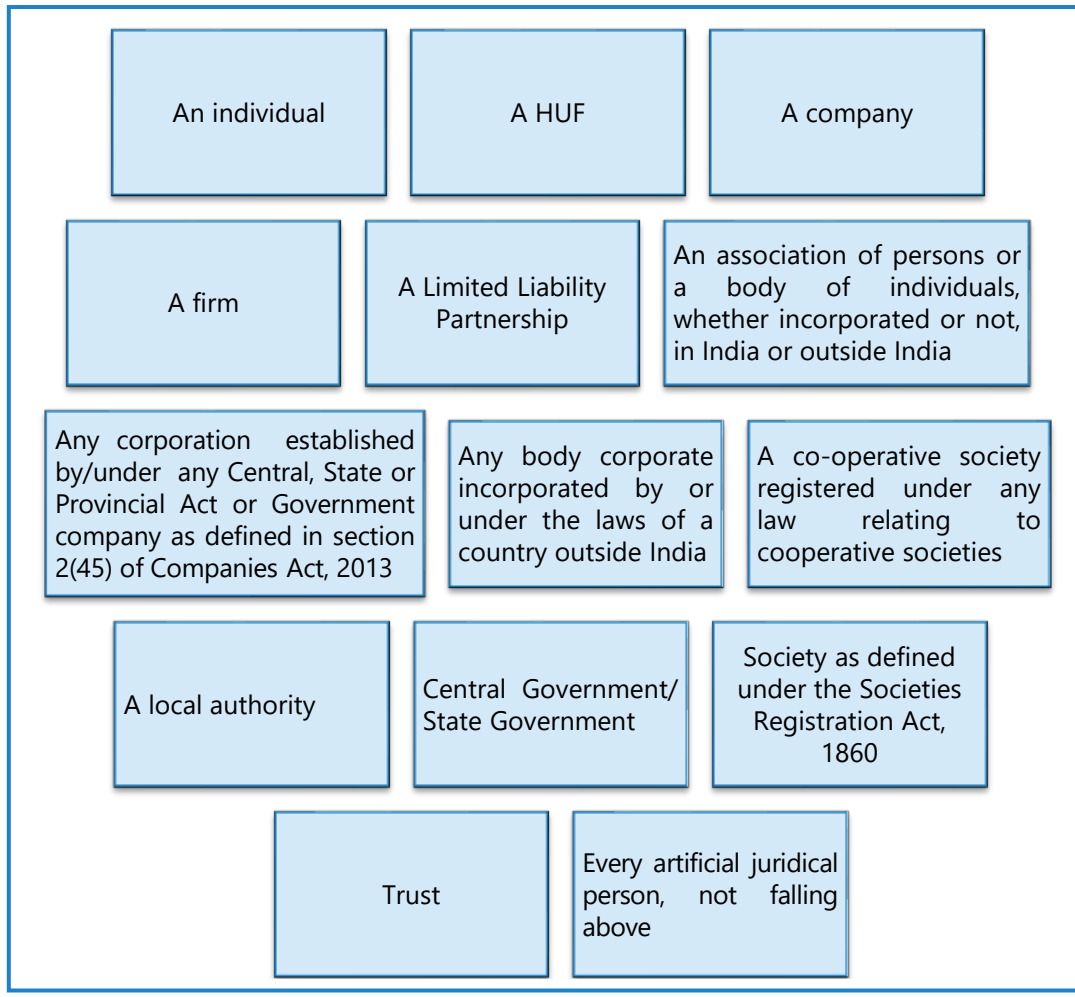
  (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

  and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply

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and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

- **Person:** includes [Section 2(84)]-



Our discussion in this Study Material will principally be confined to the provisions of CGST and IGST laws as the specific State GST laws[1] are outside the scope of syllabus.

[1] *It may be noted that GST laws of all the States and Union Territories are largely based on the CGST Act, 2017.*

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3. CONCEPT OF SUPPLY [SECTION 7 OF THE CGST ACT]

The concept of 'supply' is the key stone of the GST architecture. The provisions relating to the meaning and scope of supply are contained in Chapter III of the CGST Act read with various Schedules given under the said Act. Following sections and schedules shall be discussed in this chapter to understand the concept of supply:

Section 7	Meaning and scope of supply
Section 8	Taxability of composite and mixed supplies
Schedule I	Activities to be treated as supply even if made without consideration
Schedule II	Activities or transactions to be treated as supply of goods or as supply of services
Schedule III	Activities or transactions which shall be treated neither as supply of goods nor as supply of services.

Provisions of section 7 containing the meaning and scope of supply are as follows:

STATUTORY PROVISIONS

Section 7	***Meaning and Scope of Supply***	
Sub-section	***Clause***	***Particulars***
(1)	***Supply includes -***	
	(a)	*all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business*

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	(aa)	*the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment/other valuable consideration.* *Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another.*
	(b)	***importation of services,*** *for a consideration whether or not in the course or furtherance of business, and*
	(c)	*the* ***activities*** *specified in* ***Schedule I****, made or agreed to be made* ***without a consideration****,*
(1A)	*where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.*	
(2)	*Notwithstanding anything contained in sub-section (1),*	
	(a)	*activities or transactions specified in* ***Schedule III****; or*
	(b)	*such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council*

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	shall be treated neither as a supply of goods nor a supply of services.	
(3)	*Subject to the provisions of sub-sections (1), (1A) & (2), Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as —*	
	(a)	*a supply of goods and not as a supply of services; or*
	(b)	*a supply of services and not as a supply of goods.*



ANALYSIS

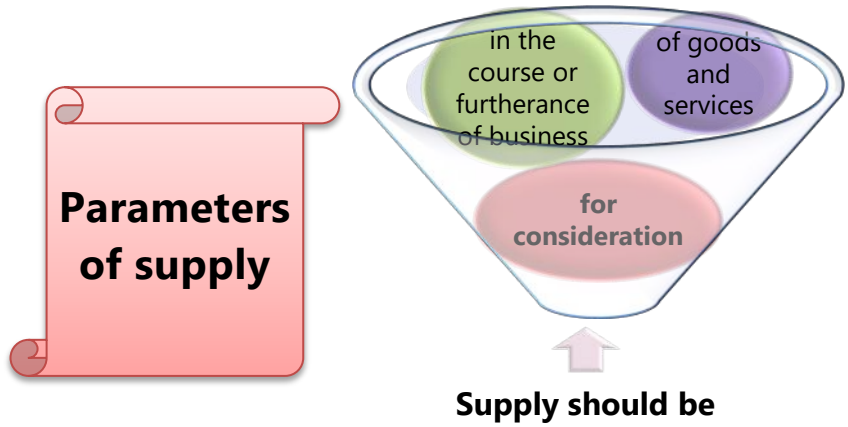
The definition of 'supply' as contained in section 7 is an inclusive definition and does not define the term exhaustively. It defines the scope of supply in an inclusive manner. Clause (a) of sub-section (1) illustrates the forms of supply, but the list is not exhaustive. This is further substantiated by the use of words ***'such as'*** in the definition.

Provisions of scope of supply under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

The meaning and scope of supply in terms of section 7 can be understood in terms of following **parameters**:

1. Supply should be of goods or services.
2. Supply should be made for a consideration.
3. Supply should be made in the course or furtherance of business.

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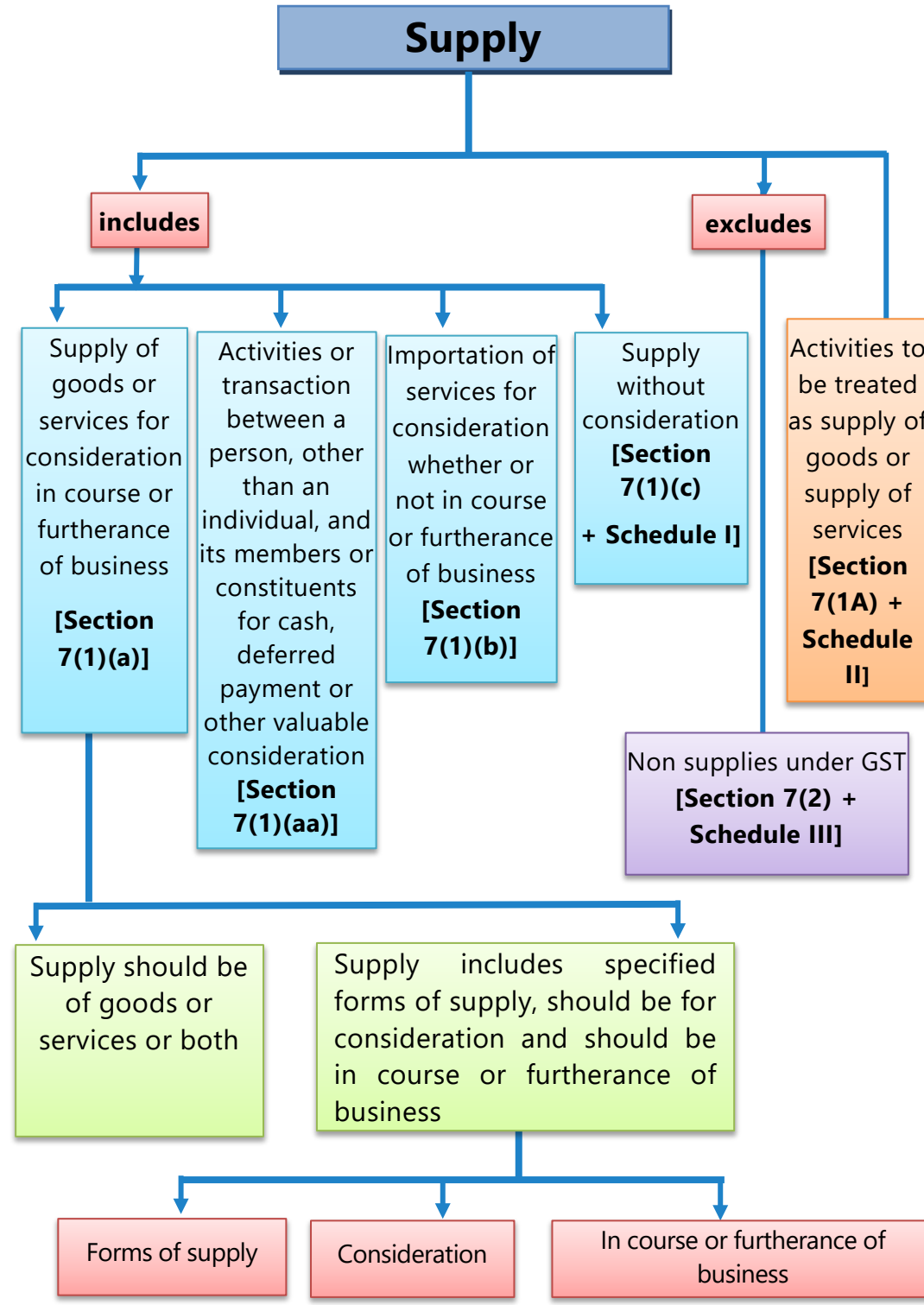
Aforesaid parameters describe the concept of supply. However, there are a few exceptions to 2nd and 3rd parameters [the requirement of supply being made for a consideration and in the course or furtherance of business] in the GST law. Few exceptions have been carved out where a transaction is deemed to be a supply even **without consideration** *[contained in Schedule I – discussed later in this Chapter]*. Similarly, the condition of supply to be made **in the course or furtherance of business** has been relaxed in case of import of services *[Import of services for a consideration, whether or not in the course or furtherance of business, is treated as supply]*.

Further, there are also cases **where a transaction is kept out of scope of supply despite the existence of the above parameters,** i.e. there is a list of activities which are treated neither as a supply of goods nor a supply of services. In other words, they are outside the scope of GST.

GST law has classified certain activities/transactions **either as supply of goods or as supply of services**. Government is also empowered to notify transactions that are to be treated as a supply of goods and not as a supply of services, or as a supply of services and not as a supply of goods.

In the subsequent paras, the above aspects of supply have been extensively discussed. The discussion has been broadly categorised into following:

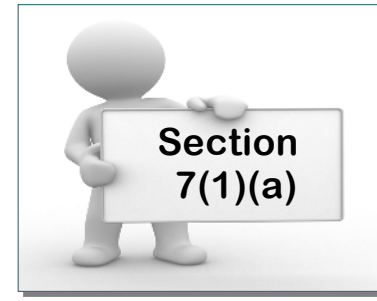
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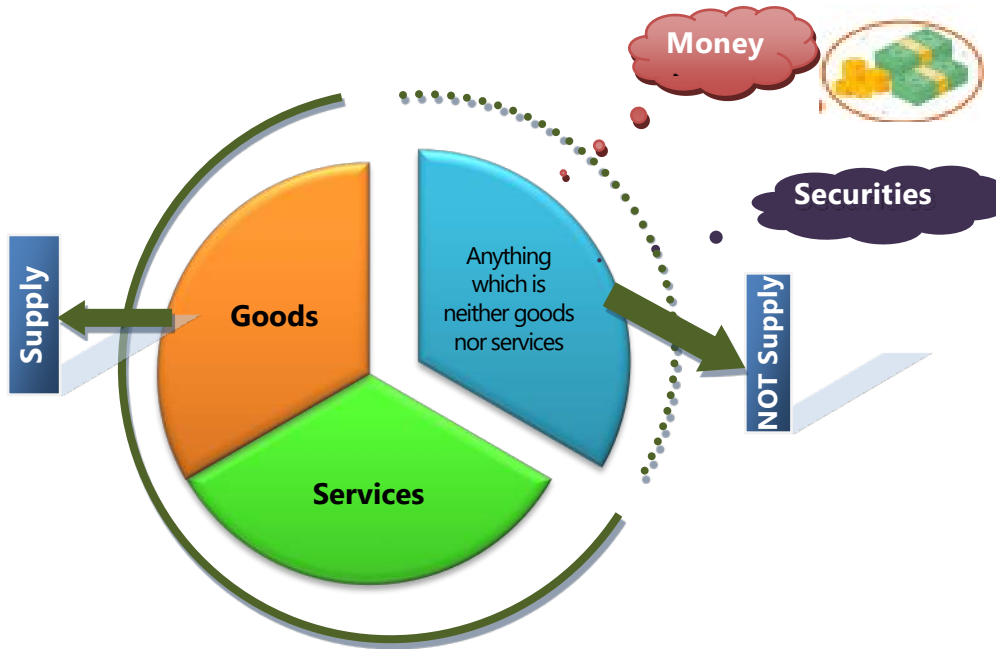
SUPPLY OF GOODS OR SERVICES FOR CONSIDERATION IN COURSE OR FURTHERANCE OF BUSINESS

SUPPLY SHOULD BE OF GOODS OR SERVICES OR BOTH



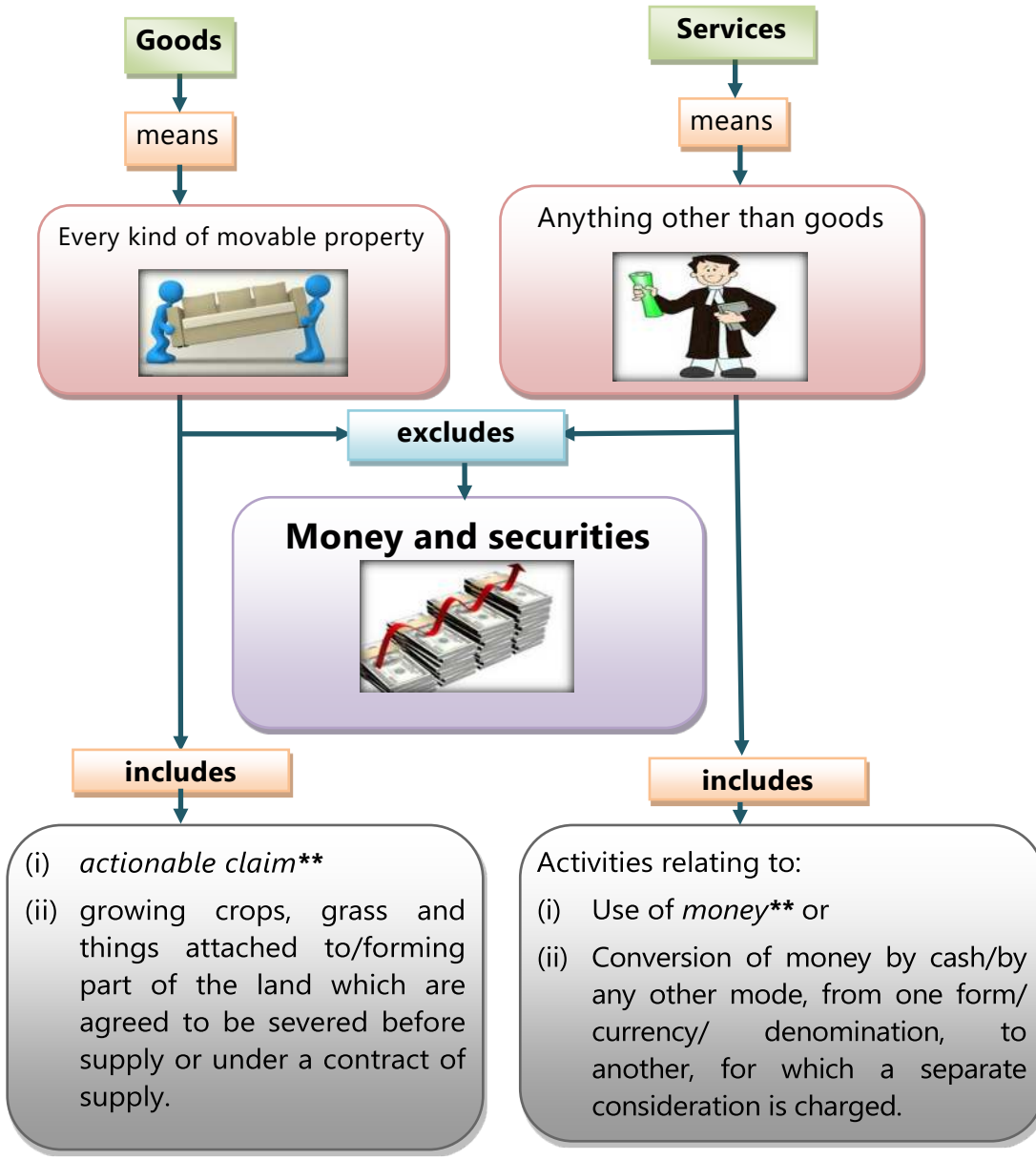
The definition of supply begins with the term **'Supply includes'**, thus making it clear that CGST Act intends to give an extensive meaning to the term 'supply'.

Supply **includes** all forms of supply of goods or services or both. Supply of **anything other than goods or services** like money, securities etc. does not attract GST.



The terms "goods" and "services" as defined under the Act have been analysed by way of a diagram on next page. **Anything supplied other than goods or services is outside the scope of supply.**

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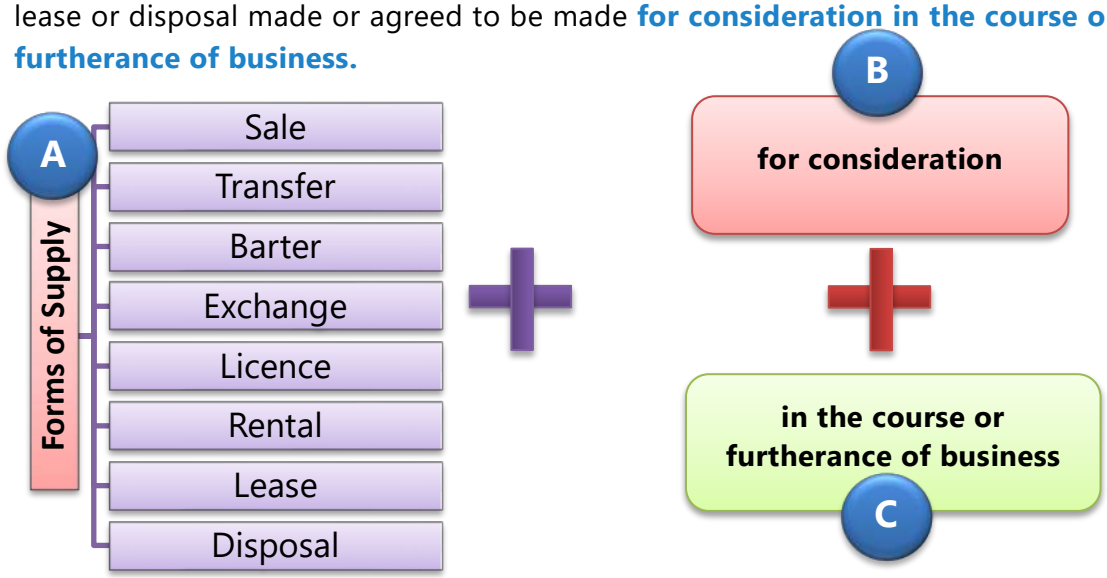


***Please refer the definitions of 'actionable claims' and 'money' as provided in heading 2. – Relevant Definitions.*

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SUPPLY INCLUDES SPECIFIED FORMS OF SUPPLY, SHOULD BE FOR CONSIDERATION AND SHOULD BE IN COURSE OR FURTHERANCE OF BUSINESS

The first part of section 7 [Clause (a) of sub-section (1)] includes **all forms of supply** of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made **for consideration in the course or furtherance of business.**



It is important to note that supply includes ALL forms of supply within its purview, though eight illustrative forms of supply have been enlisted in the definition. Further, supply as contemplated in this first part has two pre-requisites:

- ✓ the supply should be for a consideration; and
- ✓ the supply should be in the course or furtherance of business.

We shall first discuss the various forms of supply as illustrated in section 7(1)(a) in detail:

A. FORMS OF SUPPLY

Various forms of supply contemplated in section 7(1)(a) are sale, transfer, barter, exchange, licence, rental, lease or disposal. These forms of supply are only illustrative and not exhaustive. However, none of these terms have been defined under the Act. In order to understand their meaning, we have taken recourse to their dictionary meaning or otherwise and have explained them as follows:

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I. **Sale and Transfer:** The dictionary meaning of term 'sale' is the act of selling; specifically: the transfer of ownership of and title to property from one person to another for a price[2]. As per the Sale of Goods Act, 1930, a contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price.

Further, the term 'transfer' has been defined in the Black's Law dictionary as to convey or remove from one place, person, etc., to another; pass or hand over from one to another; specifically, to make over the possession or control of.



(1) A shopkeeper sells a pen for ₹ 100 to the buyer. After the sale, the pen belongs to the buyer and shopkeeper does not have any right on the pen. This is a transaction of sale.



(2) A company transfers goods from its factory to the depot for sale purposes. This is 'transfer' of goods where the sale has not yet taken place.

II. **Barter and Exchange:** The dictionary meaning of term 'barter' is to exchange goods or services for other goods or services instead of using money[3]. Black's Law dictionary defines the term 'exchange' as an act of giving or taking one thing for another.

While barter deals with a transaction which only includes an exchange of goods/services, exchange may cover a situation where the goods are paid for partly in goods and partly in money. When there is a barter of goods or services, same activity constitutes supply as well as consideration.



(3) When a new car worth ₹ 5,00,000 is purchased in **exchange** of an old car alongwith the monetary consideration of ₹ 4,00,000 paid for the said purchase. – **Exchange transaction**



(4) A doctor got his hair cut from a barber and provides him medical consultancy in return. In this transaction, the doctor provided the medical consultancy services to the barber for which

[2] *www.merriam-webster.com*
[3] *www.macmillandictionary.com*

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consideration was in the form of hair cutting services provided by the barber. Similarly, the barber provided hair cutting services to the doctor for which consideration was in the form of medical consultancy services provided by the doctor. – **Barter transaction**

III. **Licence, lease, rental and disposal:** The dictionary meaning of the term 'licence' is a permission granted by competent authority to engage in a business or occupation or in an activity otherwise unlawful[4].

The dictionary meaning of 'rental' is an arrangement to rent something, or the amount of money that you pay to rent something[5] and that of 'lease' is to make a legal agreement by which money is paid in order to use land, a building, a vehicle, or a piece of equipment for an agreed period of time[6].

Black's law dictionary defines disposal as the sale, pledge, giving away, use, consumption or any other disposition of a thing.

Under GST, such licenses, leases and rentals of goods with or without transfer of right to use are covered under the supply of service because there is no transfer of title in such supplies. Such transactions are specifically treated as supply of service in Schedule II of CGST Act *[Schedule-II has been discussed in detail in the subsequent paras]*.

As discussed earlier, one of the parameters to qualify as a supply of goods and/or services is that a supply is made for a consideration. This parameter has been explicated in the following paras:

B. CONSIDERATION

The dictionary meaning of word 'consideration' is payment. Consideration need not always be in the form of money. It can be in money or in kind. It covers anything which might be possibly done, given or made in exchange for something else.

Further, a consideration need not always flow from the recipient of the supply. It can also be made by a third person. However, any subsidy given by the Central Government or a State Government is not considered as consideration.

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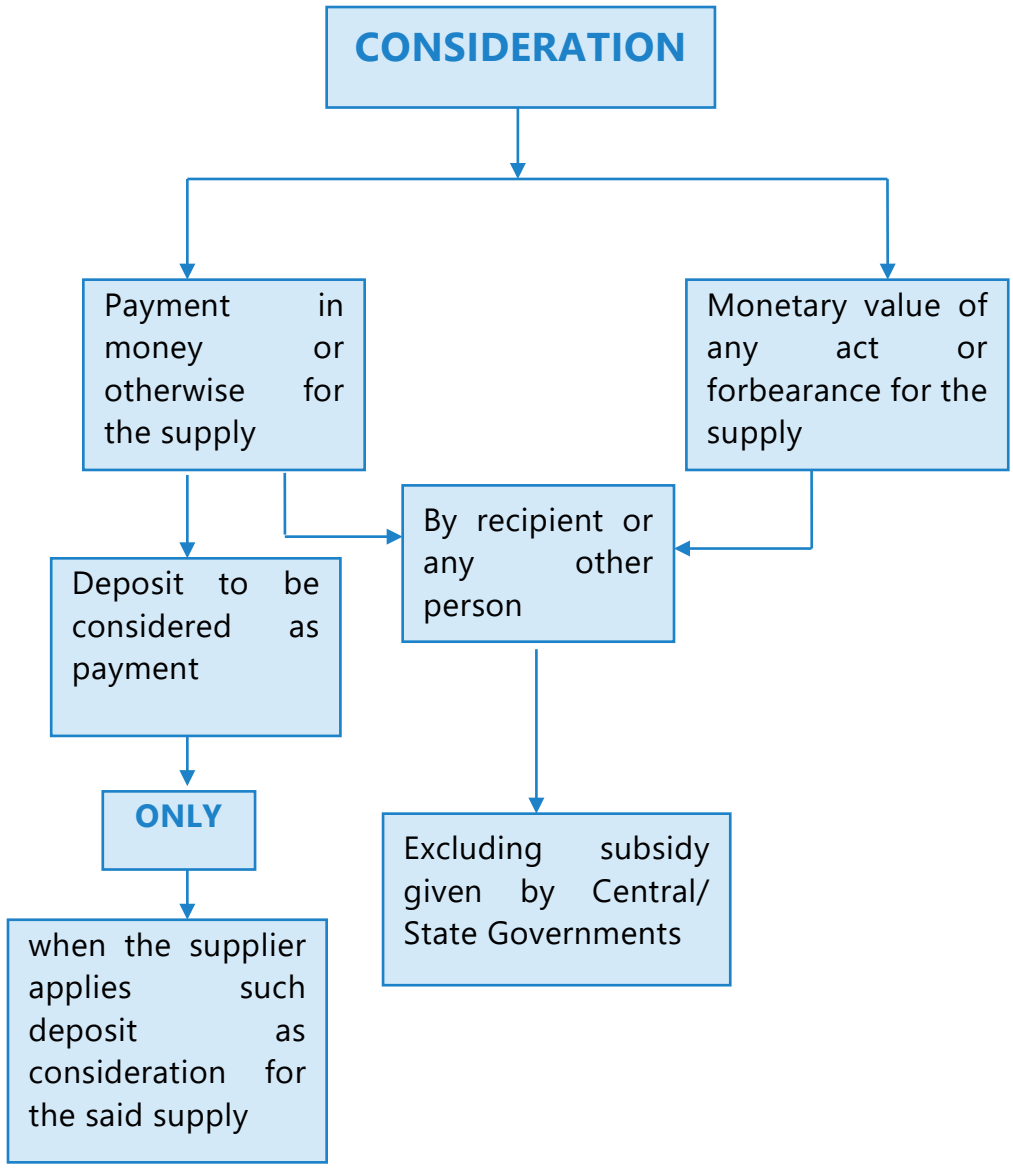
[4] *www.merriam-webster.com*
[5] *www.dictionary.cambridge.org*
[6] *www.dictionary.cambridge.org*

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A deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

The term consideration is defined under section 2(31) *[Refer heading 'Relevant Definitions']*.

The said definition has been depicted in the form of a diagram as follows:



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Let us examine the existence of consideration in the following three scenarios:

1. Donations received by charitable institutions from individual donors, without *quid pro quo*
2. Art works sent by artists to galleries for exhibition
3. 'No Claim Bonus' offered by an insurance company to the insured

1. Donations received by charitable institutions from individual donors, without *quid pro quo*

An important feature of consideration is *quid pro quo* [something for something]. Donations received by the charitable organisations are treated as consideration only if there exists, *quid pro quo,* i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

Generally, institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. receive financial help or any other support in the form of donation or gift from the individual donors. In order to express the gratitude towards such help/support, the recipient institutions place a name plate or similar such acknowledgement in their premises.

When the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for the payment in the form of donation. In other words, there is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (i.e. supply a service). Therefore, there is no GST liability on such payment made.

Some examples of cases where there would be no taxable supply are as follows:-



(5) Bhushan donated a blackboard to Yoganisht Sansthan - a charitable yoga institution. Yoganisht Sansthan printed underneath the blackboard so donated - "Good wishes from Mr. Bhushan".

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(6) Smt. Durga Devi donated some money to a temple in the memory of her late father. The Temple Trust constructed a room in the temple complex from such donation and wrote "Donated by Smt. Durga Devi in the memory of her father" on the door of the room.

In above examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised.

Thus, GST is not leviable where all the following three conditions are satisfied namely:



[Circular No. 116/35/2019 GST dated 11.10.2019]

2. Art works sent by artists to galleries for exhibition is not a supply as no consideration flows from the gallery to the artists



Artists give their work of art to galleries where it is exhibited for supply.

However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply.

It is **only when a buyer selects** a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply *[Circular No. 22/22/2017 GST dated 21.12.2017]*.

3. No supply of service by the insured to the insurance company in lieu of 'No Claim Bonus' offered by said insurance company to him

The issue which arose for consideration was whether the deduction on account of 'No Claim Bonus' (NCB) allowed by the insurance company from

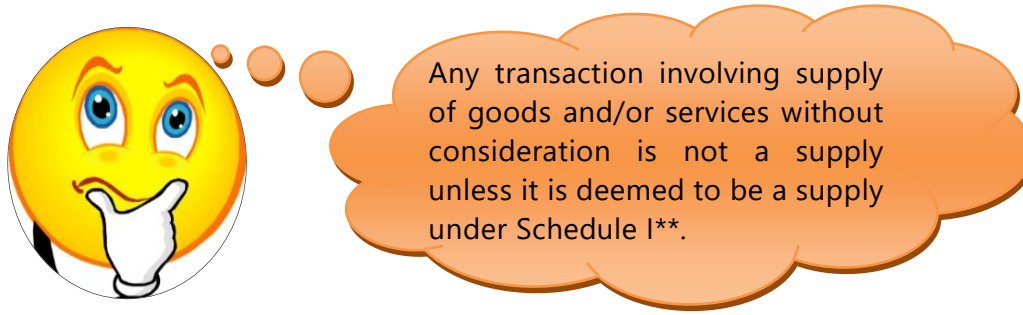
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the insurance premium payable by the insured, can be considered as consideration for the supply provided by the insured to the insurance company, for agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s).

As per practice prevailing in the insurance sector, the insurance companies deduct 'No Claim Bonus' from the gross insurance premium amount, when no claim is made by the insured person during the previous insurance period(s). The customer/ insured procures insurance policy to indemnify himself from any loss/ injury as per the terms of the policy and is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of NCB.

It is, therefore, clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and NCB cannot be considered as a consideration for any supply provided by the insured to the insurance company.

[Circular No. 186/18/2022 GST dated 27.12.2022]



***Provisions of Schedule I have been discussed in detail later in this chapter.*

Another parameter to qualify as supply of goods and/or services is that a supply is made in course or furtherance of business. This parameter has been expounded in the following paras:

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C. IN COURSE OR FURTHERANCE OF BUSINESS

GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST. Resultantly, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of 'business'.

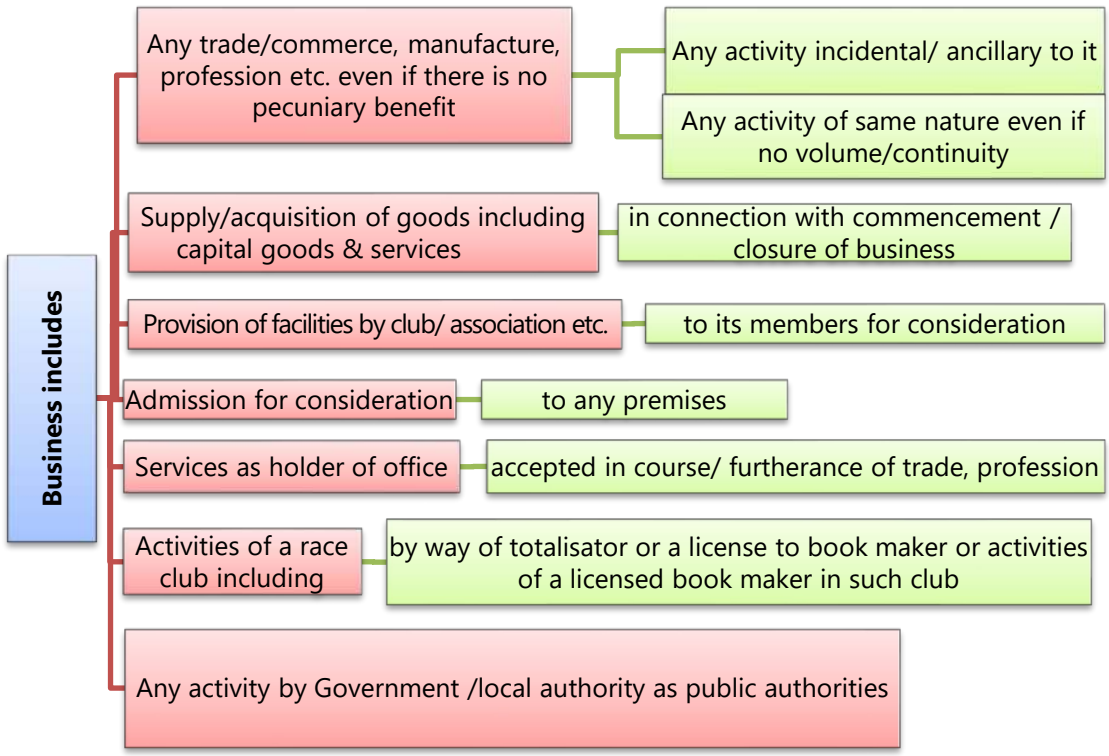
Meaning of supply made in the course or furtherance of business: Any activity





undertaken in course/ for furtherance of business would constitute a supply. In order to understand the term 'in the course or furtherance of business', we need to first understand the term 'business'. Business as defined under section 2(17), *inter alia,* includes any trade, commerce, manufacture, profession, vocation etc. whether or not undertaken for a monetary benefit.

The definition of business has been summarised in the diagram below:



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Thus, business includes any activity/transaction which is incidental or ancillary to any trade, commerce, manufacture, profession, vocation, adventure, wager [bet] or any other similar activity. In addition, any activity undertaken by the Central Government or a State Government or any local authority in which they are engaged as public authority shall also be construed as business. For any trade, commerce, or any other similar activity to qualify as business, **frequency, volume, continuity or regularity of such transaction or obtaining pecuniary benefit from it is not a pre-requisite**.

Some of the examples of supply made/not made 'in the course or furtherance of business' are as follows:



(7) Rishabh buys a car for his personal use and after a year sells it to a car dealer. Sale of car by Rishabh to car dealer is not a supply under CGST Act because said supply is not made by Rishabh in the course or furtherance of business[7].



(8) Manikarnika sold her old gold bangles and earrings to 'Aabhushan Jewellers'. Sale of old gold jewellery by an individual to a jeweller will not constitute supply as the same cannot be said to be in the course or furtherance of business of the individual[8][9].

Since 'business' includes vocation, therefore, supply of goods or service **as a vocation** is also a supply under GST.

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[7] *Clarified vide GST FAQs issued by CBIC*

[8] *Clarified by CBIC vide press release dated 13.07.2017*

[9] *The view taken in Examples 7 & 8 above is based on the view taken in the Departmental FAQs/ press release. There is another school of thought according to which since the definition of business includes trade, commerce, or any other similar activity,* ***whether or not there is frequency, volume, continuity or regularity*** *of such transaction, on literal interpretation, the transactions in the above examples can be considered to be made in the course or furtherance of business and thus, will constitute supply. The taxability of such transactions, however, will have to be examined under the provisions of section 9 [Discussed in detail in Chapter 3 – Charge of GST in this Module of the Study Material]. However, since this view may not always lead to logical conclusions, it is more prudent to take a purposive approach as followed in Departmental FAQs/press release given above.*

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(9) Sundaram Acharya, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust – 'Kind Human'. The sale of paintings by the actor qualifies as supply as it is made in course or furtherance of business.

Facilities provided by the club/association to its members for consideration are provided in course or furtherance of business.



(10) A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is included in the definition of 'business'.

Admission of persons to any premises for a consideration is also included in business.



(11) Services by way of admission to circus, cinema halls, amusement parks including theme parks, water parks, etc. are considered as supply as these are services by way of admission of persons to any premises for a consideration.

Business includes activities of a race club including by way of totalisator or a license to book maker[10] or activities of a licensed book maker in such club.



(12) Royal Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator[11]. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.

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[10] Book maker is a person that accepts and pays off bets on sporting and other events at agreed-upon odds.

[11] Totalisator is a device showing the number and amount of bets staked on a race, to facilitate the division of the total among those backing the winner.

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There is one exception to this 'course or furtherance of business' rule i.e., import of services for a consideration.

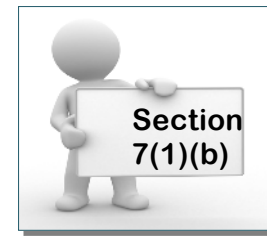
From the above discussion, it can be inferred that if an activity or transaction satisfies all the above parameters, as discussed in points A, B and C above, said activity or transaction qualifies as 'Supply under GST'.

In the subsequent paras, we have discussed the **exceptions to the two parameters of supply**, *namely*,

(i) supply made for consideration, but not in course or furtherance of business and

(ii) supply made without consideration.

IMPORTATION OF SERVICES FOR CONSIDERATION WHETHER OR NOT IN COURSE OR FURTHERANCE OF BUSINESS



The connotation of 'supply' gets expanded significantly through the second part of section 7 i.e. 7(1)(b) which brings within the ambit of 'supply', the importation of services for a consideration **whether or not in the course or furtherance of business**.

This is the only exception to the condition of supply being made in course or furtherance of business.

example **(13)** Ramaiyaa, a proprietor, has received the architect services for his personal residence from an architect located in New York at an agreed consideration of $ 5,000. The import of services by Ramaiyaa is supply under section 7(1)(b) though it is not in course or furtherance of business.

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ACTIVITIES WITHOUT CONSIDERATION - DEEMED SUPPLY

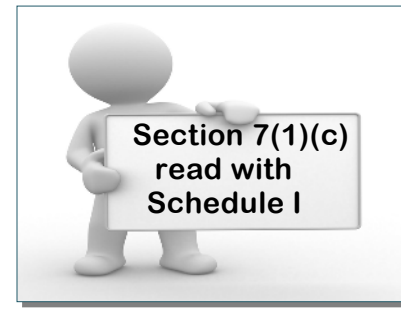
STATUTORY PROVISIONS

Schedule-I	Activities to be treated as supply even if made without consideration
Para No.	**Particulars**
(1)	*Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.*
(2)	*Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.* *Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.*
(3)	*Supply of goods —* *(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or* *(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.*
(4)	*Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business*

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ANALYSIS



As seen earlier, section 7(1)(c) provides that supply includes the activities specified in Schedule I, made or agreed to be made without a consideration. Thus, there are activities or transactions which are treated as supply, **even if they are made without consideration**. These are specifically mentioned in Schedule I appended to the CGST Act. The same has been discussed in the subsequent paras:

In the past indirect tax regime, in every tax statute, "consideration" played the most important role for levying taxes. For instance, if any service was provided for free to a person, such service was not subject to service tax. However, under GST, the condition of consideration has been dispensed with in certain cases – this is an important departure from the earlier indirect tax regime.

As per Schedule I, in the following four cases, activities made without consideration will be treated as supply under section 7:

I. Permanent Transfer/Disposal of Business Assets [Para 1 of Schedule I]: Any kind of disposal or transfer of business assets made by an entity on permanent basis even though without consideration qualifies as supply. However, it is important to note that this provision would apply **only if** input tax credit has been availed on such assets.

Therefore, in order to qualify as supply under this para, following conditions need to be satisfied:

- There must be a disposal or transfer of business assets**.
- Transfer/disposal must be permanent.
- ITC must have been availed on such business assets.

In view of the last condition stipulated above, permanent transfer/disposal of following business assets, without consideration, will not be covered within this para and thus will not be deemed as supply:

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(i) Business assets on which ITC is blocked/not available under GST[12].

(ii) Business assets though eligible for ITC, ITC has not been availed by the registered person.

***It is important to note that the term business asset has not been defined under the GST law.*



(14) Dhruv gives old laptops being used in his business to his friend free of cost. This will qualify as supply provided input tax credit has been availed by Dhruv on such laptops.



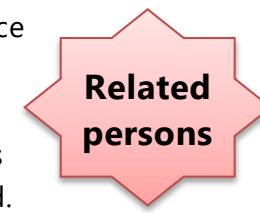
(15) A dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle is blocked. The transaction will not constitute a supply as the condition of availment of ITC on the business asset transferred is not fulfilled.

This clause is wide enough to cover transfer of business assets from holding to subsidiary company for nil consideration.

II. Supply between related person or distinct persons [Para 2 of Schedule I]: Supply of goods or services or both between 'related persons' or between 'distinct persons' as specified in section 25, will qualify as supply even if made without consideration **provided it is made in the course or furtherance of business.**

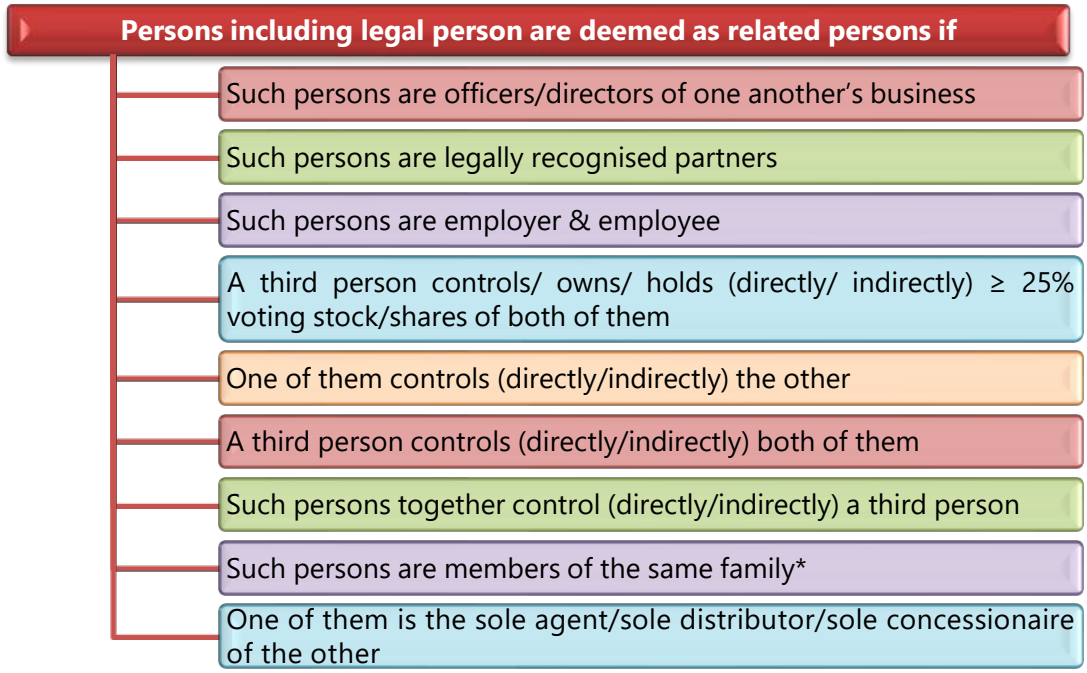
Let us understand the terms **'related persons'** and **'distinct persons'**.

(i) Related persons: A person who is under influence of another person is called a related person like members of the same family or subsidiaries of a group company etc. Under GST law, various categories of related persons have been specified. The term 'related person' has been defined in explanation to section 15. The said definition has been depicted by way of a diagram as follows:



[12] *List of the goods and services in respect of which ITC is blocked has been elaborated in Chapter 8 – Input Tax Credit in Module 2 of this Study Material.*

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*****See the definition of 'family' as provided in heading 2. – Relevant Definitions.*

(16) Ms. Priya holds 30% shares of ABC Ltd. and 35% shares of XYZ Ltd. ABC Ltd. and XYZ Ltd. are related.

(17) Q Ltd. has a deciding role in corporate policy, operations management and quality control of R Ltd. It can be said that Q Ltd. controls R Ltd. Thus, Q Ltd. and R Ltd. are related.

(ii) Distinct Persons specified under section 25: Before we go through the statutory provisions of 'distinct persons', let us first have an overview of the registration provisions for better understanding of the concept of distinct persons. *Detailed and in-depth analysis of the registration provisions is contained in Chapter 9 – Registration in Module 2 of this Study Material.*

Distinct persons

Under GST law, a supplier is required to obtain State-wise registration. He has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified

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threshold limit. Thus, he is not required to obtain registration from a State/UT from where he makes a non-taxable supply.

Since registration in GST is PAN based, once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates [and makes a taxable supply] under the same PAN. Further, he is normally required to obtain single registration in a State/UT.

However, where he has multiple places of business in a State/UT, he can get a single registration for said State/UT. He may also get separate registration for any place(s) of business in such State/UT.

Now, let us understand the concept of distinct persons in simple terms:

The establishments of a person with separate registrations whether within the same State/UT or in different States/UTs are considered as **distinct persons**.

Where a person having one registered establishment in a State/UT has another establishment in a different State/UT [not necessarily registered], these establishments are considered as **establishments of distinct persons.**

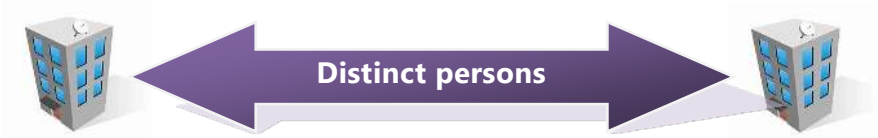
Statutory provisions relating to 'distinct persons' are contained in sub-sections (4) and (5) of section 25. They have been explained with examples as follows:

A person who has obtained/is required to obtain more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons** [Section 25(4)].



(18) Mohan, a Chartered Accountant, has a registered head office in Delhi. He has also obtained registration in the State of West Bengal in respect of his newly opened branch office. Mohan's registrations under GST under same PAN in West Bengal and Delhi shall be treated as distinct persons.

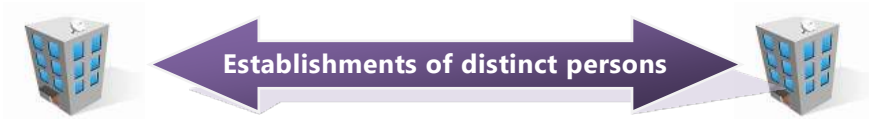
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Registered head office in Delhi **Registered branch office in West Bengal**

Further, where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as **establishments of distinct persons** [Section 25(5)].

(19) Rishabh Enterprises, a registered supplier, owns an air-conditioned restaurant in Virar, Maharashtra. It has opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption. Since supply of alcoholic liquor for human consumption in Uttarakhand is a non-taxable supply, Rishabh Enterprises is not required to obtain registration with respect to the same in Uttarakhand. In this case, air-conditioned restaurant in Maharashtra and liquor shop [though unregistered] in Uttarakhand shall be treated as establishments of distinct persons. Supply by Maharashtra restaurant to Uttarakhand shop, in course or furtherance of business, even without consideration will qualify as supply



Registered restaurant in Maharashtra **Unregistered liquor shop in Uttarakhand**

(iii) **Stock transfers or branch transfers qualify as supply**: It is a common practice in business to transfer goods transferred amongst different units of same entity, for instance, distribution of samples manufactured in a factory to different branches or transfer of goods from factory to depot/showroom for sale therefrom, from one warehouse to another warehouse, from one branch to another branch where the demand of the goods is higher.

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Since the transfer is within the same business, the transferor unit would not charge any amount to the transferee unit. Similarly, it is also possible that one branch supplies services to another branch of the same entity without consideration.

These transactions are termed as self-supplies. Under GST, these transactions though undertaken without consideration, will also qualify as supply, provided the transfer of goods or services is between:

(i) different locations (with separate GST registrations) of same legal entity as these are transactions between distinct persons, or

(ii) establishments of distinct persons.



(20) Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there.

The factory and retail showroom of Raghubir Fabrics are registered in the States where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.



Registered Lucknow factory

Registered Delhi showroom

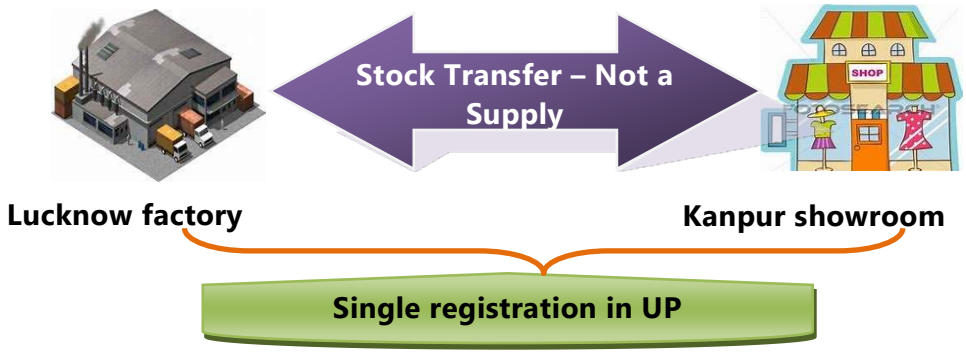
However, transfer between two units of a legal entity under single GST registration (apparently within same State) will not be considered as supply. This can be understood with the help of the following example:



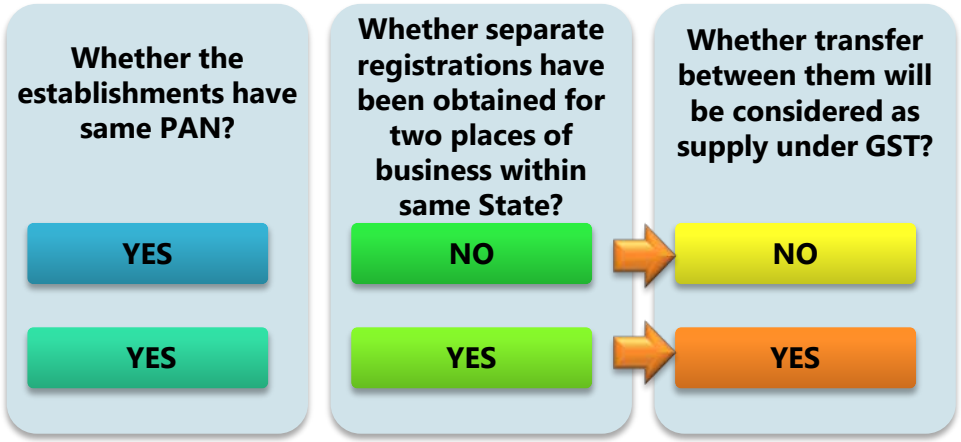
(21) Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Kanpur so that the same can be sold from there. It has taken one registration in the State of Uttar Pradesh declaring Lucknow factory as its principal place of business and Kanpur showroom as its additional place of business.

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Since no consideration is charged, supply of goods from factory to retail showroom in same State under single registration does not constitute supply.



However, in the above example, if Raghubir Fabrics obtains separate registrations for Lucknow factory and Kanpur showroom, stock transfer between the Lucknow factory and Kanpur showroom will constitute supply. The concept arising from the above discussion is summarised in below diagram (assuming a case where there are two places of business in a State):



(iv) Supply of goods or services or both between an employer and employee: In terms of the definition of related person given above, employer and employee are related persons.

However, services provided by an employee to the employer in the course of or in relation to his employment are outside the scope of GST

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(treated as neither supply of goods nor as supply of services) as per Schedule III to the CGST Act *(discussed subsequently in this chapter)*].

Gifts by employer to employee

Further, proviso to Para 2 of Schedule I provides that gifts upto ₹ 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

However, gifts of value more than ₹ 50,000 made without consideration are supply and are subject to GST, when made in the course or furtherance of business.



The term 'gift' has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

Perquisites by employer to employee

Since services by an employee to the employer in the course of or in relation to his employment are outside the scope of GST, supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee will not be subjected to GST.

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Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment.

It follows therefrom that **perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee will not be subjected to GST.**

Further, the input tax credit (ITC) scheme under GST does not allow ITC of membership of a club, health and fitness centre[13]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST.

The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to company (C2C)[15]

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[13] Complete list of the goods and services in respect of which ITC is blocked has been elaborated in Chapter 8 – Input Tax Credit in Module 2 of this Study Material.

[14] Circular No. 172/04/2022 GST dated 06.07.2022 read with Ministry of Finance's Press Release on 10.07.2017

[15] It is possible to take an alternative view in this regard. This scenario, i.e. the employer providing services (free of charge) to the employee in lieu of the services provided by the employee to the employer in the course of employment, is an exchange transaction. In an exchange transaction, both the parties independently assess their transaction status. Thus, while service provided by employee to the employer being covered under Schedule III is not a supply, service provided by employer to employee may constitute a supply in terms of section 7(1)(c) read with para 2 of Schedule I since employer and employee are related persons as per explanation to section 15. Provisions of section 15 have been discussed in detail in Chapter 7 – Value of Supply in this Module of the Study Material.

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III. **Principal – Agent [Para 3 of Schedule I]:** Supply of goods by a principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.



Similarly, supply of goods by an agent to his principal, without consideration, where the agent undertakes to receive such goods on behalf of the principal is considered as supply.

Points which merit consideration, in this regard, are as follows:

- Only **supply of goods and not supply of services** is covered here.
- Supply of goods between principal and agent **without consideration** is also supply.

Thus, the **supply of services** between the principal and the agent and vice versa would require "consideration" to be present so as to be considered as supply and thus, making it liable to GST.



In order to determine whether a particular principal-agent relationship falls within the ambit of the Para 3 of Schedule I as discussed above or not, the deciding factor is **whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not?** In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

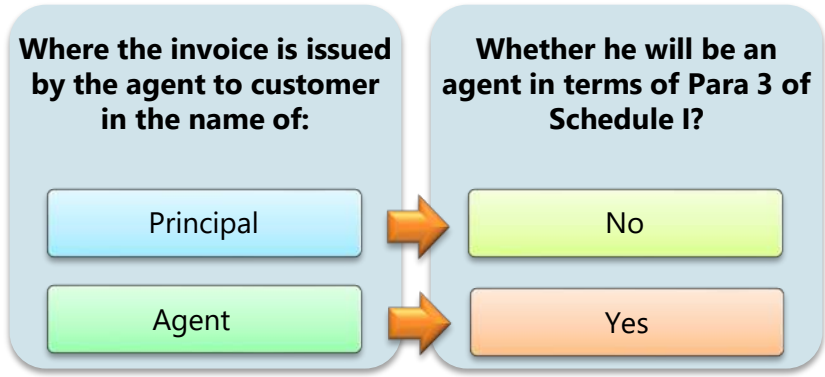
Invoice for further supply to customer be issued in the agent's name.

- ❑ Where the **invoice for further supply is being issued by the agent in his name** then, any provision of goods from the principal to the agent would fall within the fold of Para 3 above.
- ❑ However, where the **invoice is issued by the agent to the customer in the name of the principal**, such agent shall not fall within the ambit of Para 3 above.

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❑ Similarly, where the goods being procured by the agent on behalf of the principal are **invoiced in the name of the agent** then further provision of the said goods by the agent to the principal would be covered by Para 3 above *[Circular No. 57/31/2018 GST dated 04.09.2018]*.

Goods procured on behalf of principal are invoiced in the agent's name.



The above clarification can be understood with the help of following scenario based examples:

(22) Anmol appoints Bholu to procure certain goods from the market. Bholu identifies various suppliers who can provide the goods as desired by Anmol and asks the supplier (Golu) to send the goods and to issue the invoice directly to Anmol.

In this scenario, Bholu is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Bholu is not an agent of Anmol for supply of goods in terms of Para 3 of Schedule I.

(23) Manimani Bank, a banking company, appoints Mandaar (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders.

The highest bid is accepted and the goods are sold to the highest bidder by Manimani Bank. The invoice for the supply of the goods is issued by Manimani Bank to the successful bidder.

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In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mandaar is not an agent of Manimani Bank for the supply of goods in terms of Para 3 of Schedule I.



(24) Gautam, an artist, appoints Gambhir (auctioneer) to auction his painting. Gambhir arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder.

The invoice for the supply of the painting is issued by Gambhir on the behalf of Gautam but in his own name and the painting is delivered to the successful bidder.

In this scenario, Gambhir is not merely providing auctioneering services, but is also supplying the painting on behalf of Gautam to the bidder, and has the authority to transfer the title of the painting on behalf of Gautam. This scenario is covered under Para 3 of Schedule I.



(25) A C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F commission agent is an agent of the principal for the supply of goods in terms of Para 3 of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.



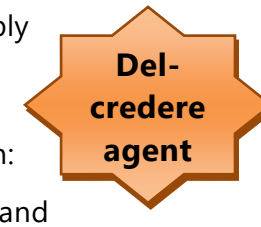
(26) Ravi sells agricultural produce by utilizing the services of Kavi who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Kavi identifies the buyers and sells the agricultural produce on behalf of Ravi for which he charges a commission from Ravi.

As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.

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In cases where the invoice is issued by Kavi to the buyer, then he is an agent covered under Para 3 of Schedule I[16]. However, in cases where the invoice is issued directly by Ravi to the buyer, the commission agent (Kavi) doesn't fall under the category of agent covered under Para 3.

Clarification of issues pertaining to Del-credere agent (DCA)



A question was posed by the industry - whether supply between a principal and a Del-credere agent would also get covered under Schedule I. The Government clarified the doubt of the industry by way of following clarification:

Before going through the clarification let us first understand what is meant by a DCA? In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal.

The factor that differentiates a DCA from other agents is that the **DCA guarantees the payment to the supplier.**

In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.

In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date.

This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer.

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[16] *It is important to note that services provided by the commission agent for sale or purchase of agricultural produce are exempt supply under GST. Said exemption has been discussed in detail in Chapter 5 - Exemptions from GST in this Module of the Study Material.*

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Circular No. 73/47/2018 GST dated 05.11.2018 has clarified the following issues in this regard:

Sl. No.	Issue	Clarification
1	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I?	As already clarified vide *Circular No. 57/31/2018 GST* (discussed above), whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I depends on the following possible scenarios: ❑ In case where the **invoice** for supply of goods is issued **by the supplier to the customer**, either himself or through DCA, the DCA **does not fall** under the ambit of agent. ❑ In case where the **invoice** for supply of goods is issued **by the DCA in his own name**, the DCA **would fall** under the ambit of agent.
2	Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under	In such a scenario, following activities are taking place: 1. Supply of goods from supplier (principal) to recipient; 2. Supply of agency services from DCA to the supplier or the recipient or both;

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	Para 3 of Schedule I?	3. Supply of extension of loan services by the DCA to the recipient. It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply [17]. Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.
3.	Where DCA is an agent under Para 3 of Schedule I and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?	In such a scenario following activities are taking place: 1. Supply of goods by the supplier (principal) to the DCA; 2. Further supply of goods by the DCA to the recipient; 3. Supply of agency services by the DCA to the supplier or the recipient or both;

[17] *Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempt supply vide Entry 27 of Notification No. 12/2017 CT(R) dated 28.06.2017 [Discussed in detail in Chapter 5 – Exemptions under GST in this Module of the Study Material].*

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		4. Extension of credit by the DCA to the recipient. It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is emphasised that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient. It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per section 15(2)(d) [18].

[18] *Section 15 has been discussed in detail in Chapter 7 – Value of Supply in this Module of the Study Material.*

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Mr. Handsome, del-credere agent (DCA) of Charm Limited, agrees to raise invoices in his own name and also guarantees for the realization of payments from customers to Charm Limited. In order to realize the payments from customers on time, he extends short-term transaction-based loans to them and charges interest for the same.

For the month of March, sale of goods by Mr. Handsome in his DCA capacity is ₹ 2,80,000 and interest earned from the said customers for short term credit facility provided for timely payment of dues is ₹ 20,000. Further, commission charged from Charm Limited in respect of DCA services provided is ₹ 30,000. The value of supply of goods to customers is and value of supply of agency services to Charm Limited is _____.

(a) ₹ 2,80,000; ₹ 30,000	(b) ₹ 20,000; Nil	(c) ₹ 3,00,000; ₹ 30,000	(d) ₹ 20,000; ₹ 30,000

IV. Importation of services [Para 4 of Schedule I]: Import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as "supply".



(27) Jhumroo Associates received legal consultancy services from its head office located in Malaysia. The head office has rendered such consultancy services free of cost to its branch office.

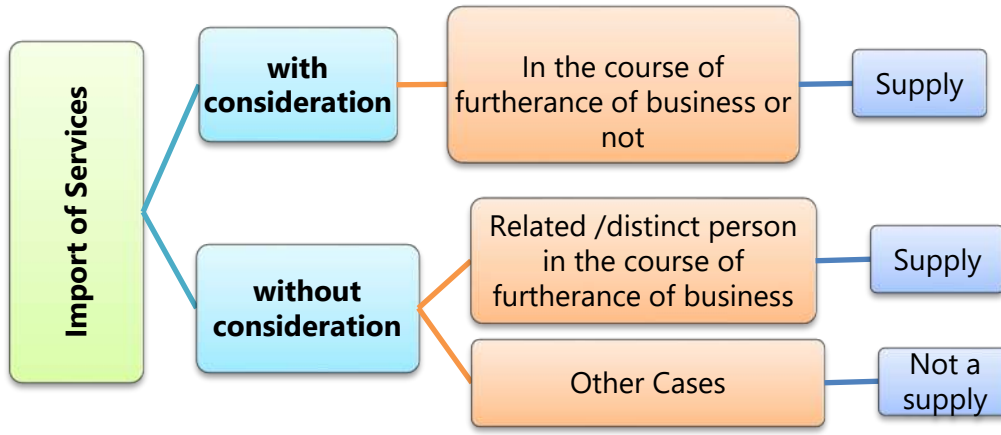
Since Jhumroo Associates and the head office are related persons, services received by Jhumroo Associates will qualify as supply even though the head office has not charged anything from it.



(28) Chakmak, a proprietor registered in Delhi, has sought architect services from his son located in US, with respect to his newly constructed house in Delhi.

Although services have been received by Chakmak without consideration from his son - a related person, yet it will not qualify as supply since the same has not been received in course or furtherance of business.

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In the preceding paras, we have discussed the provisions of Schedule-I which enumerates the cases where an activity is treated as supply even though it is undertaken free of cost.



In this backdrop, let us now examine whether the items given free of cost in case of some of the sales promotion schemes qualify as supply or not.



A number of sales promotion schemes are commonly employed by the businesses to increase sales volume or to encourage the use or trial of a product or service so that new customers get attracted towards their products.



For instance, certain sections of trade and industry, such as, pharmaceutical companies often provide drug samples to their stockists, dealers, medical practitioners, etc., or sometimes, companies announce offers like 'Buy One, Get One free' – i.e. buy one soap and get one soap free or get one tooth brush free along with the purchase of tooth paste.





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As we have already seen that as per section 7(1)(a), the **goods or services which are supplied free of cost (without any consideration) shall not be treated as "supply" except in case of activities mentioned in Schedule I**. In view of the same, few sales promotion schemes have been examined as under:

Free samples and gifts: Samples which are supplied free of cost, without any consideration, do not qualify as "supply" under GST [19], except where the activity falls within the ambit of Schedule I.



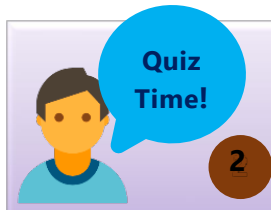
Buy one get one free offer: It may appear at first glance that in case of offers like **"Buy One, Get One Free"**, one item is being **"supplied free of cost"** without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as **supplying two goods for the price of one**.



Taxability of such supply will be dependent upon as to **whether the supply is a composite supply or a mixed supply** and the rate of tax shall be determined accordingly – *Concept of composite and mixed supply has been discussed subsequently in this chapter*. *[Circular 92/11/2019 GST dated 07.03.2019]*

[19] *ITC on inputs, input services and capital goods to the extent they are used in relation to the gifts/free samples shall be available to the supplier only where the activity of distribution of gifts/free samples falls within the scope of supply. The same has been discussed in detail in Chapter 8 – Input Tax Credit in Module 2 of this Study Material.*

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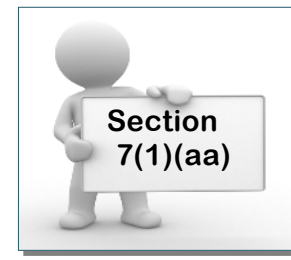


Mr. Venkat hired a professional firm based in UK to receive the legal consultancy services for his family dispute. The services received by Mr. Venkat _____ in case such services are received by Mr. Venkat (I) free of cost; or (II) for a consideration of US$ 1,000.

(a)	(b)	(c)	(d)
(I) amount to supply; (II) amount to supply	(I) do not amount to supply; (II) amount to supply	(I) amount to supply; (II) do not amount to supply	(I) do not amount to supply; (II) do not amount to supply

There has always been an ambiguity as to whether activities/ transactions involving supply of goods/ services, by any person, other than an individual, to its members or vice-versa fall within the purview of supply or not. Clause (a) to section 7(1) brings in the certainty that said activities/ transactions are covered within the scope of supply under GST and ensures the levy of GST on such activities/transactions. This has been discussed as under:

ACTIVITIES/ TRANSACTIONS BETWEEN A PERSON, OTHER THAN AN INDIVIDUAL, AND ITS MEMBERS/ CONSTITUENTS FOR CONSIDERATION



The activities or transactions (involving supply of goods or services) between a person, other than an individual, (i.e. association, club, etc.) and its members or constituents, for cash, deferred payment or other valuable consideration are covered within the ambit of 'supply' as per section 7(1)(aa).

Further, explanation to clause (aa) to section 7(1) clarifies that for the purpose of this clause, such person (association, club, etc.) and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions between them shall be deemed to take place from one such person to another. The explanation starts with a non-obstante clause and shall therefore, shall have an overriding effect over anything contained

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in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority.

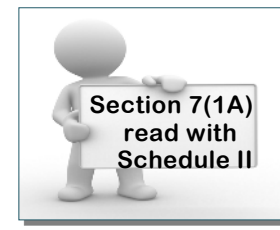
The aforesaid explanation prevents the application of doctrine of mutuality by such person(s)[20].

(29) Resident Welfare Association (RWA) of Sanskriti Society supplies air-conditioners to its members at a concessional price.

(30) A Resident Welfare Association collects maintenance charges from its members for services provided.

Here, in both the aforesaid examples, it shall be deemed that the Resident Welfare Association (RWA) and its members are two separate persons and it shall be deemed that the supply has taken place from Resident Welfare Association (RWA) to its members.

ACTIVITIES/TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES



Section 7(1A) classifies certain activities/ transactions constituting supply, either as supply of goods or supply of services. Schedule II to the CGST Act contains the list of activities or transactions which have been **classified** either as supply of goods or supply of service.

This helps in mitigating the ambiguities which existed in earlier laws.

(31) Under earlier tax regime, the restaurants used to charge both service tax and VAT on the value of food served. This is so because both sale of goods and provision of service were involved and therefore taxable event under both the Statutes i.e. respective VAT law and service tax law got triggered.

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[20] Section 7(1)(aa), in effect, overrules the judgment of the Hon'ble Supreme Court in State of West Bengal v. Calcutta Club Limited wherein it was held that the transactions between a Club and its members cannot be taxed owing to the doctrine of mutuality, i.e., a person cannot make a profit from himself.

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Under GST, the supply by a restaurant is treated as composite supply *[concept of composite supply is discussed subsequently in this chapter]* since supply of food and service is naturally bundled in ordinary course of business. Further, Entry 6(b) of Schedule II *[refer table below]* specifically provides that such composite supply shall be treated as supply of service. Hence, the entire value of invoice shall be treated as value of service and leviable to GST accordingly.

The matters listed out in Schedule II are primarily those which had been entangled in litigation in the earlier regime owing to their complex nature and susceptibility to double taxation.

These are as follows :-

Para No.	Activity/ Transaction	Type	Nature of Supply
1.	Transfer	Any transfer of title in goods. **(32)** Shivaji sells ready-made garments to its customers.	Supply of Goods
		Any transfer of right in goods/ undivided share in goods without transfer of title thereof. **(33)** Genius Equipments Ltd. gives a machinery on rent to Suhaasi Manufacturers.	Supply of Services
		Any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed. **(34)** Dhruva Capitals supplied goods on hire purchase basis to customers. **(35)** Optima Manufacturers supplies toys to retailers on 'sale or return basis'.	Supply of Goods

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2.	Land and Building	Any lease, tenancy, easement, licence to occupy land[21]. **(36)** Lease agreement for land.	Supply of Services
		Any lease or letting out of building including a commercial, industrial or residential complex for business or commerce, wholly or partly. **(37)** A shop let out in a busy market area.	Supply of Services
3.	Treatment or Process	Any treatment or process which is applied to another person's goods **(38)** Damani Dying House dyes the clothes given by Shubham Textiles Ltd. on job work basis.	Supply of Services
4.	Transfer of Business Assets	Goods forming part of business assets are transferred or disposed off by or under directions of person carrying on the business so as no longer to form part of those assets.	Supply of Goods
		Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/ under directions of person carrying on the business. **(39)** A person manufacturing and selling wooden furniture takes one chair manufactured by him for use at his house.	Supply of Services
		Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, shall be deemed to be supplied by him, in the course or furtherance of his business,	Supply of Goods

[21] *Refer Circular No. 44/18/2018 CGST dated 02.05.2018 discussed subsequently.*

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		immediately before he ceases to be a taxable person. **(40)** Arun, a trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him. **Exceptions:** ❑ Business is transferred as a going concern to another person[22]. ❑ Business is carried on by a personal representative who is deemed to be a taxable person.	
5.	**(a)** Renting of immovable property **(41)** Renting of a commercial complex. **(42)** Renting of precincts of a religious place. **(43)** Renting of property to an educational institution. **(44)** Permitting use of immoveable property for placing vending/dispensing machines.		Supply of Services
	(b) Construction of complex, building, civil structure, etc. Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, **except** where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. **(45)** Rathi Builders has constructed individual residential units for agreed consideration of ₹ 1.2 crore per unit. ₹ 90 lakh per unit were received before issuance of completion		

[22] *Services by way of transfer of a going concern, as a whole or an independent part thereof are exempt supply under GST [Discussed in detail in Chapter 5 – Exemptions from GST in this Module of the Study Material].*

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	certificate by the competent authority and its first occupation, and balance after completion. The term **construction** includes additions, alterations, replacements, or remodeling of any existing civil structure. The term **competent authority** means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:— (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or (ii) a chartered engineer registered with the Institution of Engineers (India); or (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.	Supply of Services
	(c) Temporary transfer or permitting use or enjoyment of any intellectual property right **(46)** Temporary transfer of patent.	
	(d) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software **(47)** Suvidha Solutions develops an accounting software for a business firm.	
	(e) Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act. **(48)** Cable operator - Sakharam has entered into an agreement with Cable operator - Aatmaram that Sakharam will not provide cable connections in the specified areas where Aatmaram	

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	is providing the connections. Non-compete agreements constitute supply of service. **(49)** Security deposit forfeited in the event of cancellation of tour package by the customer. *Please refer the detailed discussion on this para of Schedule-II given at the end of the Table.*	
	(f) Transfer of right to use any goods for any purpose (whether or not for specified period) for cash, deferred payment or other valuable consideration.  **(50)** Machinery given on hire.	
6.	Following **composite supplies**:- ❑ Works contract **Works contract:** means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of **any immovable property** wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract [Section 2(119)]. ❑ Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.	Supply of Services

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In this regard, following issues have been clarified by the CBIC:

1. **Taxability of 'tenancy rights' under GST**

CBIC has clarified the taxability of 'tenancy rights' under GST as under:



Pagadi system, i.e. transfer of tenancy rights against tenancy premium, is prevalent in some States. In Pagadi system, the tenant acquires tenancy rights in the property against payment of tenancy premium (pagadi). The landlord may be owner of the property, but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceeds with owner of land, as laid down in their tenancy agreement.

Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999.

It has been clarified that the activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST.

It is a form of lease or renting of property and such activity is specifically declared to be a service in Para 2 of Schedule II as discussed in table above i.e. any lease, tenancy, easement, licence to occupy land is a supply of services.



Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST. Merely because a transaction/supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the 'scope of supply' and from payment of GST.

The transfer of tenancy rights cannot be treated as sale of land/ building in para 5 of Schedule III. Thus, it is not a negative list activity *[this concept is*

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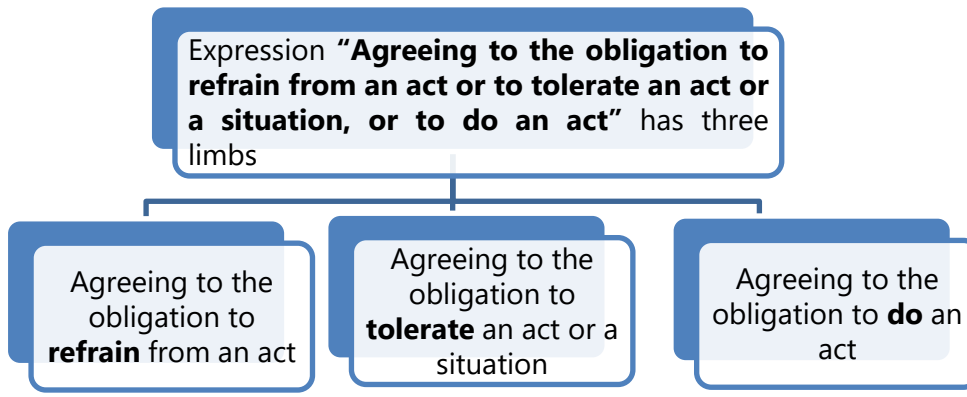
discussed under next heading] and consequently, a consideration for the said activity shall attract levy of GST.

To sum up, the activity of transfer of 'tenancy rights' is squarely covered under the scope of supply and taxable *per-se*. Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable.

However, renting of residential dwelling for use as a residence **to an unregistered person** is exempt *[Entry 12 of Notification No. 12/2017 CT (R) dated 28.06.2017 – Discussed in Chapter 5 – Exemptions from GST in this Module of the Study Material[23]]*. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both (to an unregistered person) is exempt. As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST[24].

2. **Clarification on 'agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act'**

"Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act" has been specifically declared to be a supply of service in para 5(e) of Schedule II if the same constitutes a "supply" within the meaning of the CGST Act.



[23] *As per Entry 12, renting of residential dwelling for use as residence is exempt, except when dwelling is rented to a registered person. However, the exemption shall also apply where the registered recipient is a proprietor taking on rent the residential dwelling in personal capacity for own residence and not for the proprietorship concern.*

[24] *Circular No. 44/2018 CT dated 02.05.2018*

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a. Agreeing to the obligation to REFRAIN from an act



(51) Example of activities that would be covered by this part of the expression would include non-compete agreements, where one party agrees not to compete with the other party in a product, service or geographical area against a consideration paid by the other party.



(52) Another example of such activities would be a builder refraining from constructing more than a certain number of floors, even though permitted to do so by the municipal authorities, against a compensation paid by the neighbouring housing project, which wants to protect its sunlight, or an industrial unit refraining from manufacturing activity during certain hours against an agreed compensation paid by a neighbouring school, which wants to avoid noise during those hours.

b. Agreeing to the obligation to tolerate an act or a situation

This would include activities such a shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker, or an RWA tolerating the use of loud speakers for early morning prayers by a school located in the colony subject to the school paying an agreed sum to the RWA as compensation.

c. Agreeing to the obligation to do an act

This would include the case where an industrial unit agrees to install equipment for zero emission/discharge at the behest of the RWA of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the individual unit to do so.

Above three activities must comply with the following conditions:

(1) There must be an expressed or implied agreement or contract must exist

Above three activities must be under an **"agreement" or a "contract"** (whether express or implied) to fall within the ambit of para 5(e) of Schedule II. In other words, one of the parties to such agreement/contract (the first party) must be under a contractual obligation to either (a) refrain or (b) tolerate or (c) do.

Such contractual arrangement must be an **independent arrangement** in its own right. Such arrangement/agreement can take the form of an

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independent stand- alone contract or may form part of another contract.

Thus, a person (the first person) can be said to be making a supply by way of refraining from doing something or tolerating some act or situation to another person (the second person) if the first person was under an obligation to do so and then performed accordingly.

Such a contract cannot be imagined or presumed to exist just because there is a flow of money from one party to another. There must be an expressed or implied promise by the recipient of money to agree to do or abstain from doing something in return for the money paid to him.

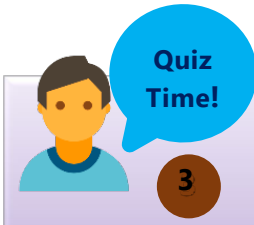
(2) Consideration must flow in return to this contract/agreement

Some **"consideration"** must flow in return from the other party to this contract/agreement (the second party) to the first party for such (a) refraining or (b) tolerating or (c) doing [25] [26].

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[25] *Apart from this, in this circular, CBIC has clarified issues with respect to GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law. Generally, in the event of the breach of a contract, a compensation is payable. Cash compensation agreed to by a signed, written contract for breach of contract, payable to the aggrieved party is known as 'Liquidated Damages'.*
The circular clarifies that liquidated damages cannot be said to be a consideration received for tolerating the breach or non-performance of contract. They are rather payments for not tolerating the breach of contract. Where the amount paid as 'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases liquidated damages are merely a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable. This discussion is only for the information purpose and is not relevant for examination purposes.
[26] *Circular No. 178/10/2022 GST dated 03.08.2022*

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Which of the following activities/transactions qualify as supply of goods?

(a)	(b)	(c)	(d)
Dhruvtara Electronics supplies washing machines to its customers.	Bigbang Steels Ltd. supplies a machinery on rent to Jigayasa Manufacturers.	Larsen Technicians retreads the tyres given by Deendayal Automobiles on job work basis.	Vigyaan Technologies develops a customised software for a business school.

NON-SUPPLIES UNDER GST

I. Activities/transactions specified under Schedule III: Section 7(2)(a) provides activities or transactions specified in **Schedule III** shall be treated neither as a supply of goods nor a supply of services. Schedule III specifies transactions/ activities which shall be neither treated as supply of goods nor as supply of services. Thus, the activities/transactions specified under this schedule can be termed as Non-Supplies under the GST regime. In a way, it is a "Negative list" for the purposes of taxation in GST.



It is important to note that apart from the activities specified in Schedule III, some activities have been notified by the Government vide different notifications, which are also to be considered as non-supplies. Further, some circulars have been issued clarifying that certain transactions are to be considered as non-supplies.

Hence, our discussion under this heading will revolve around the following:

A. Non-supplies listed in Schedule III

B. Non-supplies notified vide notification

C. Non-supplies clarified by way of circular

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A. NON-SUPPLIES LISTED IN SCHEDULE III

Para No.	Activities or transactions which shall be treated neither as a supply of goods nor a supply of services
1.	Services by an employee to the employer in the course of or in relation to his employment.  **(53)** Services provided by casual worker to employer who gives wages on daily basis to the worker are services provided by the worker in the course of employment. **(54)** Casual workers employed by a construction contractor for execution of a building contract for him are services in the course of employment. Similarly, casual workers employed by a security services agency for provision of security services to a client are also services in the course of employment.   **Only services that are provided by the employee to the employer in the course of employment are outside the realm of supply. However, services provided outside the ambit of employment for a consideration would qualify as supply.**  **(55)** Services provided on contract basis by a person to another i.e. principal-to-principal basis are not services provided in the course of employment[27]. **(56)** Any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act and cannot be considered for providing services in the course of employment.
2.	Services by any court or Tribunal established under any law for the time being in force. Explanation – The term **"Court"** includes District Court, High Court and Supreme Court.

[27] *Discussion based on Service Tax Education Guide issued under erstwhile service tax law.*

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3.	(a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.  (b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity. **(57)** Duties performed by President of India, Vice President of India, Prime Minister of India, Governors, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Comptroller and Auditor General of India, Chairman of Union Public Service Commission, Attorney General of India, in that capacity. (c) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4.	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5.	Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building. (i.e. in case, where entire consideration for sale of building received after issuance of completion certificate or after its first occupation, whichever is earlier) 
6.	Actionable claims, other than specified actionable claims. **'Actionable claims'** are specifically included in the definition of goods under section 2(52) [Refer the definitions of 'actionable claims' and 'goods' given under heading 'Relevant Definitions']. However, this para of Schedule III specifically excludes actionable claims, other than specified actionable claims from the ambit of definition of supply. Co-joint reading of said provisions implies that **only specified actionable claims are treated as supply. All** 

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other actionable claims are outside the ambit of definition of supply.

Now the question arises, what are the specified actionable claims?

Specified actionable claim means the actionable claim involved in or by way of—

(i) betting;
(ii) casinos;
(iii) gambling;
(iv) horse racing;
(v) lottery; or
(vi) online money gaming [Section 2(102A)].





Online money gaming means **online gaming**** in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets[28], in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force.



Online gaming means offering of a game on the internet or an electronic network and includes online money gaming [Section 2(80A)].

(58) Some of the other examples of actionable claims are: Right to recover insurance money, claim for arrears of rent, claims for future rents (if these can be assigned), unsecured loans, unsecured debentures, bills of

[28] *Virtual digital asset shall have the same meaning as assigned to it in section 2(47A) of the Income-tax Act, 1961 [Section 2(117A)].*

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	exchange, promissory notes, bank guarantee, Fixed Deposit Receipt, right to the benefit of a contract, etc. These are not considered as supply of goods or services [29]
9.	***Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.*** ***Co-insurance is a practice where multiple insurance companies jointly cover a single insurance policy. Instead of a single insurer bearing the entire risk, the risk is shared between two or more insurers (called co-insurers). In a co-insurance agreement, each insurer agrees to cover a specific percentage of the risk and in return receives a corresponding percentage of the total premium. One of the co-insurers is designated as lead insurer.*** ***The lead insurer is responsible for managing the policy, handling the administration such as claim processing and communicating with the insured. The lead insurer collects the total premium from the insured and then apportions the premium between the co-insurers (known as co-insurance premium) based on their respective shares of the risk, alongwith paying applicable taxes.***

[29] *Schedule III has two more entries - Entry 7 and 8 [as enumerated below]. These entries are not relevant for examination purposes and are not relevant for the Intermediate level and are, thus, covered in the syllabus of Paper 5: Indirect Tax Laws at Final Level.*

7. *Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.*

8. *(a) Supply of warehoused goods to any person before clearance for home consumption.*

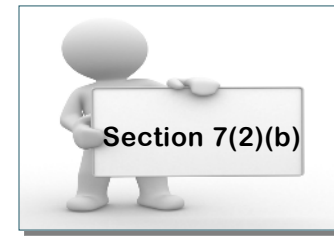
   (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

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10.	***Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.*** ***Reinsurance is a risk management practice where an insurance company (called the insurer) transfers part of its risk to another insurance company (called reinsurer) in exchange for a portion of the premium that insurer collects from its policyholders, called reinsurance premium. This allows the insurer to manage its risk and financial exposure. The reinsurer often pays ceding commission (also known as the reinsurance commission) to the insurer to compensate for administrative costs, underwriting, and acquisition expenses related to issuing and servicing the policies. By receiving this commission, the insurer is compensated for expenses and reduces its overall burden, making reinsurance financially viable. Generally, while paying the reinsurance premium, insurer deducts the ceding commission/ reinsurance commission payable by reinsurer.***

B. NON-SUPPLIES NOTIFIED VIDE NOTIFICATION

Government is empowered to notify the activities/ transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities as the activities/transactions which shall be treated neither as supply of goods nor as supply of services. Till now, following activities/ transactions have been notified under said clause:



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(i) Activity in relation to Panchayat/ Municipality functions: Services by way of any activity in relation to a function entrusted to a



Panchayat under article 243G of the Constitution or to a **Municipality** under article 243W of the Constitution are treated neither as a supply of goods nor as a supply of service[30].



(ii) Grant of alcoholic liquor licence: Services by way of **grant of alcoholic liquor licence by the State Governments** are treated neither as a supply of goods nor as a supply of service[31].



Such licence is granted against consideration in the form of licence fee or application fee or by whatever name it is called.



This special dispensation is applicable only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States.

Hence, this is not applicable/has no precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

It may be noted that services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST.

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[30] notified vide Notification No. 14/2017 CT (R) dated 28.06.2017/ Notification No. 11/2017 IT (R) dated 28.06.2017 as amended

[31] notified vide Notification No. 25/2019 CT (R) dated 30.09.2019/ Notification No. 24/2019 IT (R) dated 30.09.2019

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Tax is required to be paid by the business entities on such services under reverse charge [32].

C. NON-SUPPLIES CLARIFIED BY WAY OF CIRCULAR

CBIC has clarified that following activities / transactions are non-supplies:

(i) Inter-State movement of various modes of conveyance

Inter-State movement of various modes of conveyance, between distinct persons including -

- Trains,
- Buses,
- Trucks,
- Tankers,
- Trailers,
- Vessels,
- Containers,
- Aircrafts,

(a) carrying goods or passengers or both; or

(b) for repairs and maintenance,

[except in cases where such movement is for further supply of the same conveyance] shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance *[Circular No. 1/1/2017 IGST dated 07.07.2017**]*.

[32] *Circular No. 121/40/2019 GST dated 11.10.2019*

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(ii) Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes]



Above circular shall *mutatis mutandis* apply to **inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes], [except in cases where movement of such goods is for further supply of the same goods], such **inter-State movement** shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements. In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods *[Circular No. 21/21/2017 GST dated 22.11.2017]*.

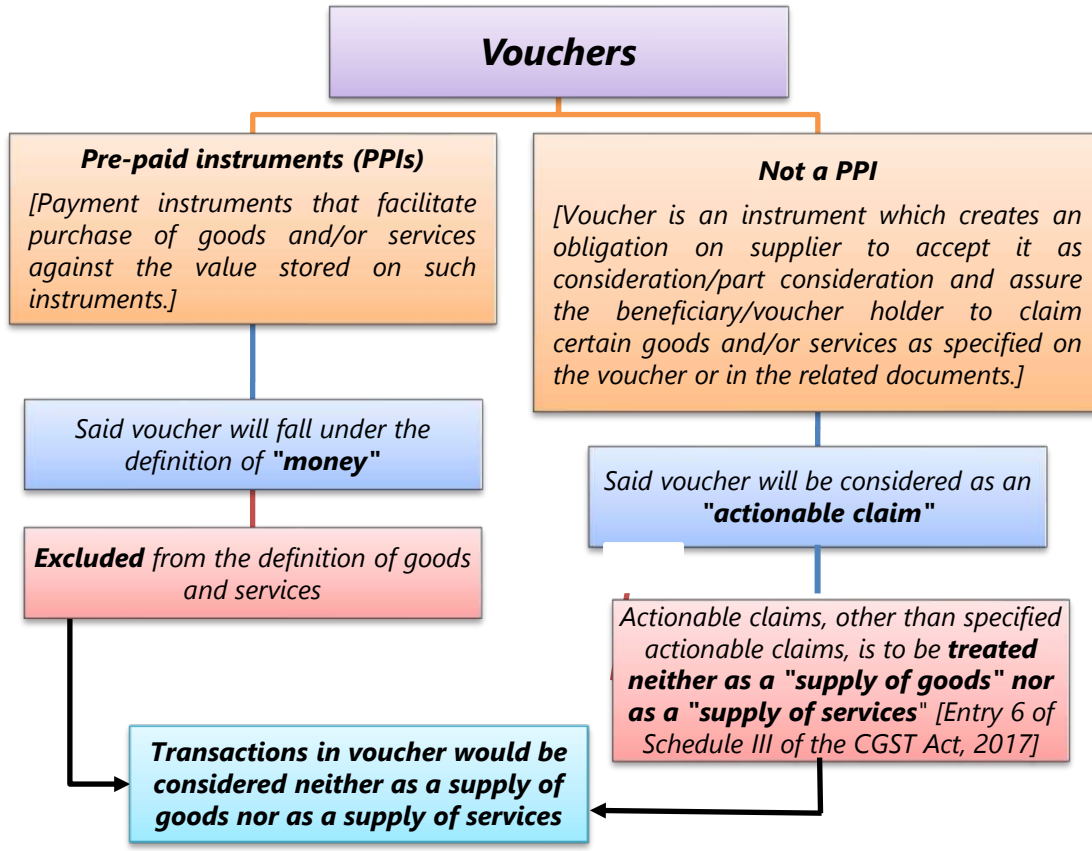


Which of the following activities are considered neither as supply of goods nor supply of services?

(a) Inter-State movement of trucks between distinct persons for repairs and maintenance.	(b) Grant of mining rights by the Governments to businesses.	(c) Services provided by an employer to the employee.	(d) Lottery

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(iii) Clarification regarding transactions in vouchers[33]



Thus, the transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services. However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.

[33] *Circular No. 243/37/2024 GST dated 31.12.2024*

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Transactions in vouchers by distributors/ sub-distributors/dealers/agents etc.

Vouchers distributed on Principal-to-Principal (P2P) basis

[Distributors/sub-distributors/ dealers (DSDs) purchase vouchers at discounted rate and sold to sub-distributors, corporates or end customers. DSDs earn trading margin [Selling price - Acquisition cost]. Thus, DSDs own the vouchers, retaining full ownership and control of the vouchers throughout the process.]

This amounts to ***trading of vouchers.***

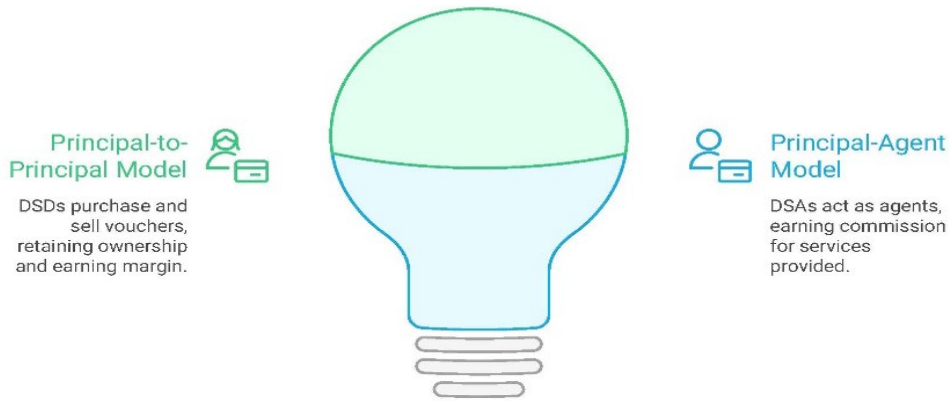
Not be leviable to GST as per section 9(1)

Vouchers distributed on Principal–Agent basis

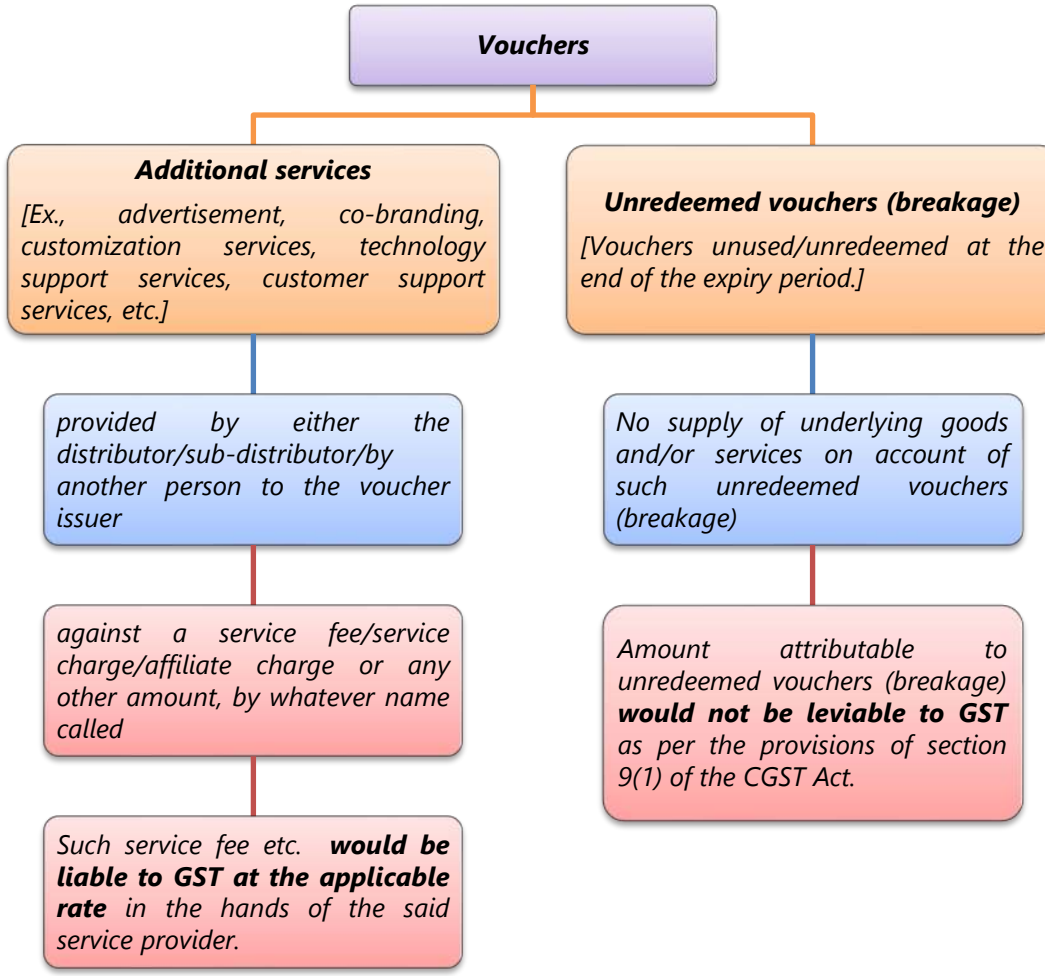
[Voucher issuer and the Distributors/ Sub-distributors/ Agents (DSAs) operate on a principal–agency basis. DSAs do not own vouchers, but act as an agent of voucher issuer and operate under specified obligations set by him (e.g., marketing, promotion, other support services). DSAs earn commission/fees which are treated as a supply of services to the voucher issuer.]

GST applicable on the commission/ fee or any other amount by whatever name called*, charged for such purpose as a supply of services to the voucher issuer.*

Voucher Distribution Models



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In the preceding paras, we have discussed, how to determine whether a given activity or transaction constitutes a supply. Once an activity or transaction qualifies as supply, one needs to determine whether the same is leviable to GST or not. Though the provisions relating to levy and collection of GST have been *discussed at length in Chapter 3 – Charge of GST in this Module of the Study Material*, a brief idea of the same is provided hereunder.

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Supply leviable to GST

For a supply to attract GST, primarily two additional conditions need to be satisfied. These are – (i) supply must be made by a taxable person and (ii) supply must be a taxable supply. These two additional conditions have been discussed hereunder:

(i) Supply by a taxable person

A supply to attract GST should be made by a taxable person.



A supply attracting GST can be made **TO** a non-taxable person also.

The restriction of being a taxable person is only on the supplier whereas the recipient can be either taxable or non-taxable.

Meaning of taxable person: A "taxable person" is a person who is registered or liable to be registered under section 22 or section 24 *[The said sections and the concept of taxable person thereto have been discussed in detail in Chapter 9 – Registration in Module 2 of the Study Material]*.

Hence, a person who is liable to be registered but does not take a registration and remains an unregistered person shall be construed as a taxable person. Similarly, a person not liable to be registered, but has got himself registered by taking a voluntary registration and is also a taxable person.

(ii) Taxable supply

For a supply to attract GST, the supply must be taxable. Taxable supply has been broadly defined and means any supply of goods or services or both which, is leviable to tax under the GST Law [Section 2(108)] *[Refer Chapter-3: Charge of GST in this Module of the Study Material for detailed discussion on leviability of GST]*.

On the other hand, exempt supply means supply of any goods or services or both which attract **nil rate of tax** or which may be **wholly exempt from tax*** under section 11 of the CGST Act, or under section 6 of the IGST Act, and includes **non-taxable supply** [Section 2(47)]

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*Exemptions may be provided to the specified goods or services or to a specified category of persons/ entities making supply [Refer Chapter-5: Exemptions from GST in this Module of the Study Material for detailed discussion].

4. COMPOSITE AND MIXED SUPPLIES [SECTION 8]

STATUTORY PROVISIONS

Section 8	Tax liability on composite and mixed supplies
Clauses	Particulars
	The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-
(a)	**a composite supply** comprising two or more supplies, one of which is a principal supply, shall be treated as a **supply of such principal supply**; and
(b)	**a mixed supply** comprising of two or more supplies shall be treated as supply of that particular **supply that attracts highest rate of tax.**

ANALYSIS

GST is payable on goods or services or both at the notified rates. Classification of any supply (whether as goods or services, the category of goods or services) is essential to determine the applicable rate of GST on the particular supply. The application of rates poses no problem if the supply is of individual goods or individual services, which is clearly identifiable and such goods or services are subject to a particular rate of tax.

However, in certain cases, supplies are not such simple and clearly identifiable. Sometimes supplies are a combination of goods or combination of services or combination of goods and services both and each individual component of such supplies may attract a different rate of tax.

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In such a case, the rate of tax to be levied on such supplies may be a challenge. It is for this reason, that the GST Law identifies composite supplies and mixed supplies and provides certainty in respect of tax treatment under GST for such supplies.

In order to determine whether the supplies are 'composite supplies' or 'mixed supplies', one needs to determine **whether the supplies are naturally bundled or not naturally bundled in ordinary course of business**. The concept of 'naturally bundled' supplies is emanating from the definition of 'composite supply'.

COMPOSITE SUPPLIES

Composite supply means a supply made by a taxable person to a recipient and:

- comprises **two or more taxable supplies** of goods or services or both, or any combination thereof.
- which are **naturally bundled** and supplied in conjunction with each other, **in the ordinary course of business**
- **one** of which **is a principal supply** [Section 2(30)].

This means that in a composite supply, goods or services or both are bundled owing to natural necessities. The elements in a composite supply are dependent on the 'principal supply'.



Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary [Section 2(90)].

Works contract and restaurant services are classic examples of composite supplies, but the GST law identifies both as supply of services *[as you would have seen in the discussion on Schedule II to the CGST Act earlier in this Chapter]* and chargeable to specific rate of tax mentioned against each of such services (works contract or restaurant).

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However, in respect of other composite supplies (i.e. other than the two categories mentioned above), the need to determine the supply as a composite one, will arise, so as to determine the appropriate classification of such supply as supply of goods or supply of services as also the appropriate rate of tax.

It will be necessary to determine as to whether a particular supply is naturally bundled in the ordinary course of business and what constitutes principal supply in such composite supplies.

How to determine whether the services are bundled in the ordinary course of business?

Whether the services are bundled in the ordinary course of business or not, would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below:

- **The perception of the consumer or the service recipient** - If large number of service recipient of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.



(68) Mobile phone is always sold with battery.

- **Majority of service providers in a particular area of business provide similar bundle of services**.



(69) Bundle of services of catering on board and services of transport by air is a bundle offered by a majority of airlines.

- The **nature of the various services in a bundle of services** will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service, then it would be treated as services bundled in the ordinary course of business.



(70) Service of stay in a hotel is often combined with provision of breakfast and dinner provided free of cost during the stay. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.

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- **Other illustrative indicators**, not determinative but indicative of bundling of services in the ordinary course of business are:
  - ✓ There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.
  - ✓ The elements are normally advertised as a package.
  - ✓ The different elements are not available separately.
  - ✓ The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.



No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined above.

The above principles explained in the light of what constitutes a naturally bundled service can be gainfully adopted to determine whether a particular supply constitutes a composite supply under GST and if so what constitutes he principal supply so as to determine the right classification and rate of tax of such composite supply.

Some of the examples of composite supplies have been given below:



(59) A 5 star hotel is booked for a conference of 100 delegates on a lump sum package with the following facilities:

– Accommodation for the delegates

– Breakfast for the delegates,

– Tea and coffee during conference

– Access to fitness room for the delegates

– Availability of conference room

– Business centre

As is evident a bouquet of services is being provided, many of them are chargeable to different effective rates of tax. If the principal service is described as convention

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service it is able to capture the entire essence of the package. Thus, the principal service may be judged as convention service and charged to tax accordingly.

However, it will be fully justifiable for the hotel to charge individually for the services as long as there is no attempt to offload the value of one service on to another service that is chargeable at a concessional rate.



(60) Poshaak Manufacturers entered into a contract with Cheeku Ltd. for supply of readymade shirts packed in designer boxes at Cheeku Ltd.'s outlet. Further, Poshaak Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.



(61) When a consumer buys a television set and he also gets mandatory warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.



(62) A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transportation of passenger, constitutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.

How to determine the tax liability on composite supplies?: A **composite supply** comprising of two or more supplies, one of which is a principal supply, shall be treated as a **supply of such principal supply.** Accordingly, the entire value of composite supply [i.e. main supply + ancillary supply(ies)] shall be classified under the category of main supply and shall be taxed at the GST rate applicable to the main supply. This can be better understood with the help of following example:



(63) Rati Computers supplies laptop (worth ₹ 52,000) alongwith laptop bag (worth ₹ 3,000) to a customer for ₹ 55,000. Being naturally bundled**,** supply of laptop bag along with the laptop is composite supply which is treated as the supply of the principal supply [viz. laptop]. Assuming that the rate of tax applicable on laptop is 18% and on laptop bag is 28%, in the given case, rate of principal supply, i.e. laptop @ 18% will be charged on the entire value of ₹ 55,000.

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CBIC, in the following cases, has clarified issues as to whether the given supplies are composite supply and if yes, what constitutes the principal supply in the given composite supply:

1. Printing industry issues

The printing industry in India in particular faced a dilemma in determining whether the nature of supply provided was that of goods or services. Another doubt was whether in case where certain contracts involved both supply of goods and services, whether the same would constitute a supply of goods or services or if it would be a composite supply and in case it is, then what would constitute the principal supply.



Thus, it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only **content is supplied by the publisher** or the person who owns the usage rights to the intangible inputs while the **physical inputs including paper used for printing belong to the printer**, **supply of printing** [of the content supplied by the recipient of supply] is the **principal supply** and therefore such supplies would constitute **supply of service**.

In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. by the **printer using its physical inputs** including paper to print the **design, logo etc. supplied by the recipient** of goods, predominant supply is **supply of goods** and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods[34].

[34] *Circular No. 11/11/2017 GST dated 20.10.2017*

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2. Food supplied to the patients

Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable[35].

3. Activity of bus body building

In the case of bus body building, there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case[36].

4. Retreading of tyres

In retreading of tyres, which is a composite supply, the pre-dominant element is process of retreading which is a **supply of service**. Rubber used for retreading is an ancillary supply.

Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a **supply of goods**[37].

Retread tyres are revamped tyres on which the worn out tread (the part of the tire that makes contact with the surface of the road) is replaced using new tread.

5. Supply of food and beverages at cinema halls taxable as restaurant service

Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.

The cinema operator:

(i) may run these refreshment/eating stalls/ kiosks/ counters/ restaurant themselves

or

[35] *Circular No. 32/6/2018 GST dated 12.02.2018*
[36] *Circular No. 34/8/2018-GST dated 01.03.2018*
[37] *Circular No. 34/8/2018-GST dated 01.03.2018*

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(ii) they may give it on contract to a third party.

The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

It is hereby clarified that:

(i) supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:



(a) the food or beverages are supplied by way of or as part of a service, and

(b) supplied independent of the cinema exhibition service.

(ii) where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply[38].

MIXED SUPPLIES

Mixed supply means:

- **two or more individual supplies** of goods or services, or any combination thereof, made in conjunction with each other by a taxable person
- for a **single price** where such supply **does not constitute a composite supply** [Section 2(74)].

The individual supplies are independent of each other and are not naturally bundled.

[38] *Circular No. 201/13/2023 GST dated 01.08.2023*

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How to determine if a particular supply is a mixed supply?: In order to identify if the particular supply is a mixed supply, the first requisite is to rule out that the supply is a composite supply.

A supply can be a mixed supply only if it is not a composite supply. As a corollary, it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business, then the possibility of it being a mixed supply needs to be checked.

Once the amenability of the transaction as a composite supply is ruled out, and a single consideration is charged for the entire supply of different components, it would be treated as a mixed supply, classified in terms of supply of goods or services attracting highest rate of tax.

example **(64)** A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately or separate prices are charged.

example **(65)** A shopkeeper selling storage water bottles along with refrigerator for a single price. Bottles and the refrigerator can easily be priced and sold, independently, and are not naturally bundled. So, such supplies are mixed supplies.

example **(66)** A house is given on rent through a single rent deed - one floor of which is to be used as residence and the other for housing a printing press, at a lump sum rent amount. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Said supplies are mixed supply.

How to determine the tax liability on mixed supplies?: A **mixed supply** comprising of two or more supplies shall be treated as supply of that particular **supply that attracts highest rate of tax.**

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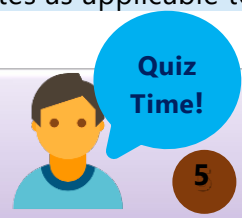
(67) Sringaar Enterprises supplies 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 to Raghav General Store. Each kit consists of 1 shampoo, 1 face wash and 1 kajal pencil. It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate. Assuming that the rate of tax applicable on shampoo is 18%, on face wash is 28% and on kajal pencil is 12%, in the given case, highest tax rate [viz. face wash] @ 28% will be charged on the entire value of ₹ 5,00,000.

More than one supply made together and taxed at the individual rates

There can also be a case where an activity/transaction involves more than one supply of goods or services or both, but neither they are composite supplies nor can be categorised as mixed supplies, that is, all supplies carry independent significance.

In such a case, if separate consideration is indicated against each supply, each such supply shall be charged at the respective rate applicable to that particular supply.

(68) In case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately[39].



Jaskaran supplies gift packages at ₹ 30 each to its customers. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons. Rates of GST applicable on chocolates, fruit juice bottles and toy balloons are 18%, 12% and 5% respectively. Jaskaran is liable to pay GST @_____.

(a)	(b)	(c)	(d)
18%, 12% and 5% separately on value of supply of chocolates, fruit juice bottles and toy balloons respectively	18% on the price charged for the gift package	12% on the price charged for the gift package	5% on the price charged for the gift package

[39] *Circular No. 47/21/2018 GST dated 08.06.2018*

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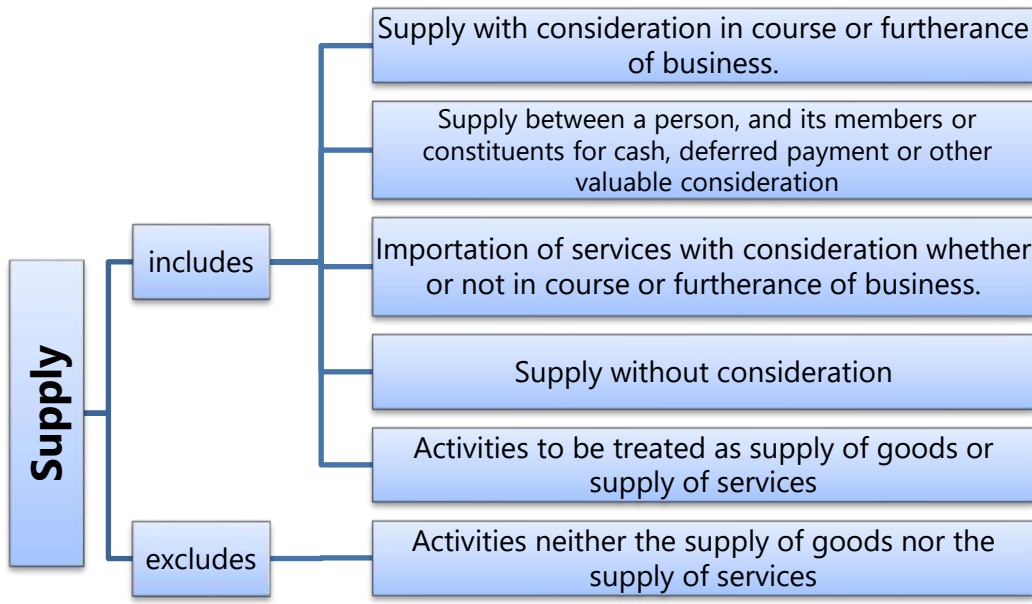


LET US RECAPITULATE

- The taxable event under GST is supply. The scope of supply under GST can be understood in terms of following parameters:

Supply should be of goods or services	Supply should be made for a consideration	Supply should be made in the course or furtherance of business

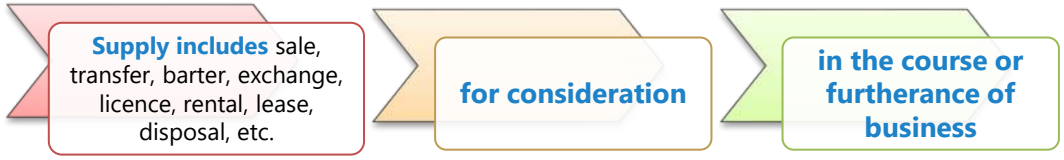
- While these parameters describe the concept of supply, under certain circumstances, transactions have been deemed as supply even when the supply is made without consideration or not in the course or furtherance of business. Activities specified in Schedule I are deemed to be a supply even without consideration. Further, import of services for a consideration, whether or not in the course or furtherance of business is treated as supply.
- Besides, some specified transactions/ activities are neither treated as supply of goods nor a supply of services. Furthermore, certain activities have been categorised as supply of goods or as supply of services.
- The discussion with respect to supply is broadly categorised into following:

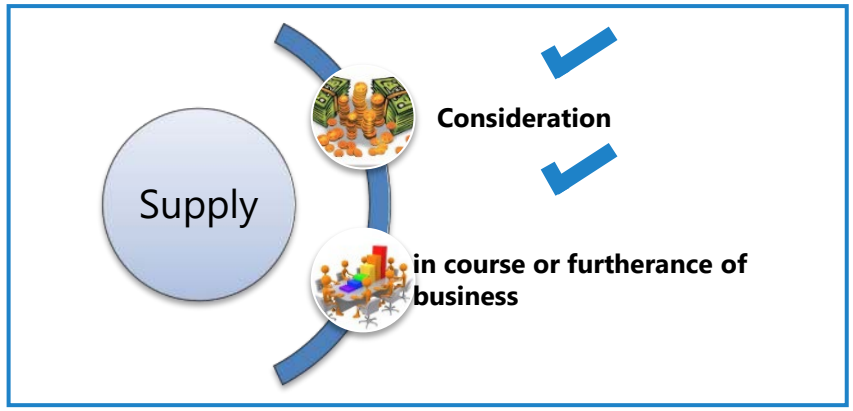


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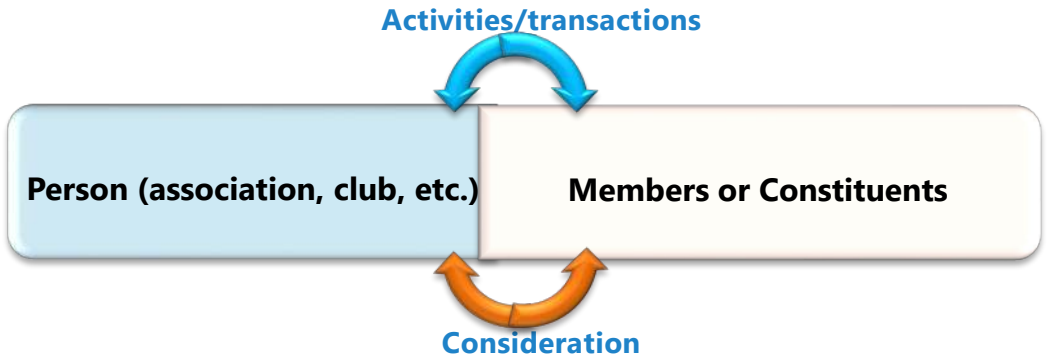
Sub-sections of section 7 alongwith related Schedules has been summarised as follows:

1. Supply for consideration in course or furtherance of business [Section 7(1)(a)]





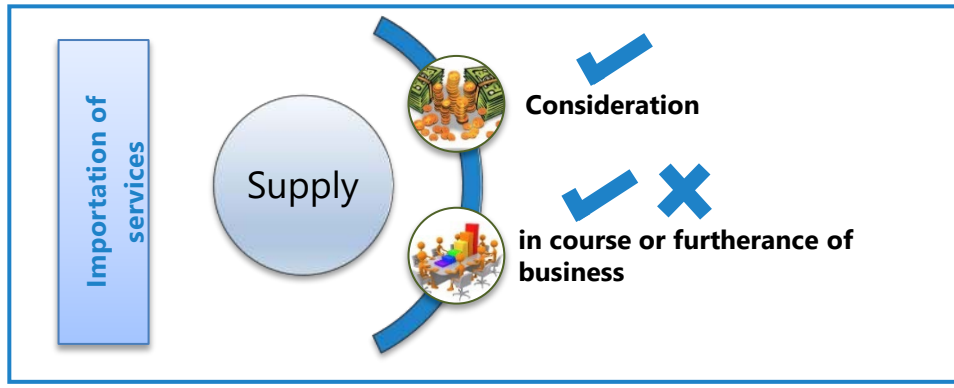
2. Activities/transactions between a person, other than an individual, and its members or constituents for valuable consideration [Section 7(1)(aa)]



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3. Importation of services for consideration whether or not in course or furtherance of business [Section 7(1)(b)]

Supply should be in course or furtherance of business. The exception to said rule is import of services is deemed as supply even if the same has been imported not in course/furtherance of business.

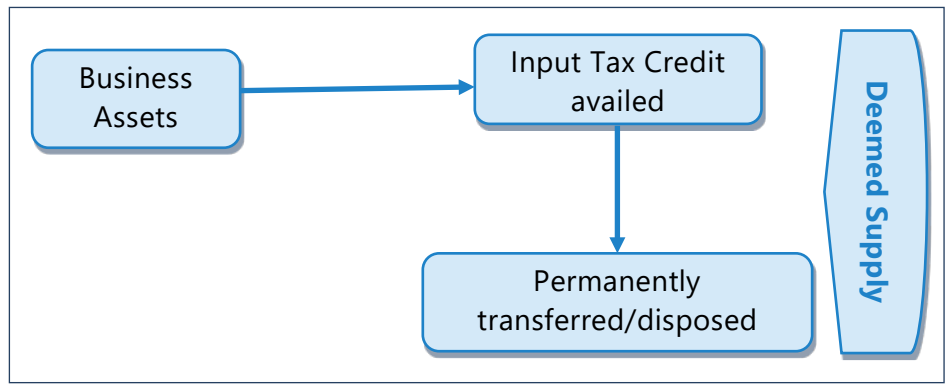


4. Supply without consideration - Deemed Supply [Section 7(1)(c) read with Schedule I]

This includes all supplies made to a taxable or non-taxable person, even if the same is without consideration. These are specifically mentioned in Schedule I appended to the CGST Act.

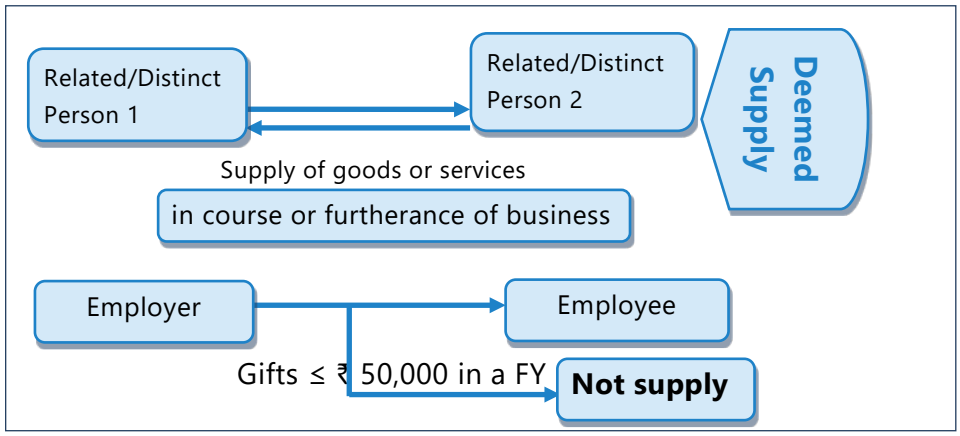
As per Schedule I, in the following four cases, supplies made without consideration will be treated as supply under section 7:

I. Permanent transfer/disposal of business assets

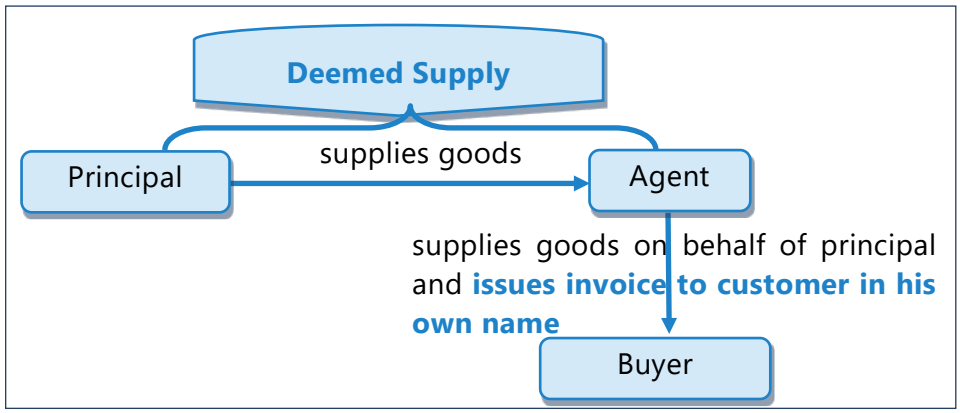


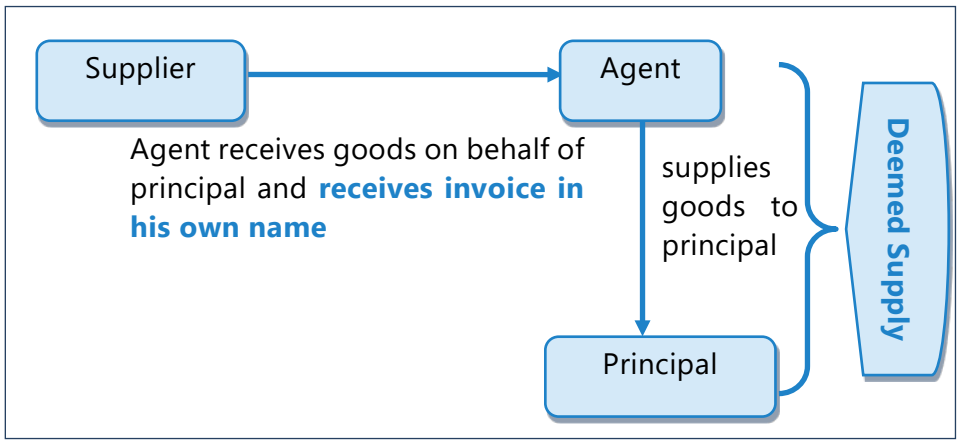
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II. Supply between related persons or distinct persons



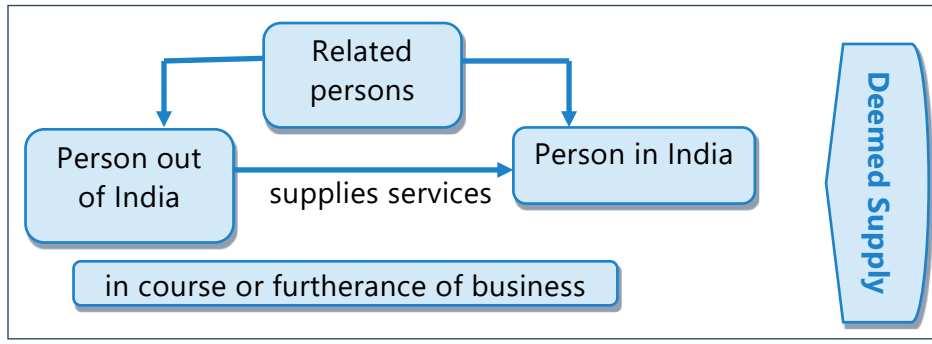
II. Supply between principal and agent





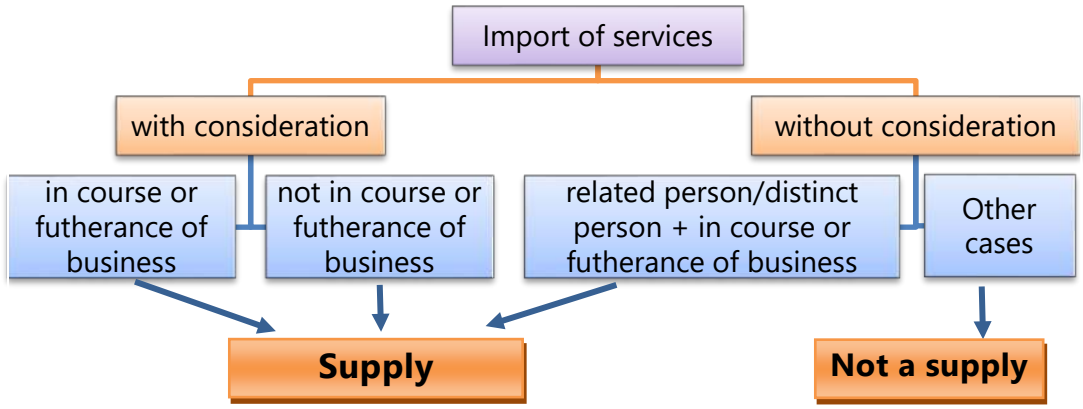
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IV. Importation of services



The combined provisions of relating to import of services [as stipulated under under section 7(1)(b) and section 7(1)(c) read with Schedule I] have been depicted in the below mentioned diagram:

Import of services



4. Activities or transactions to be treated as Supply of goods or Supply of services [Section 7(1A) read with Schedule II]

Para No.	Activity/ Transaction	Type	Supply of goods/ services
1.	Transfer	(i) Title in goods (ii) Title in goods under an agreement that property shall pass at a future date.	Goods

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		Right/undivided share in goods without transfer of title in them	Services
2.	Land and Building	Lease, tenancy, easement, licence to occupy land	Services
		Lease/letting out of building including a commercial/ industrial/ residential complex for business/ commerce, wholly/ partly.	Services
3.	Treatment or Process	Applied to another person's goods	Services
4.	Transfer of Business Assets	Goods forming part of business assets are transferred/disposed off by/under directions of person carrying on business so as no longer to form part of those assets.	Goods
		Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of person carrying on the business.	Services
		Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, shall be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person. **Exceptions:** ❑ Business transferred as a going concern.	Goods

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		❑ Business carried on by a personal representative who is deemed to be a taxable person.	
5.	Renting of immovable property		Services
	Construction of complex, building, civil structure, etc. **Exception:** Entire consideration received after issuance of completion certificate or after its first occupation, whichever is earlier.		
	Temporary transfer or permitting use or enjoyment of any intellectual property right		
	Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software		
	Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act.		
	Transfer of right to use any goods for any purpose		
6.	Following **composite supplies**:- ❑ Works contract ❑ Supply of goods, being food or any other article for human consumption or any drink.		Services

5. Non-supplies under GST [Section 7(2)(a) read with Schedule III]

S. No.	Activities or transactions which shall be treated neither as a supply of goods nor a supply of services
1.	Services by an employee to the employer in the course of or in relation to his employment.

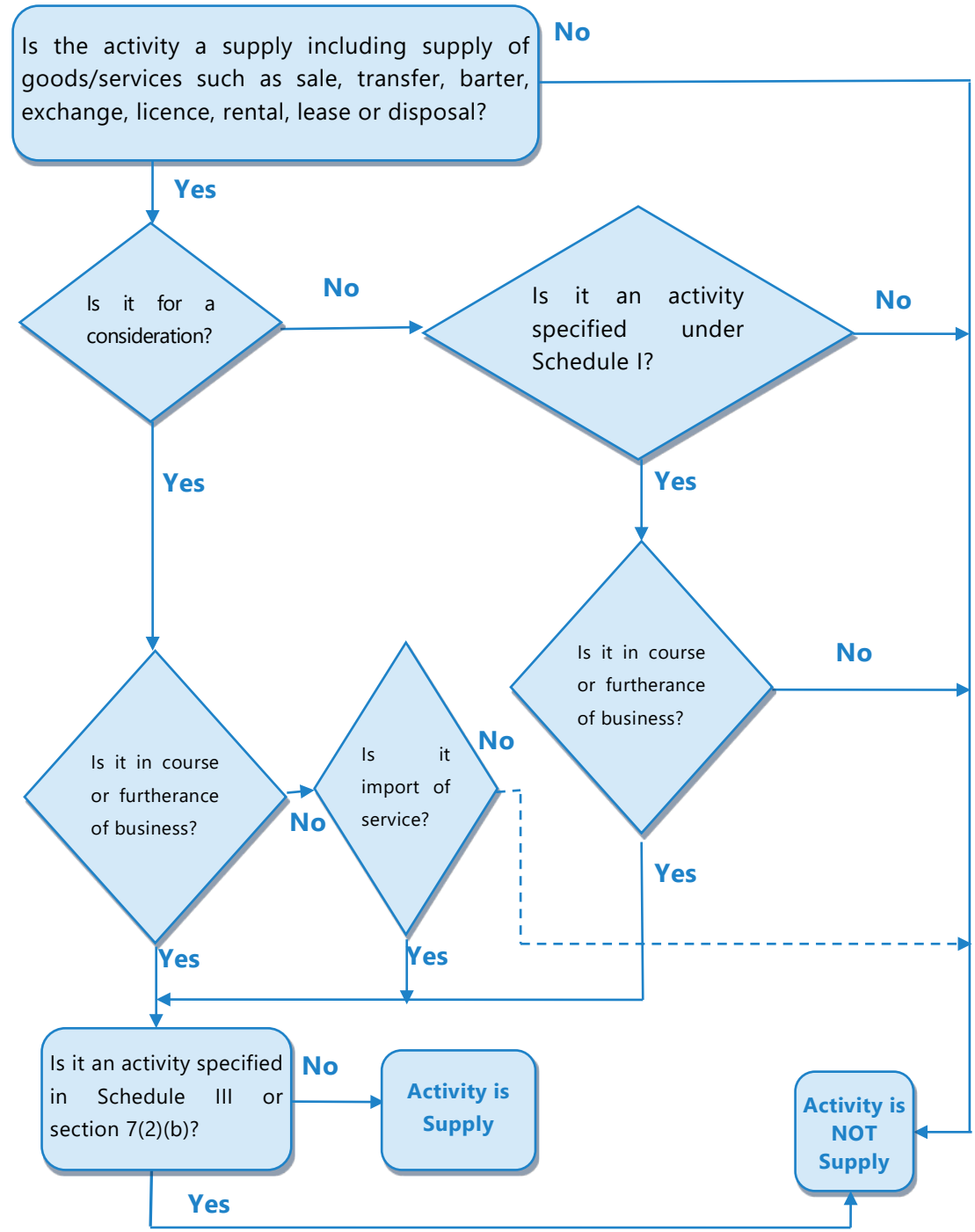
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2.	Services by any court or Tribunal established under any law for the time being in force.
3.	(a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; (b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or (c) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4.	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5.	Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building.
6.	Actionable claims, other than specified actionable claims[40].
9.	***Activity of apportionment of co-insurance premium by the lead insurer to co-insurers for jointly supplied insurance services, provided the lead insurer pays full GST on the total premium received from the insured.***
10.	***Services by insurer to reinsurer with ceding commission deducted from reinsurance premium, provided the reinsurer pays GST on the gross premium inclusive of such commission.***

[40] *Entries 7 and 8 are not covered at Intermediate level. They are covered at the Final level.*

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The diagram below summarises the steps to determine whether an activity undertaken is Supply or not.



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6. Composite and mixed supplies





Composite Supply

- Consist of two or more supplies
- **Naturally bundled**
- In conjunction with each other
- One of which is principal supply
- Tax liability shall be rate of principal supply
- **Example:** Charger supplied alongwith mobile phones.

Mixed Supply

- Consist of two or more supplies for a **single price**
- **Not naturally bundled**
- Though can be supplied independently, still supplied together
- Tax liability shall be the rate applicable to the supply that attracts highest rate of tax
- **Example:** A gift pack comprising of choclates, candies, sweets and balloons.

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TEST YOUR KNOWLEDGE

1. *Meghraj & Co. wishes to commence the business of supplying ready-made garments within Punjab and in the neighbouring States of Delhi and Haryana. Kindly state as to what is the taxable event under GST and leviability of CGST, SGST/UTGST and IGST on the same?*

2. *Damodar Private Ltd., registered in Delhi, is planning to transfer some goods to its branch, registered in West Bengal, without any consideration, so that the goods can be sold from the branch. The company believes that the transaction that will be undertaken by it would not qualify as supply as no consideration is involved. Ascertain whether the transfer of goods by Damodar Private Ltd. to its branch office would qualify as supply.*

3. *Prithvi Associates is engaged in supply of taxable goods. It enquires from its tax advisor as to whether any activity can be treated as supply even if made without consideration in accordance with the provisions of the GST law. You are required to enumerate such activities, if any.*

4. *Composite supply is treated as supply of that particular goods or services which attracts the highest rate of tax, for the purpose of considering tax liability. Examine the validity of the statement.*

5. *Examine whether the following activities would amount to supply under section 7 read with Schedule I:*

   (a) *Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold from the depot.*

   (b) *Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.*

   (c) *Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?*

6. *State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II:*

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(a) *Renting of immovable property.*

(b) *Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business so as no longer to form part of those assets.*

(c) *Transfer of right in goods without the transfer of title in such goods.*

(d) *Transfer of title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration as agreed.*

7. *Determine whether the following supplies would be treated as supply of goods or supply of services as per Schedule II:*

(a) *Temporary transfer or permitting use or enjoyment of any intellectual property right.*

(b) *Any treatment or process which is applied to another person's goods.*

(c) *Transfer of title in goods.*

8. *The goods supplied on hire purchase basis will be treated as supply of services. Examine the validity of the statement.*

9. *Examine whether the activity of import of service in the following independent cases would amount to supply under section 7:*

(i) *Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from Mr. Racheal of Sydney (Australia). The amount paid for the said service is 5,000 Australian dollar.*

(ii) *Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia) [wholly dependent on Miss Shriniti]. Further, Miss Shriniti did not pay any consideration for the said service.*

(iii) *Will your answer change if in the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises and not her residence?*

10. *Dumdum Electronics has sold the following electronic items to Akbar Retail Store.*

(i) *Refrigerator (500 litres) taxable @ 18%*

(ii) *Stabilizer for refrigerator taxable @ 12%*

(iii) *LED television (42 inches) taxable @ 12%*

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(iv) Split air conditioner (2 Tons) taxable @ 28%

(v) Stabilizer for air conditioner taxable @12%

Dumdum Electronics has issued a single invoice, indicating price of each of the above items separately in the same.

Akbar Retail Store has given a single cheque of ₹ 1,00,000/- for all the items as a composite discounted price. State the type of supply and the tax rate applicable in this case.

11. *Manikaran, a registered supplier of Delhi, has supplied 20,000 packages at ₹ 30 each to Mukhija Gift Shop in Punjab. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons. Determine the rate(s) of GST applicable in the given case assuming the rates of GST to be as under:*

Goods/services supplied	***GST rate***
Chocolates	*18%*
Fruit juice bottles	*12%*
Toy balloons	*5%*

12. *Gagan Engineering Pvt. Ltd., registered in Haryana, is engaged in providing maintenance and repair services for heavy steel machinery. For carrying out the repair work, Gagan Engineering Pvt. Ltd. sends its container trucks equipped with items like repair equipments, consumables, tools, parts etc. from Haryana workshop to its own repairing centres (registered under GST law) located in other States across India where the clients' machinery are being brought and are being repaired.*

Discuss the leviability of GST on the inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. in Haryana to its own repairing centres located in other States across India.

13. *Sarvanna & Sons wishes to start supplying alcoholic liquor for human consumption in the State of Tamil Nadu. Therefore, it applies for license to the Tamil Nadu Government for selling liquor for which the State Government has charged specified fee from it.*

Examine whether the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons qualifies as supply.

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ANSWERS

1. Taxable event under GST is the supply of goods or services or both made for consideration in the course or furtherance of business. CGST and SGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

2. As per Schedule I read with section 7(1)(c), supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, is deemed as supply even if made without consideration. In the given case, since the Damodar Private Ltd. and its branch located in another State are distinct persons, supply of goods between them would qualify as supply.

3. Section 7(1)(a) stipulates that the supply should be for a consideration and should be in the course or furtherance of business. However, section 7(1)(c) read with Schedule I enumerates the cases where an activity is treated as supply, even if the same is without consideration. These are as follows:

(i) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

(ii) Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

However, gifts not exceeding ₹ 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

(iii) Supply of goods —

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

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(iv) Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

4. The statement is not correct. For considering tax liability, composite supply is treated as supply of the principal supply. It is the mixed supply that is treated as supply of that particular goods or services which attracts the highest rate of tax.

5. **(a)** Schedule I read with section 7(1)(c), *inter alia*, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons** [Section 25(4)].

In view of the same, factory and depot of Sulekha Manufacturers are distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 read with Schedule I.

(b) Schedule I read with section 7(1)(c), *inter alia*, stipulates that import of services by a taxable person from a **related person** located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, *inter alia,* provides that persons shall be deemed to be **"related persons"** if they are **members of the same family**. Further, as per section 2(49), family means, —

(i) the spouse and children of the person, and

(ii) the parents, grand-parents, brothers and sisters of the person **if they are wholly or mainly dependent on the said person**.

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman's brother is a well-

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known lawyer and so, not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 read with Schedule I.

(c) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under section 7 read with Schedule I as although the same are provided in course or furtherance of business, but are provided without consideration and such services have not been received from a related person.

6. **(a)** Supply of services

(b) Supply of goods

(c) Supply of services

(d) Supply of goods

7. **(a)** Supply of services

(b) Supply of services

(d) Supply of goods

8. The statement is not correct. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

9. **(i)** Supply, under section 7, *inter alia,*

- ❑ includes import of services for a consideration
- ❑ even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Miss. Shriniti Kaushik is not in course or furtherance of business [as the interior decoration services have been availed in respect of residence], it would amount to supply.

(ii) Schedule I, *inter alia*, stipulates that import of services by a taxable person from a **related person** located outside India, without consideration is treated as supply only if it is provided in the course or furtherance of business. Explanation to section 15, *inter alia,* provides

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that persons shall be deemed to be **"related persons"** if they are **members of the same family**. Further, as per section 2(49), family means, —

(i) the spouse and children of the person, and

(ii) the parents, grand-parents, brothers and sisters of the person **if they are wholly or mainly dependent on the said person**.

In the given case, Miss Shriniti Kaushik has received interior decoration services from her brother. In view of section 2(49)(ii) above, Miss Shriniti and her brother shall be considered to be related as Miss Shriniti's brother is wholly dependent on her.

However, Miss Shrinti has taken interior decoration services for her residence and not in course or furtherance of business. Consequently, services provided by Miss Shrinti's brother to her would not be treated as supply under section 7 read with Schedule I.

(iii) In the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises, services provided by Miss Shriniti's brother to her would be treated as supply under section 7 read with Schedule I, as the same are provided in course or furtherance of business.

10. In the given case, the items supplied by Dumdum Electronics are not naturally bundled in the ordinary course of business. Therefore, such supply is not a composite supply. Further, although Akbar Retail Store has paid a composite discounted price for these goods, Dumdum Electronics has not charged a single price for the said supply. Therefore, said supply is also not a mixed supply.

Supply of these goods is, therefore, supply of individual items which are taxable at the respective rates applicable to them.

11. As per section 2(74), mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b),

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the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax] and the rate of GST applicable on the package of ₹ 6,00,000 (20,000 × ₹ 30) is 18%.

12. As per section 25(4)[41], a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

Schedule I to the CGST Act specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

However, as per CBIC circular, the inter-State movement of various modes of conveyance including, *inter alia,* trucks, carrying goods or passengers or both or for repairs and maintenance, between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance *[Circular No. 1/1/2017 IGST dated 07.07.2017].*

Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centres located in other States is 'neither a supply of goods nor supply of service'.

13. Services by way of grant of alcoholic liquor license by the State Governments have been notified to be treated neither as a supply of goods nor as a supply of service. Such licence is granted against consideration in the form of licence fee or application fee or by whatever name it is called.

Thus, in the given case, the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons is neither a supply of goods nor a supply of service.

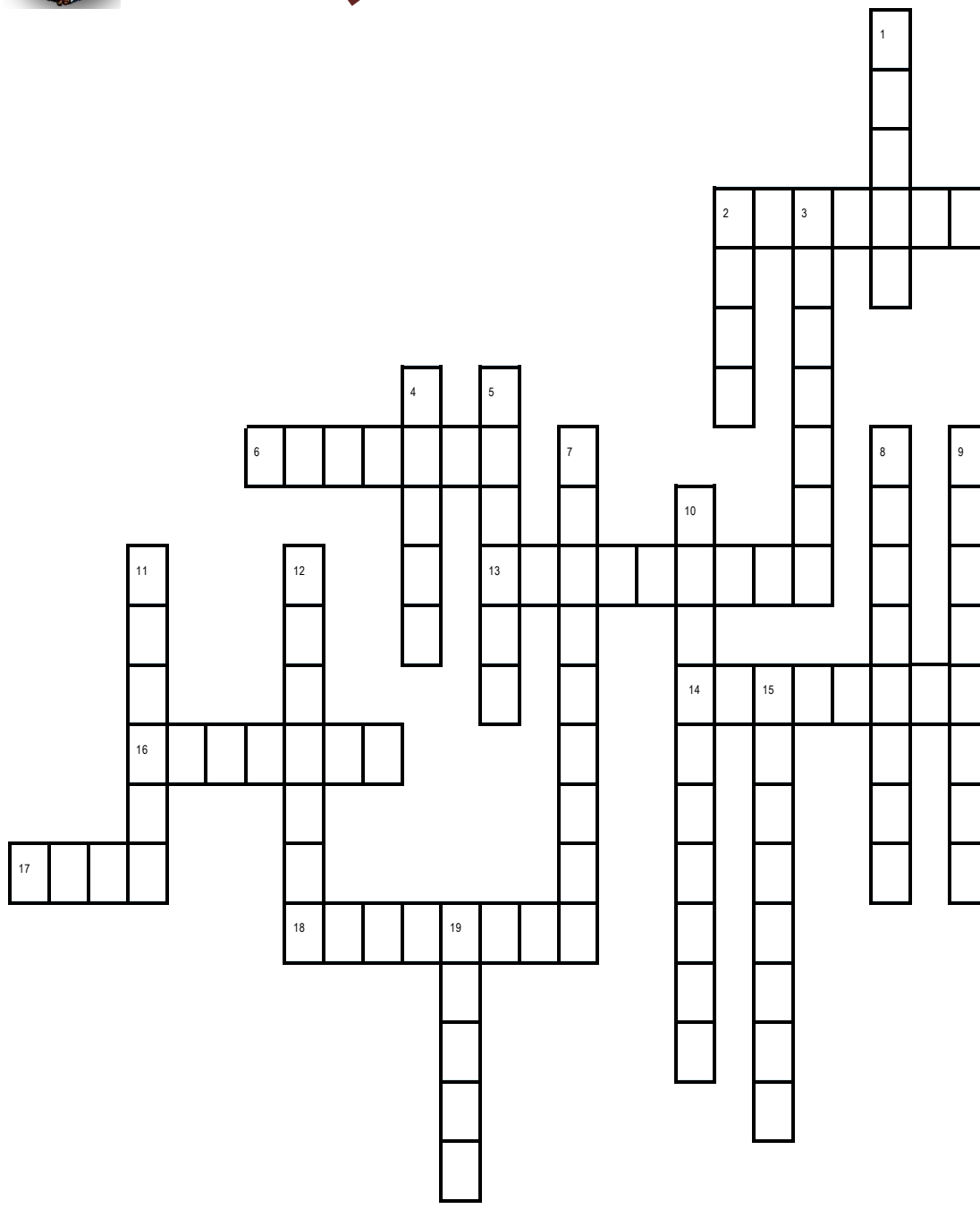
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[41] *Provisions of section 25(4) have been discussed in detail in Chapter 9 – Registration in Module 2 of this Study Material*

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CROSSWORD



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ACROSS

2. Actionable claims, other than _____, betting, gambling, horse racing, online money gaming and casinos is neither supply of goods nor supply of services.

6. Non-taxable territory means the territory which is _____ the taxable territory.

13. _____ transfer or permitting use or enjoyment of any intellectual property right is supply of services.

14. Business includes _____.

16. Persons shall be deemed to be _____ if they are legally recognised partners.

17. Services means anything other than goods, _____ and securities.

18. Taxable supply means a supply of goods or services or both which is _____ to tax under CGST Act.

DOWNWARDS

1. _____ supply means two or more individual supplies made in conjunction with each other for a single price where such supply does not constitute a composite supply.

2. Sale of _____ is neither supply of goods nor supply of services.

3. Any lease, _____, easement, licence to occupy land is supply of services.

4. Any transfer of _____ in goods is supply of goods.

5. _____ of immovable property is supply of services.

7. _____ supply means a supply comprising of two or more taxable supplies naturally bundled and supplied in conjunction with in the ordinary course of business.

8. Manufacture means processing of raw material in any manner that results in emergence of a new product having a _____name and character.

9. Admission of persons to any premises for a consideration is also included in_____.

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10. Taxable territory means the territory to which the _____ of the CGST Act apply.

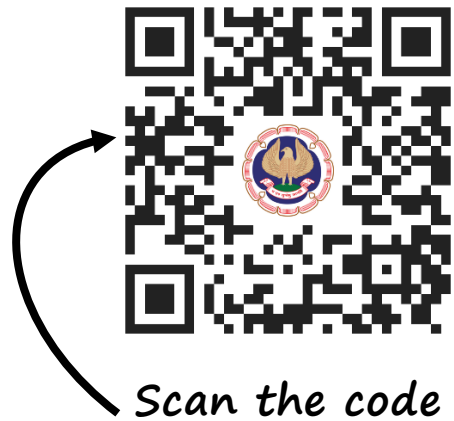
11. Supply should be made in the _____or furtherance of business.

12. Government means the _____ Government.

15. Any _____that is held for its numismatic value is not money.

19. Principal-agent relationship falls within the ambit of the Para 3 of Schedule I of the CGST Act, 2017 if invoice is issued in the name of _____.

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



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AMENDMENTS MADE VIDE THE FINANCE ACT, 2025

The Finance Act, 2025 has come into force from 29.03.2025. However, most of the amendments made under the CGST Act and the IGST Act vide the Finance Act, 2025 would become effective only from a date to be notified by the Central Government in the Official Gazette. Such a notification has not been issued till 30.04.2025. Therefore, the applicability or otherwise of such amendment for May 2026, September 2026 and/or, January 2027 examinations shall be informed by the ICAI by way of an announcement.

In the table given below, the existing provisions of section 2(69) are compared with the provisions as amended by the Finance Act, 2025.

Once the announcement for applicability of such amendments for examination(s) is made by the ICAI, students should read the amended provisions given hereunder in place of the related provisions discussed in the chapter.

Section No.	Existing provisions	Provisions as amended by the Finance Act, 2025	Remarks
2(69)	**Local authority:** means — (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution. (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution. (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the	**Local authority:** means — (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution. (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution. (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the	Sub-clause (c) of clause (69) of section 2 is proposed to be amended to replace "municipal or local fund" with "municipal fund or local fund" and to insert an Explanation after the said sub-clause, to provide for definitions of the terms 'Local Fund' and 'Municipal Fund' used in the

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	Central Government or any State Government with the control or management of a municipal or local fund. (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006. (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution. (f) a Development Board constituted under article 371 and article 371J of the Constitution. (g) a Regional Council constituted under article 371A of the Constitution	Central Government or any State Government with the control or management of a municipal ***fund*** or local fund. **Explanation.—*For the purposes of this sub-clause-*** ***(i) "local fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Panchayat area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called*** ***(ii) "municipal fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation***	definition of "local authority" under the said clause so as to clarify the scope of the said terms.

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		to a Metropolitan area or Municipal area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called. (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006. (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution. (f) a Development Board constituted under article 371 and article 371J of the Constitution. (g) a Regional Council constituted under article 371A of the Constitution.	

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CHAPTER 3

CHARGE OF GST



The section numbers referred to in the Chapter pertain to the CGST Act, 2017, unless otherwise specified. Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025

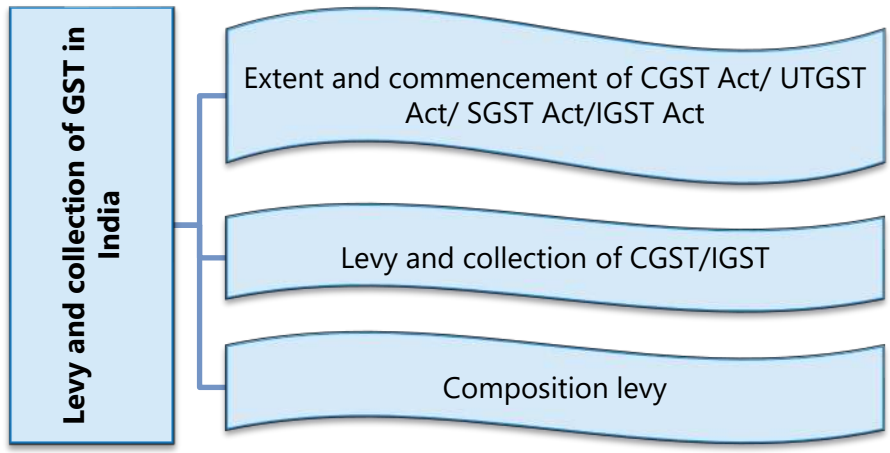
LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- explain the extent and commencement of CGST Act, IGST Act, SGST Act & UTGST Act.
- describe the provisions pertaining to levy and collection of CGST & IGST.
- identify and analyse the services on which tax is payable under reverse charge mechanism.
- comprehend and analyse the composition levy - eligibility for the same and conditions to be fulfilled.

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CHAPTER OVERVIEW



1. INTRODUCTION

Power to levy tax is drawn from the Constitution of India. To pave way for the introduction of Goods and Services Tax ("**GST**"), 101st Constitutional Amendment Act, 2016 was passed. By virtue of this Act, enabling provision was made to levy GST on supply of goods or services or both in India. Central excise duty, State VAT and certain State specific taxes and service tax were subsumed into a comprehensive GST *[Discussed in detail in Chapter-1: GST in India – An Introduction in this Module of the Study Material]*.

The very basis for the charge of tax in any taxing statute is the taxable event i.e the occurrence of the event which triggers levy of tax. As discussed earlier, the taxable event under GST is **SUPPLY** *[Discussed in detail in Chapter – 2: Supply under GST in this Module of the Study Material]*. **CGST and SGST/UTGST** are levied on all **intra-State supplies** of goods and/or services while **IGST** is levied on all **inter-State supplies** of goods and/ or services.

The provisions relating to levy and collection of CGST and IGST are contained in section 9 of the CGST Act, 2017 and section 5 of the IGST Act, 2017, respectively. Let us now have a fundamental idea of intra-State supply and inter-State supply.

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As a general rule, where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as **intra-State supply** of goods or services respectively.

Intra-State supply

Similarly, where the **location of the supplier** and the **place of supply** of goods or services are in **(i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory,** it is treated as **inter-State supply** of goods or services respectively.

Inter-State supply

*The concepts of **'place of supply'** and meaning of the **'location of the supplier'** have been elaborated in the next chapter, Chapter 4 – Place of Supply, in this Module of the Study Material. Consequently, the meaning of terms 'inter-State supply' and 'intra-State supply' has been explained in detail in that chapter.*

It is important to note that at intermediate level, provisions pertaining to import and export of goods and/or services have not been covered. These provisions will be discussed in detail at the Final level.

2. RELEVANT DEFINITIONS

- **Central tax:** means the central goods and services tax levied under section 9 of the CGST Act [Section 2(21)].
- **Integrated tax:** means the integrated goods and services tax levied under
- **State tax:** means the tax levied under any State Goods and Services Tax Act [Section 2(104)].
- **Goods:** means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. [Section 2(52)].
- **Electronic Commerce:** means the supply of goods or services or both including digital products over digital or electronic networks. [Section 2(44)]
- **Electronic Commerce Operator:** means any person who owns, operates or manages a digital or electronic facility or platform for electronic commerce. [Section 2(45)]

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- **Exempt supply:** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply [Section 2(47)].
- **Non-taxable supply:** means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act [Section 2(79)].
- **Aggregate turnover:** means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account be computed on all India basis **but excludes** central tax, State tax, Union territory tax, integrated tax and cess [Section 2(6)].
- **Prescribed:** means prescribed by rules made under this Act on the recommendations of the council. [Section 2(87)]
- **Business:** includes –

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to (a) above;

(c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;

(f) admission, for a consideration, of persons to any premises; and

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club;

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities

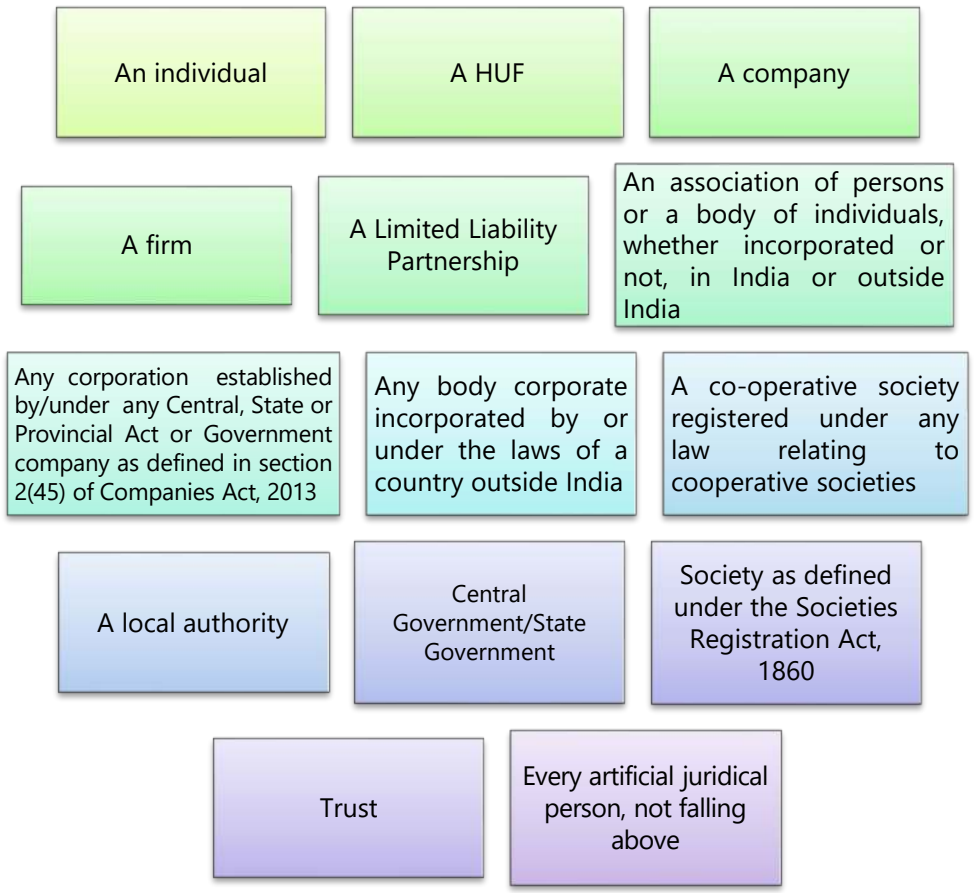
[Section 2(17)].

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- **Consideration:** in relation to the supply of goods or services or both includes:
  - ✓ any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government,
  - ✓ the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.

  However, a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply [Section 2(31)].

- **Person:** includes [Section 2(84)]-



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- **Recipient**: of supply of goods and/or services means-

  (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration,

  (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and

  (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

  and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

- **Registered Person:** means a person who is registered under section 25 but does not include a person having unique identity number.

- **Reverse charge:** means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3)/9(4), or under section 5(3)/5(4) of the IGST Act [Section 2(98)].

- **Services:** means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged [Section 2(102)].

  Explanation.—For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.

- **Supplier** in relation to any goods or services or both, shall **mean** the person supplying the said goods or services or both and shall **include** an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

  However, a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to

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be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims [Section 2(105)].

- **Taxable supply:** means a supply of goods and/or services which is leviable to tax under CGST Act [Section 2(108)].
- **Taxable person:** means a person who is registered or liable to be registered under section 22 or section 24 of the CGST Act [Section 2(107)].

It is important to note that a person who is liable to be registered but does not take a registration and remains an unregistered person shall be construed as a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

Section 22 enumerates the persons liable to be registered under CGST Act and section 24 lists the persons liable to be registered compulsorily under the GST law. The said sections and the concept of taxable person thereto has been discussed in detail in Chapter 9 – Registration in Module 2 of this Study Material.

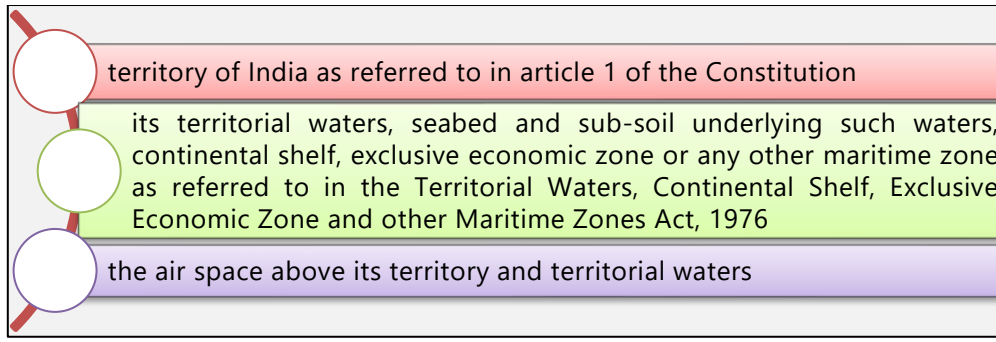
3. EXTENT & COMMENCEMENT OF GST LAW

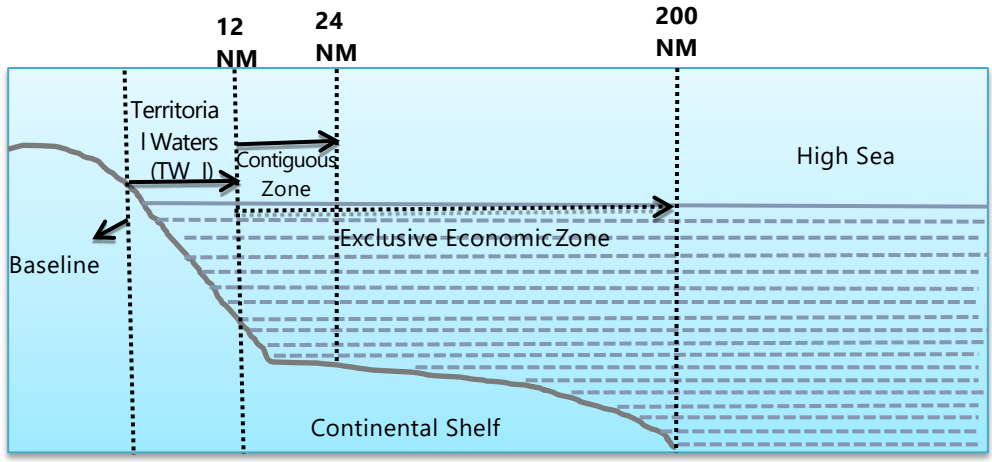
(i) **Central Goods and Services Tax Act, 2017** extends to the whole of India [Section 1 of the CGST Act].



India: "India" means [Section 2(56) of CGST Act]-

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(ii) **State GST law** of the respective State/Union Territory with Legislature [Delhi, Puducherry and Jammu & Kashmir]* extends to whole of that State/Union Territory.

example **(1)** Maharashtra GST Act, 2017 extends to whole of the State of the Maharashtra.

***State:** includes a Union territory with Legislature [Section 2(103) of the CGST Act].

(iii) **Integrated Goods and Services Tax Act, 2017** extends to the whole of India [Section 1 of the IGST Act].

(iv) **Union Territory Goods and Services Tax Act, 2017** extends to the Union territories** of the Andaman and Nicobar Islands, Lakshadweep, Dadra and

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Nagar Haveli and Daman and Diu, Ladakh[1], Chandigarh and other territory, i.e. the Union Territories without Legislature [Section 1 of the UTGST Act].

****Union territory**: means the territory of—
means the territory of—

(a) the Andaman and Nicobar Islands;

(b) Lakshadweep;

(c) Dadra and Nagar Haveli and Daman and Diu;

(d) Ladakh

(e) Chandigarh; and

(f) other territory.

Explanation—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory [Section 2(114) of CGST Act].



Sudhakar Enterprises has undertaken an intra-State supply of taxable goods. CGST and UTGST will be payable on said supply provided the supply is made within _____.

(a) Delhi	(b) Puducherry	(c) Ladakh	(d) Jammu & Kashmir

Our discussion in this Study Material will principally be confined to the provisions of CGST and IGST laws as the specific State GST laws are outside the scope of syllabus.

[1] *Students may note that the erstwhile State of Jammu and Kashmir was reorganised into the Union territory of Jammu and Kashmir (with Legislature) and Union territory of Ladakh vide the Jammu and Kashmir Reorganisation Act, 2019. Further, the erstwhile Union territories of Dadra and Nagar Haveli and Daman and Diu were merged into a new Union territory of Dadra and Nagar Haveli and Daman and Diu vide the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019.*

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4. LEVY & COLLECTION OF CGST & IGST [SECTION 9 OF THE CGST ACT & SECTION 5 OF THE IGST ACT]

STATUTORY PROVISIONS

Section 9 of the CGST Act, 2017	*Levy and collection (CGST)*
Sub-section	***Particulars***
(1)	*Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption* ***and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption****, on the value determined under section 15 and at such rates, not exceeding twenty percent, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.*
(2)	*The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.*
(3)	*The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or*

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	services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
(4)	*The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.*
(5)	*The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.* *Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:* *Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.*

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Section 5 of the IGST Act, 2017	***Levy and Collection of Tax (IGST)***
Sub-section	***Particulars***
(1)	*Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both; except on the supply of alcoholic liquor for human consumption,* ***and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption,*** *on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.*
(2)	*The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.*
(3)	*The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.*
(4)	*The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such*

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	supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both
(5)	*The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.* *Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.* *Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.*



ANALYSIS

Central Goods and Services Tax **(CGST)** shall be **levied** on **all intra-State supplies** of goods or services or both[2].

[2] *IGST is leviable on import of goods and on import of services.*

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The tax shall be collected in such manner as may be prescribed and shall be paid by the taxable person. However, intra-State supply of alcoholic liquor for human consumption ***and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption*** is outside the purview of CGST.





Value for levy: Transaction value under section 15 of the CGST Act– *Discussed in detail in Chapter 7 – Value of supply in this Module of Study Material.*

Rates of CGST: Rates for CGST are rates as may be notified by the Government on the recommendations of the GST Council. ***[Discussed in detail subsequently in this Chapter].*** Maximum rate of CGST can be 20%.

In case of **inter-State supplies** of goods and/or services, Integrated Goods and Services Tax (IGST) is levied on the transaction value under section 15 of the CGST Act. Alcoholic liquor for human consumption ***and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption*** is outside the purview of GST law. IGST is not leviable on the same. IGST is the sum total of CGST and SGST/UTGST. The maximum rate of IGST can be 40%.

However, CGST/IGST on supply of the following items has not yet been levied. It shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council:

- petroleum crude
- high speed diesel
- motor spirit (commonly known as petrol)
- natural gas and
- aviation turbine fuel

Tax payable on supply of goods or services or both under reverse charge

CGST/IGST shall be **paid by the recipient** of goods or services or both, on reverse charge basis, in the following cases:

- Supply of such goods or services or both, **as notified** by the Government on the recommendations of the GST Council.

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- Supply of specified categories of goods or services or both **by an unregistered supplier to** specified class of registered persons, as notified by the Government on recommendation of GST Council.

All the provisions of the CGST Act/ IGST Act shall apply to the recipient in the aforesaid cases as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. **Let us first understand the concept of reverse charge mechanism:**

Reverse charge mechanism

Generally, the supplier of goods or services is liable to pay GST. However, under the reverse charge mechanism, the liability to pay GST is cast on the recipient of the goods or services.

Reverse charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply [Section 2(98)].

It may be noted that the underlying principle of an indirect tax is that burden of tax has to be ultimately passed on to the recipient. GST being an indirect tax, this principle holds good for GST. Under normal circumstances, the statutory liability to deposit GST and undertake compliances *[i.e. to obtain registration under GST, deposit the tax with the Government, filing returns, etc.]* is on the supplier while he may recover the same from its recipient. However, under reverse charge mechanism, the statutory liability to deposit GST and undertaking compliance requirements, *[i.e. to obtain registration under GST, deposit the tax with the Government, filing returns, etc.]* shifts from supplier to recipient.

There are **two types of reverse charge scenarios** provided in law.

(i) First scenario occurs in case of supply of specified categories of goods or services, covered by section 9(3) of the CGST/ SGST (UTGST) Act. ***Similar provisions are contained under section 5(3) of the IGST Act.***

(ii) Second scenario occurs in case of supply of specified categories of goods or services made by an unregistered supplier to specified class of registered recipients, covered by section 9(4) of the CGST Act. ***Similar***

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provisions are contained under section 5(4) of the IGST Act. *Goods and services notified under this case have been discussed subsequently in this chapter.*

Goods and services notified under reverse charge mechanism under section 9(3) of the CGST Act/ section 5(3) of the IGST Act are as follows:

A. Supplies of goods taxable under reverse charge, i.e. supply of the goods where tax is payable by the recipient: Goods like cashewnuts [not shelled/peeled], bidi wrapper leaves, tobacco leaves and raw cotton (when supplied by an agriculturist to any registered person), supply of lottery (when supplied by State Government, Union Territory or any local authority to lottery distributor or selling agent), silk yarn (when supplied by manufacturer of silk yarn to any registered person), used vehicles, seized and confiscated goods, old and used goods, waste and scrap (when supplied by Central Government, State Government, Union Territory or any local authority to any registered person), priority sector lending certificate – when supplied by registered person to any registered person, etc. are taxable under reverse charge[3].

B. Supply of services taxable under reverse charge under section 9(3) of the CGST Act, i.e. the services where tax is payable by the recipient: *Notification No. 13/2017 CT (R) dated 28.06.2017* as amended has notified the following categories of supply of services wherein whole of the tax shall be paid on reverse charge basis by the recipient of services:

S. No.	Category of supply of services	Supplier of service	Recipient of Service
1.	Supply of services by a **Goods Transport Agency (GTA)** in respect of transportation of	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948; or

[3] *Examples of goods on which tax is payable by the recipient under reverse charge have been given hereunder only for the knowledge of the students. These are not relevant for examination purposes. They have been discussed in detail at Final level.*

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	goods by road **to**- (a) any factory registered under or governed by the Factories Act, 1948; or (b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law		(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory. [Hereinafter referred as **Specified recipients**]

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	including association of persons; or (g) any casual taxable person.		
	However, reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to- (a) a Department/ establishment of the Central Government/ State Government/ Union territory; or (b) local authority; or (c) Governmental agencies, which has taken registration under the CGST Act only for the purpose of deducting tax under section 51[4] and not for making a taxable supply of goods or services[5]. Further, nothing contained in this entry shall apply where, - i. the supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and ii. the supplier has issued a tax invoice to the recipient charging CGST at the applicable rates and has made the prescribed declaration on such invoice issued by him.		
2.	Services provided by an **individual advocate including a senior advocate or firm of advocates** by way of legal services,	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.

[4] Provisions relating to tax deducted at source contained in section 51 shall be discussed in Chapter 14 – Tax Deduction at Source and Collection of Tax at Source.

[5] These services have been simultaneously exempted from GST vide entry 21B of Notification No. 12/2017 CT(R) dated 28.06.2017. Thus, there will be no tax liability in this case. [Refer Chapter 5: Exemptions from GST in this Module of the Study Material for discussion on this exemption].

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	directly or indirectly. "**Legal service**" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.		
3.	**Services supplied by an arbitral tribunal** to a business entity.	An arbitral tribunal.	Any business entity located in taxable territory.
4.	Services provided by way of **sponsorship** to any body corporate or partnership firm.	Any person ***other than a body corporate***	Any body corporate or partnership firm located in the taxable territory.
5.	**Services supplied by the Central Government, State Government, Union territory or local authority to a business entity** excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts *and*	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

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	the Ministry of Railways (Indian Railways); (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.		
5A.	Services supplied by Central Government excluding the Ministry of Railways (Indian Railways), State Government, Union territory or local authority by way of **renting of immovable property to a person registered** under CGST Act, 2017	Central Government, State Government, Union territory or local authority	Any person registered under the CGST Act, 2017
5AA.	Service by way of **renting of residential dwelling** to a registered person	Any person	Any registered person

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5AB	Services by way of renting of any **immovable property other than residential dwelling.**	Any unregistered person	Any registered person ***other than a person who has opted to pay tax under composition levy.***
6.	**Services supplied by a director** of a company/ body corporate to the said company/body corporate.	A director of a company or a body corporate	Company or a body corporate located in the taxable territory.
7.	**Services supplied by an insurance agent** to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8.	**Services supplied by a recovery agent** to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company/ financial institution or a non-banking financial company, located in the taxable territory.
9.	Supply of **services by a music composer, photographer, artist** or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works **to a music company, producer** or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.

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9A.	Supply of services **by an author** by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works **to a publisher**.	Author	Publisher located in the taxable territory.
	However, **an author can choose to pay tax under forward charge** if- (i) he has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option; (ii) he makes a declaration on the invoice issued by him in prescribed form to the publisher.		
10.	Supply of services **by the members of Overseeing Committee** to Reserve Bank of India (**RBI**)	Members of Overseeing Committee constituted by the RBI	RBI
11.	Services supplied **by individual Direct Selling Agents (DSAs)** other than a body corporate, partnership or limited liability partnership (LLP) firm **to bank or**	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP firm	A banking company or a NBFC, located in the taxable territory

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	non-banking financial company (NBFCs).		
12.	Services provided **by business facilitator to a banking company.**	Business facilitator	A banking company, located in taxable territory
13.	Services provided **by an agent of business correspondent to business correspondent.**	An agent of business correspondent	A business correspondent, located in the taxable territory.
14.	**Security services** (services provided by way of supply of security personnel) provided **to a registered person.** However, nothing contained in this entry shall apply to: (i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken	Any person other than a body corporate	A registered person, located in the taxable territory.

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	registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under composition scheme.		
15.	Services provided by way of **renting of any motor vehicle** designed to carry passengers where the **cost of fuel is included** in the consideration charged from the service recipient, **provided to a body corporate**.	Any person, **other than** a body corporate who supplies service to a body corporate & doesn't issue an invoice charging CGST @ 6% to service recipient.	Any body corporate located in the taxable territory.
16.	Services of **lending of securities** under Securities Lending Scheme, 1997[6]	Lender i.e., a person who deposits securities	Borrower i.e., a person who borrows the securities under the Scheme through an

[6] *Circular No. 116/35/2019 GST dated 11.10.2019 explaining the GST implication on security lending mechanism under Securities Lending Scheme, 1997 has been covered at the Final level.*

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	("Scheme") of Securities and Exchange Board of India, as amended.	registered in his name/in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under Scheme of SEBI	approved intermediary of SEBI.

🔔 ***All the above services have also been notified for reverse charge under IGST Act vide Notification No. 10/2017 IT (R) dated 28.06.2017 as amended. In addition to them, following service is also notified by said notification under reverse charge for IGST purposes:***

Any service supplied by any person who is located in a non-taxable territory to any person located in the taxable territory other than non-taxable online recipient[7] located in taxable territory. Thus, in case of import of service, tax is payable by the person importing such service.

For purpose of the notification notifying the above services under reverse charge mechanism, following explanations shall apply-

(a) The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

(b) **Body Corporate**: has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.

[7] *The concept of non-taxable online recipient has been discussed at the Final level.*

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As per section 2(11) of the Companies Act, 2013, body corporate or corporation includes a company incorporated outside India, but does not include—

(i) a co-operative society registered under any law relating to co-operative societies; and

(ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf.

(c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.

(d) the words and expressions used and not defined in reverse charge notification but defined in the CGST Act, the IGST Act, and the UTGST Act shall have the same meanings as assigned to them in those Acts.

(e) **Limited Liability Partnership** formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.

(f) **Insurance agent** means an insurance agent licensed under section 42 of the Insurance Act, 1938 who receives agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance [Section 2(10) of the Insurance Act, 1938].

(g) **Renting of immovable property** means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.

(h) the provisions of reverse charge notification, in so far as they apply to the Central Government, State Government, shall also apply to the Parliament and State Legislature, Courts and Tribunals.

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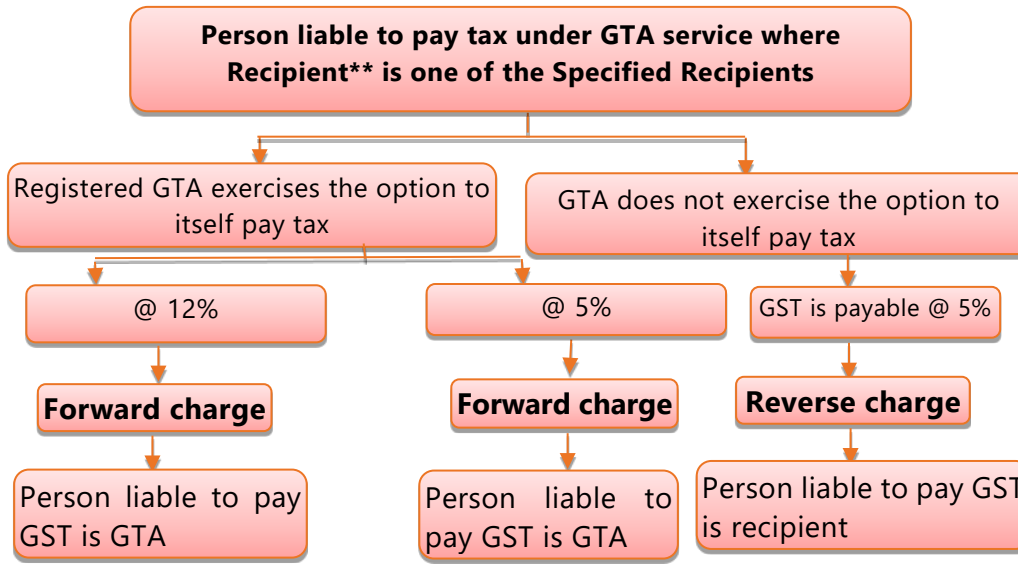
Person liable to pay GST on GTA service

GTA services are taxable at the following two rates:

(i) **@ 5%** (2.5% CGST+2.5% SGST/UTGST or 5% IGST) where GTA has not taken the Input Tax Credit (ITC) on goods or services used in supplying GTA service (there can be either of the cases - where GTA exercises the option to itself pay GST at said rate or /does not exercise the option to itself pay GST at said rate, on services supplied by it) or

(ii) **@ 12%** (6% CGST+6% SGST/UTGST or 12% IGST) where GTA exercises the option to itself pay GST at said rate on services supplied by it. In this case, there is no restriction on availing ITC on goods or services used in supplying GTA service by GTA.

In the following paras, we have explained as to who is the person liable to pay tax in case of each of the above two rates:



Note - Where recipient is other than the specified recipients (Unregistered individual end consumer or unregistered casual taxable person), GST will be exempt – *Discussed in detail in Chapter 5 – Exemptions under GST in this Module of the Study Material.*

** **Recipient of GTA service** *is the person who pays/is liable to pay freight for transportation of goods by road in goods carriage, located in the taxable territory.*

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Person liable to pay GST on renting of motor vehicles service

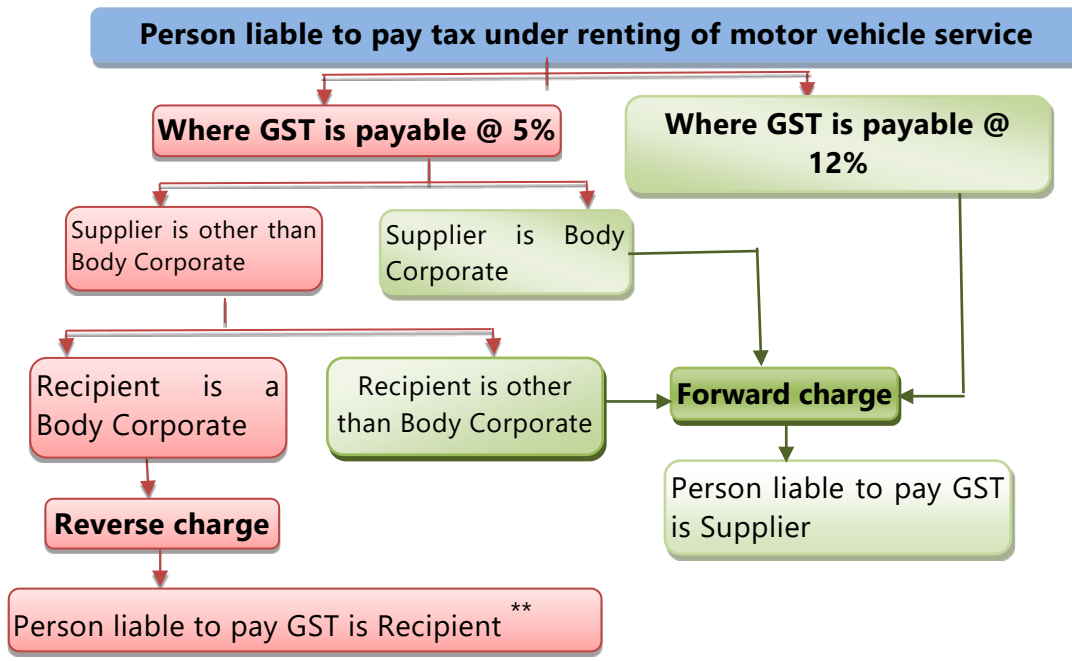


Service by way of renting of any motor vehicle designed to carry passengers where the **cost of fuel is included in the consideration charged** from the service recipient are taxable at the following two rates:

(i) **@ 5%** (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided supplier of services has taken only the limited ITC (of input services in the same line of business) or

(ii) **@ 12%** (6% CGST+6% SGST/UTGST or 12% IGST) where supplier of services opts to pay GST at said rate. In this case, there is no restriction on availing ITC on goods or services used in supplying renting of motor vehicles service by the supplier of service.

In the following paras, we have explained as to who is the person liable to pay tax in case of each of the above two rates[8]:



[8] *Entry 15 of Notification No. 13/2017 CT (R) dated 28.06.2017 read with Circular No. 130/49/2019 GST dated 31.12.2019*

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RCM is applicable here only when the supplier does not issue an invoice charging GST @12% (6% CGST+6% SGST/UTGST or 12% IGST) from the service recipient.

Now, there may arise a doubt as to whether RCM is applicable on:

(i) service of renting of motor vehicle designed to carry passengers

or

(ii) service of transportation of passengers.

It is clarified[9] that **there is a clear distinction between the two services** which is as under:

A. The two services fall under two different headings in the Tariff.

B. (i) **Services of renting of motor vehicles designed to carry passengers** covers:

- renting of motor vehicle
- for transport of passengers
- for a period of time
- where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.

(ii) **'Passenger transport services'** covers passenger transport services over pre-determined routes on pre-determined schedules.

Accordingly, **where the body corporate hires the motor vehicle** (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the **service would fall under 'services of renting of motor vehicles designed to carry passengers', and the body corporate shall be liable to pay GST on the same under RCM.**

Thus, reverse charge would apply on act of renting of vehicles by body corporate and in such a case, it is for the body corporate to use in the manner as it likes subject to agreement with the person providing vehicle on rent.

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[9] *vide Circular No. 177/09/2022 GST dated 03.08.2022*

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However, **where the body corporate avails the passenger transport service** for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under 'passenger transport services' and **the body corporate shall not be liable to pay GST on the same under RCM.**

Taxability of remuneration paid to the director

In order to determine the leviability of tax on the remuneration paid to the directors, we first need to ascertain whether the director is an employee of the company or not. Following two situations are possible:

(i) Services provided by the **independent directors**[10]/those directors (by whatever name called) who are **not employees of the said company** to such company, in lieu of remuneration as the consideration for the said services, are clearly **outside the scope of Schedule III** of the CGST Act[11] and are therefore taxable. As seen in the table given above illustrating the reverse charge services (Entry No. 6), such remuneration paid to the directors is **taxable in hands of the company**, on **reverse charge basis**.

(ii) In case where it is ascertained that a director, irrespective of name and designation, is an employee, next step would be to examine whether all the activities performed by the director are in the course of employer-employee relation (i.e. a "contract of service") or is there any element of "contract for service".

The part of **director's remuneration** which are **declared as Salaries** in the books of a company and subjected to TDS under section 192 of the Income-tax Act (IT Act), are **not taxable** being consideration for services by an employee to the employer in the course of or in relation to his employment **in terms of Para 1 of Schedule III**. Further, the part of employee **director's remuneration which is declared separately other than salaries** in the company's accounts and subjected

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*[10] The definition of **"independent directors"** under section 149(6) of the Companies Act, 2013 read with Rule 12 of Companies (Share Capital and Debentures) Rules, 2014 makes it amply clear that the independent director should not have been an employee of the company.*

[11] As per Para 1 of Schedule III of the CGST Act, services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services. The provisions of Schedule III of the CGST Act have been discussed in detail in Chapter 2 – Supply under GST in this Module of the Study Material.

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to TDS under section 194J of the IT Act as fees for professional or technical services are **treated as consideration** for providing services which are **outside the scope of Schedule III** and is therefore, taxable. Besides, as already discussed, the recipient of the said services i.e. the company, is liable to discharge the applicable GST on it on **reverse charge basis**[12].

Tax on services supplied by director of a company in his personal capacity such as renting of immovable property to the company/body corporate not payable under revere charge mechanism[13]

Tax on services supplied by director of a company/body corporate to the said company or the body corporate is payable by the company/body corporate under reverse charge mechanism (RCM).

It is clarified that services supplied by a director of a company/body corporate to the company/body corporate in his private/personal capacity such as services supplied by way of renting of immovable property are not taxable under RCM.

Only those services supplied by director of company/body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate.

Delhi Development Authority (DDA) -NOT a local authority under GST law

As seen earlier, tax on services supplied by local authority to a business entity is payable under reverse charge. The issue which arose for consideration was whether DDA can be treated as local authority under GST law.

It has been clarified that since local authority means an authority which is similar to the elected self-governing body such as Municipal Committee and which is entrusted with the control and management of municipal or local fund can be termed as local authority, DDA cannot be treated as local authority under GST law as DDA does not meet the requirement of local authority as per section 2(69)[14].



[12] *as clarified vide Circular No. 140/10/2020 GST dated 10.06.2020*
[13] *Circular No. 201/13/2023 GST dated 01.08.2023*
[14] *Circular No. 245/02/2025 GST dated 28.01.2025*

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Sindhu Transporters, an unregistered Goods Transport Agency, provides the services of transportation of goods by road to Bindusaar Manufacturers, registered under GST. GST is payable by _____ @ _____, in the given case.

(a) Sindhu Transporters; 5%	(b) Sindhu Transporters; 12%	(c) Bindusaar Manufacturers; 5%	(d) Bindusaar Manufacturers; 12%



Nilanchal Chamber of Commerce, registered under the Societies Registration Act, 1860 organized a business summit. Safal Private Limited, a manufacturer of readymade garments, sponsored the summit and paid a sponsorship fee of ₹ 1,20,000 to Nilanchal Chamber of Commerce. Mr. Godbole, an independent director of Safal Private Limited, provided the services worth ₹ 50,000 to the company. The value on which Safal Private Limited is liable to pay GST is _____.

(a) ₹ 1,20,000	(b) ₹ 1,70,000	(c) ₹ 50,000	(d) Nil

Tax payable by the ECO on notified services

Electronic Commerce Operator (ECO) is any person who owns/operates/manages an electronic platform for supply of goods/services/both.



Sometimes, ECO itself supplies the goods or services or both through its electronic portal. However, many a times, the products/services displayed on the electronic portal are actually supplied by some other person to the consumer.

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When a consumer places an order for a particular product/ service on this electronic portal, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.



The Government may, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the **electronic commerce operator (ECO)** if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.

Notification No. 17/2017 CT (R) dated 28.06.2017/ Notification No. 14/2017 IT (R) dated 28.06.2017 as amended has notified the following categories of services **supplied through ECO** for this purpose –

(a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motorcycle, or any other motor vehicle except omnibus;

(b) Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company**.

(c) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1).

(d) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1).

(e) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

**The tax on services by way of transportation of passengers by an omnibus provided by a company through ECO is not payable by ECO. It will be payable by the company itself.

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Meaning of various terms

(i) **Radio taxi:** means a taxi including a radio cab, by whatever name called, which is in two- way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).

(ii) **Maxi cab:** means any motor vehicle constructed or adapted to carry **more than 6 passengers**, but **not more than 12 passengers**, excluding the driver, for hire or reward.

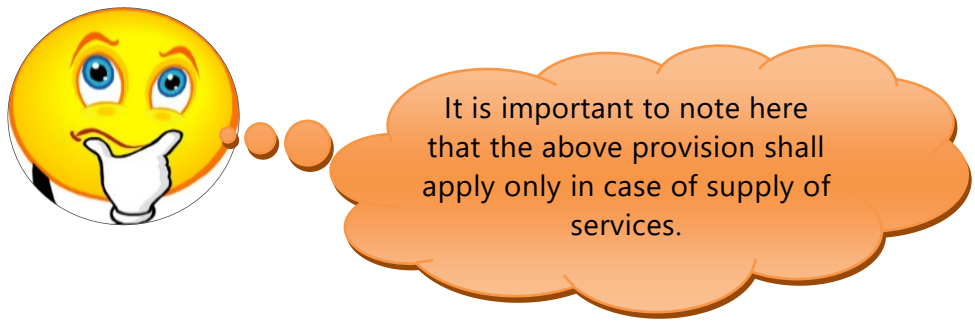
Motor cab: means any motor vehicle constructed or adapted to carry not more than 6 passengers excluding the driver for hire or reward.

Motor car: means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage.

Omnibus means any motor vehicle constructed or adapted to carry **more than 6 persons** excluding the driver.

(iii) **'Specified premises'** would mean premises providing hotel accommodation service having **declared tariff of any unit of accommodation above ₹ 7,500 per unit per day** or equivalent.

(iv) **Company** means a company incorporated under the Companies Act, 2013 or any previous company law.



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Tax on above services supplied through ECO shall be paid by the ECO. All the provisions of the CGST/IGST Act shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of above services.

The ECO may, on services notified under section 9(5), including on restaurant service provided through ECO, pay GST, by furnishing the details in Form GSTR-3B[15], reporting them as outward taxable supplies.

In this regard, following issues have been clarified:

(i) ECOs not to collect TCS in respect of restaurant services so notified

ECOs will no longer be required to collect TCS (Tax Collected at Source) and file Form GSTR-8[16] in respect of restaurant services on which it pays tax in terms of section 9(5)[17].

(ii) ECOs not required to take separate registration for paying tax on restaurant service supplied through them

As ECOs are already registered in accordance with rule 8 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5).

(iii) ECO to pay tax on any restaurant services supplied through them

ECOs will be liable to pay GST on any restaurant service supplied through them **including services supplied by an unregistered person**.

(iv) Supply of restaurant services to be included in aggregate turnover of person supplying restaurant services through ECO

It is clarified that the aggregate turnover of person supplying restaurant service through ECOs shall be computed in accordance with definition of aggregate turnover under section 2(6) and shall include the aggregate value

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[15] Provisions relating to GST return in Form GSTR-3B have been discussed in Chapter 15 – Returns in Module 2 of this Study Material.

[16] Provisions relating to Statement for tax collection at source in Form GSTR-8 have been discussed in Chapter 15 – Returns in Module 2 of this Study Material.

[17] Provisions relating to TCS contained in section 52 have been discussed in Chapter 14 – Tax Deduction at Source and Collection of Tax at Source in Module 2 of this Study Material.

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of supplies made by the restaurant through ECOs. Accordingly, for threshold consideration or any other purpose in the CGST Act, the person providing restaurant service through ECO shall account for such services in his aggregate turnover.

(v) Restaurant services provided through ECO not to be considered as inward supply for ECOs liable to RCM

ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply (liable to reverse charge) in Form GSTR-3B.

(vi) Reversal of proportionate ITC on input goods and services not required by ECO

ECOs provide their own services as an electronic platform and as an intermediary for which it would acquire inputs/input service on which ECOs avail input tax credit (ITC). The ECO charges commission/fee etc. for the services it provides. The ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant).

The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before.

Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5)[18].It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO).

(vii) GST to be paid by the supplier on services not notified under section 9(5) of CGST Act but supplied through ECO

In respect of supplies not notified under section 9(5) but supplied through ECO, the liability to pay GST continues on such supplier and ECO shall continue to deposit TCS on such supplies.

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[18] In case where a supplier is engaged in making both taxable and exempted supplies, proportionate ITC on input goods and services attributable to exempt supplies needs to be reversed. However, reversal provisions are covered at the Final Level and are not applicable for Intermediate examination .

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(viii) ECO to raise invoice in respect of restaurant service supplied through ECO

The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.

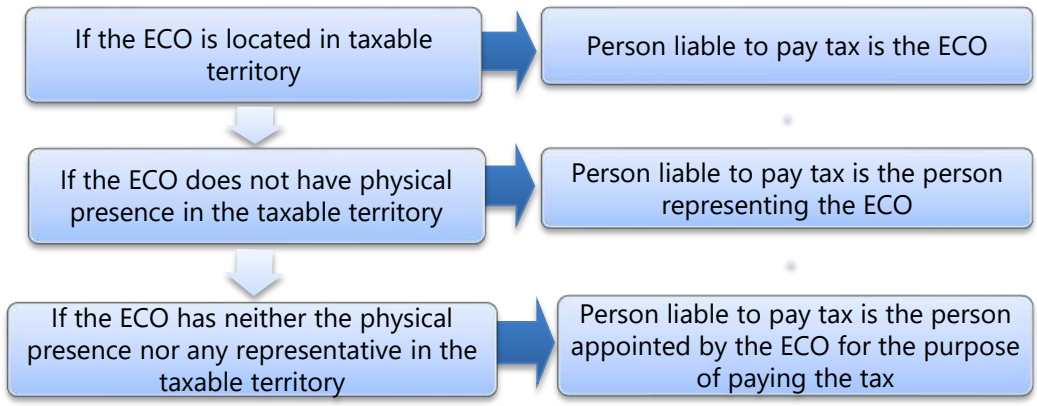
(ix) Billing in case of 'restaurant service' and goods/services other than restaurant service being sold by a restaurant to a customer under the same order

There can a situation where 'restaurant service' and goods or services other than restaurant service are sold by a restaurant to a customer under the same order. The question arises as to who shall be liable for raising invoices in such cases.



Considering that liability to pay GST on supplies other than 'restaurant service' through the ECO, and other compliances under the CGST Act, including issuance of invoice to customer, continues to lie with the respective suppliers (and ECOs being liable only to collect tax at source (TCS) on such supplies), it is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order[19].

Person liable to pay GST for above specified services when supplied through ECO



[19] *Circular No. 167/23/2021 GST dated 17.12.2021*

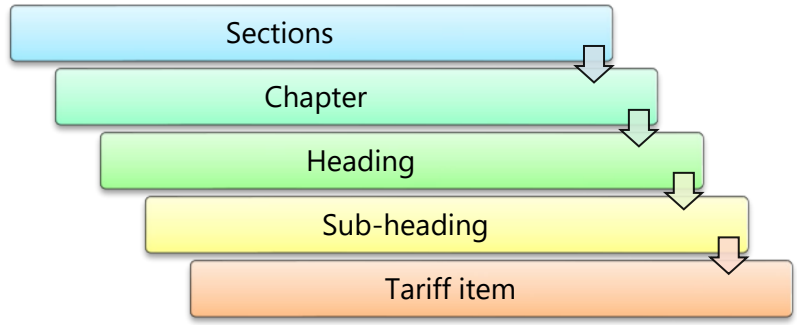
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Classification under GST

In order to determine the rate applicable on a particular supply of goods or services, one needs to first determine the classification of such goods or services. Classification of goods and services assumes significance since there are different rates prescribed for supply of different goods and services. Therefore, classification is crucial for determining the rate of tax applicable on a particular product or service.

Classification of goods

Classification of goods means identification of the chapter, heading, sub-heading and tariff item in which a particular product will be classified.



Chapter, heading, sub-heading and tariff item are referred in the Schedules of rate notification for goods under GST are the Chapter, heading, sub-heading and tariff item of the First Schedule to the Customs Tariff Act, 1975. Indian Customs Tariff is based on HSN. HSN stands for Harmonized System of Nomenclature. It is a multipurpose international product nomenclature developed by the World Customs Organization (WCO) for the purpose of classifying goods across the World in a systematic manner. It comprises of about 5,000 commodity groups; each identified by a 6 digits code [code can be extended], arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. India has extended the HSN codes upto 8-digits.

Along the lines of HSN, the Indian Customs Tariff has a set of Rules of Interpretation of the First Schedule and General Explanatory notes. These rules and the general explanatory notes give clear direction as to how the nomenclature in the schedule is to be interpreted. These **Rules for Interpretation** including section and chapter

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notes and the General Explanatory Notes of the First Schedule[20] [21] **apply to the interpretation of the rate notification for goods under GST also**.

Consequently, under GST, goods are classified on the basis of HSN in accordance with the **Rules for the Interpretation** of the Customs Tariff.

Once classification for a product has been determined on this basis, applicable rate has to be determined as per the rate prescribed in the rate notification issued under GST.

Classification of services

A new **Scheme of Classification of Services** has been devised under GST. It is a modified version of the United Nations Central Product Classification. Under this scheme, the services of various descriptions have been classified under various sections, headings and groups. Chapter 99 has been assigned for services. This chapter has following sections:

Section 5 Construction Services

Section 6 Distributive Trade Services; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services

Section 7 Financial and related services; real estate services; and rental and leasing services

Section 8 Business and Production Services

Section 9 Community, social and personal services and other miscellaneous services

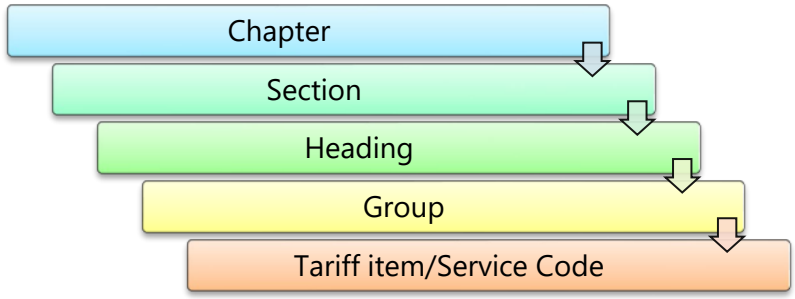
Each section is divided into various headings which are further divided into Groups. Its further division is made in the form of 'Tariff item'/ Service Codes.

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[20] *The provisions relating to Customs Act and Customs Tariff Act will be discussed at Final Level.*

[21] *Sections: A group of Chapters representing a particular class of goods.*
Chapters: Each section is divided into various chapters and sub-chapters. Each chapter contains goods of one class.
Chapter notes: They are mentioned at the beginning of each chapter. These notes are part of the statute and hence have the legal authority in determining the classification of goods.
Heading: Each chapter and sub-chapter is further divided into various headings.
Sub-heading: Each heading is further divided into various sub-headings.

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Rate of tax is determined in accordance with the Service Code in which the service is classified.

GST Rates prescribed for various goods

GST rates for goods

Broadly, six rates of CGST have been notified in six Schedules of rate notification for goods, viz., 0.125%, 1.5%, 2.5%, 6%, 9% and 14%. SGST/ UTGST at the equivalent rate is also leviable. With regard to IGST, broadly six rates have been notified in six Schedules of rate notification for goods, viz., 0.25%, 3%, 5%, 12%, 18% and 28%[22]. **Certain specified goods have been exempted from tax.**

GST Rates prescribed for various services

GST rates for services

Broadly, six rates of CGST have been notified for services, viz., 0.75%, 2.5%, 3.75%, 6%, 9% and 14%[23]. Equivalent rate of SGST/ UTGST will also be levied. For IGST, six rates have been notified for services, viz., 1.5%, 5%, 7.5%, 12%, 18% and 28%[24][25]. **For certain specified services, nil rate of tax has been notified.**

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[22] Students may refer the CBIC website for the complete Schedule of GST Rates for goods for knowledge purposes. Rates for goods have been notified vide Notification No. 1/2017 CT (R) dated 28.06.2017.

[23] notified vide Notification No. 11/2017 CT (R) dated 28.06.2017

[24] notified vide Notification No. 8/2017 IT (R) dated 28.06.2017

[25] Students may refer the CBIC website for the complete Schedule of GST Rates for services for knowledge purposes.

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Services of gambling, services by way of admission to (a) casinos or race clubs or any place having casinos or race clubs or (b) sporting events like IPL, services provided by a race club by way of totalisator or a license to bookmaker in such club, gambling etc. attract the highest rate of 28% (CGST @ 14% and SGST @ 14% or IGST @ 28%). A number of services are subject to a lower rate of 5% (CGST @ 2.5% and SGST @ 2.5% or IGST @ 5%). For instance, GTA service is taxed @ 5% subject to the condition that credit of input tax charged on goods/services used in supplying said service has not been taken. Similarly, tax rate for supply of restaurant service, other than at 'specified premises[26]', is 5% without any input tax credit.

Services not covered under any specific heading are taxed at the rate of 18% (CGST @ 9% and SGST @9% or IGST @ 18%).

In the following paras, applicability of GST in real estate sector has been briefly discussed:

GST rates in real estate sector



The effective rate of GST on real estate sector for the new projects by promoters are as follows:

(i) 1% without ITC on construction of **affordable houses** (area 60 sqm in metros/ 90 sqm in non-metros **and** value upto ₹ 45 lakh).

(ii) 5% without ITC is applicable on construction of:

(a) all houses other than affordable houses, and

(b) commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

[26] *"Specified premises" means premises providing "hotel accommodation" services having declared tariff of any unit of accommodation above ₹ 7,500 per unit per day or equivalent.*

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Conditions:

Above tax rates shall be available subject to following conditions:

(a) ITC shall not be available.

(b) 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons[27].

However, if value of inputs and input services purchased from registered supplier is less than 80%, promoter has to pay GST on reverse charge basis, under section 9(4) [discussed earlier], at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier). Further, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section 9(4), at the applicable rate which is 28% (CGST 14% + SGST 14%) at present.

Supply of services notified under section 9(4)

Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates *[Notification No. 07/2019 CT (R) dated 29.03.2019/ Notification No. 07/2019 IT (R) dated 29.03.2019]*.

[27] *Discussion in above paras highlighted in blue is solely for the purpose of knowledge of the students and is not meant for examination purposes.*

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5. COMPOSITION LEVY [SECTION 10 OF THE CGST ACT]

STATUTORY PROVISIONS

Section 10	Composition levy
Sub-section	Particulars
(1)	Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding,—
	a — one percent[28] of the turnover in State or turnover in Union territory in case of a manufacturer
	b — two and a half per cent of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and
	c — half per cent of the turnover in State or turnover in Union territory in case of other suppliers
	subject to such conditions and restrictions as may be prescribed.
	Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore and fifty lakh rupees[29], as may be recommended by the Council.

[28] Rate of tax prescribed in case of a manufacturer is half percent of the turnover in State/UT. The same has been discussed in detail in subsequent paras.

[29] The turnover limit for composition levy has been increased from ₹ 50 lakh to ₹ 1.5 crore vide Notification No. 14/2019 CT dated 07.03.2019.

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	Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten percent of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.
	Explanation - For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.
(2)	*The registered person shall be eligible to opt under sub-section (1), if–*
	(a) save as provided in sub-section (1), he is not engaged in the supply of services
	(b) he is not engaged in making any supply of goods or services which are not leviable to tax under this Act
	(c) he is not engaged in making any inter-State outward supplies of goods or services
	(d) he is not engaged in making any supply of services through an electronic commerce operator who is required to collect tax at source under section 52;
	(e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council; and
	(f) he is neither a casual taxable person nor a non-resident taxable person.
	Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.
(2A)	*Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section*

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	9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent. of the turnover in State or turnover in Union territory, if he is not—
	(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;
	(b) engaged in making any inter-State outward supplies of goods or services;
	(c) engaged in making any supply of services through an electronic commerce operator who is required to collect tax at source under section 52;
	(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
	(e) a casual taxable person or a non-resident taxable person.
	Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.
(3)	*The option availed of by a registered person under sub-section (1) or sub-section (2A), as the case may be, shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1) or sub-section (2A), as the case may be.*
(4)	*A taxable person to whom the provisions of sub-section (1) or, as the case may be, sub-section (2A) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.*
(5)	*If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) or sub-section (2A), as the case may be despite not being eligible, such person shall, in addition*

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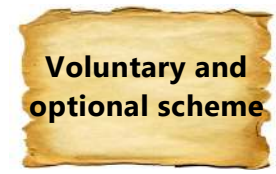
	to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74[30] ***or section 74A***[31] *shall, mutatis mutandis, apply for determination of tax and penalty.*
	Explanation 1 — For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression "aggregate turnover" shall include the value of supplies made by such person from the 1st day of April of a financial year upto the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount. *Explanation 2 — For the purposes of determining the tax payable by a person under this section, the expression "turnover in State or turnover in Union territory" shall not include the value of following supplies, namely:—* *(i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and* *(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.*



ANALYSIS

(1) Overview of the scheme

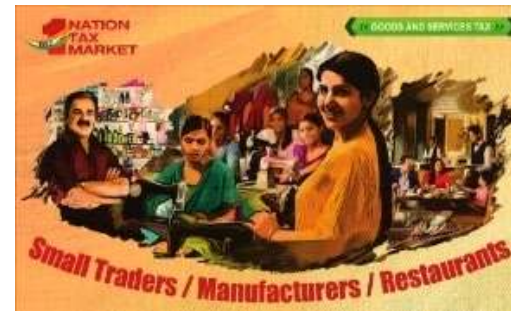
The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to a prescribed limit. The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers.



[30] *Provisions of sections 73 and 74 pertain to the period upto Financial year 2023-24*

[31] *Provisions of section 74A pertaining to period from Financial year 2024-25 onwards will be discussed at the Final level.*

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Initially, the scheme was designed to benefit the small traders, manufacturers and restaurant service providers. So, the scheme was fundamentally for the suppliers of goods and only for restaurant service providers (not supplying alcoholic liquor for human consumption). However, subsequently, suppliers availing composition scheme were permitted to supply other services also, though only upto a small specified value. This scheme is contained in **sub-sections (1) and (2) of section 10 [hereinafter referred to as composition scheme under section 10(1)]**.



Under this scheme, suppliers of goods have the option to pay tax at the concessional rate of 1% (CGST + SGST/UTGST) of the turnover and restaurant service providers (not supplying alcoholic liquor for human consumption) have the option to pay tax @ 5% (CGST + SGST/UTGST) of the turnover. Small taxpayers with an aggregate turnover in the preceding financial year up to ₹ 1.5 crore are eligible to pay tax at these rates in the current financial year upto an aggregate turnover of ₹ 1.5 crore. However, a person engaged exclusively in supply of services other than restaurant service is not eligible for this composition scheme stipulated under sub-sections (1) and (2).



In order to provide benefit of composition scheme to persons engaged in supply of services other than restaurant service whose aggregate turnover in the preceding financial year is up to ₹ 50 lakh, a scheme to pay tax @ 6% (CGST + SGST/UTGST) of the turnover was introduced subsequently. A mixed supplier who is primarily engaged in supplying services other than restaurant service along with marginal supply



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of goods could also avail the benefit of this scheme. The provisions of this scheme are contained in sub-section (2A) of section 10.

Essentially, the composition scheme under sub-section (2A) of section 10 **[hereinafter referred to as composition scheme under 10(2A)]** is for small service providers like salon stylist, tailors, etc. This scheme provides an option to such suppliers to pay tax @ 6% of the turnover in the current financial year upto an aggregate turnover of ₹ 50 lakh.



Easy compliance as no elaborate accounts and records

Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on their goods and/ or services, etc. They are not required to raise any tax invoice, but simply need to issue a Bill of Supply[32] wherein no tax will be charged from the recipient.

Simple annual return Quarterly payment of tax

An eligible person opting to pay tax under the composition scheme shall, instead of paying tax on every invoice at the specified rate, pay tax at the prescribed percentage of his turnover every quarter through prescribed form [Form GST CMP 08].

At the end of a quarter, he would pay the tax, without availing the benefit of input tax credit. Return is to be filed annually by a composition supplier. Registration under GST law is compulsory for opting for the composition scheme.

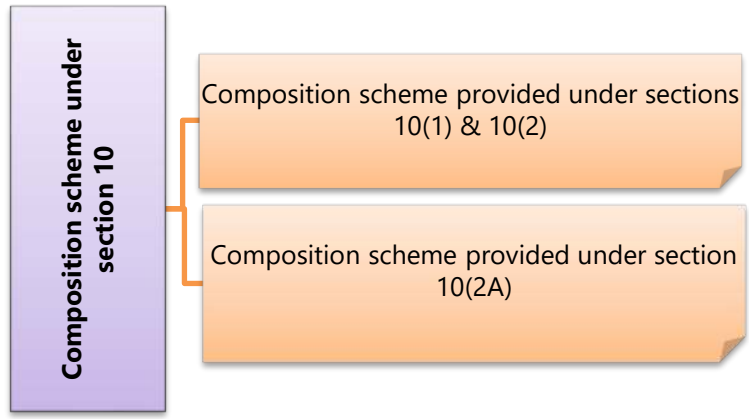
The provisions relating to composition levy are contained in section 10 of CGST Act, 2017 and Chapter-II [Composition Levy] of Central Goods and Services Tax (CGST) Rules, 2017. The said rules have been incorporated in the discussion in the following paras at the relevant places.

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[32] *Discussed in detail in Chapter-10: Tax Invoice, Credit and Debit Notes in Module-2 of this Study Material.*

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As seen above, section 10 stipulates two types of composition schemes –



Provisions relating to these schemes have been discussed in detail in subsequent paras:

(2) Turnover limit for opting for composition levy [Section 10(1), 10(2A) & 10(3)]

Turnover limit in case of composition levy under section 10(1)



Section 10(1) provides the turnover limit of ₹ 50 lakh in the preceding financial year for becoming eligible for composition levy under section 10(1). However, proviso to section 10(1) empowers the Government to increase the said limit of ₹ 50 lakh upto ₹ 1.5 crore, on the recommendation of the GST Council. In view of said power of the Government, the turnover limit for composition levy under section 10(1) has been increased from ₹ 50 lakh to ₹ 1.5 crore vide *Notification No. 14/2019 CT dated 07.03.2019*.

However, the said notification further stipulates that the turnover limit for composition levy under section 10(1) shall be ₹ 75 lakh **in respect of 8 of the Special Category States** namely:

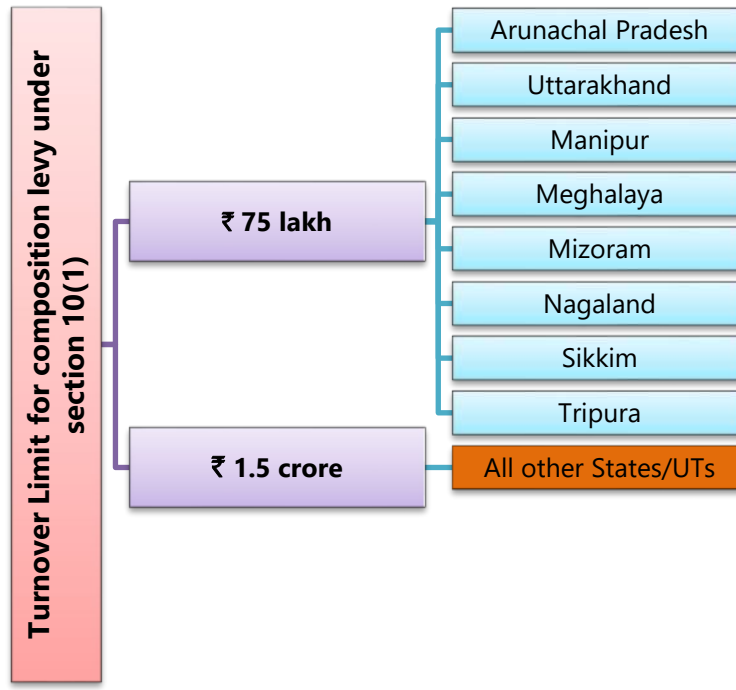
Special Category States	
Arunachal Pradesh	Mizoram
Uttarakhand	Nagaland

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Manipur	Sikkim
Meghalaya	Tripura

In case of Special Category States of **Assam, Himachal Pradesh** and **Jammu and Kashmir**, the turnover limit will be ₹ 1.5 crore only.

Thus, if the aggregate turnover of a supplier in a State/UT other than Special Category States (except Assam, Himachal Pradesh and Jammu and Kashmir) is upto ₹ 1.5 crore in the preceding financial year, said supplier is eligible for composition scheme under section 10(1). Further, it is important to note that the aggregate turnover is computed on all India basis for a person having same Permanent Account Number (PAN) – *Refer the definition of aggregate turnover discussed in subsequent paras.*



(2) A shoes' dealer 'Prithviraj' has offices in Maharashtra and Goa. He makes intra-State supply of goods from both these offices. In order to determine whether 'Prithviraj' is eligible to avail benefit of the composition scheme under section 10(1), turnover of both the offices

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would be taken into account and if the same does not exceed ₹ 1.5 crore in the preceding financial year, 'Prithviraj' can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions) for goods for both the offices in the current financial year.

Further, the option of a registered person to avail composition scheme under section 10(1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹ 1.5 crore [₹ 75 lakh in 8 specified special category States] [Section 10(3)].

Turnover limit in case of composition levy under section 10(2A)

Section 10(2A) provides the turnover limit of ₹ 50 lakh in the preceding financial year for becoming eligible for composition levy under section 10(2A).



(3) A hair stylist 'Billoo Barber' has his salon in Delhi and Haryana, making intra-State supplies.

In order to determine whether 'Billoo' is eligible to avail benefit of the composition scheme under section 10(2A), turnover of both the salons would be taken into account and if the same does not exceed ₹ 50 lakh in the preceding financial year, 'Billoo' can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions) for services for both the salons in the current financial year.

Further, the option of a registered person to avail composition scheme under section 10(2A) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹ 50 lakh [Section 10(3)].





To summarise, a registered person opting for composition scheme under section 10(1) should have an aggregate turnover upto ₹ 1.5 crore [₹ 75 lakh in 8 specified Special Category States] in the preceding FY and he can avail the benefit of said scheme[33] for the current FY till the time his aggregate turnover in the current FY does not exceed ₹ 1.5 crore/₹ 75 lakh.

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[33] *Intimation for opting to pay tax under composition scheme must be filed prior to the commencement of the FY for which said option is exercised [Rule 3].*

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Similarly, a registered person opting for composition scheme under section 10(2A) should have an aggregate turnover upto ₹ 50 lakh in the preceding FY and he can avail the benefit of said scheme for the current FY till the time his aggregate turnover in the current FY does not exceed ₹ 50 lakh.

From the above discussion, it is apparent that the term aggregate turnover is of utmost importance. So, let us understand this term in detail.

(3) Aggregate turnover under composition levy [Section 2(6) read with explanation 1 to section 10]

The definition of aggregate turnover as contained in section 2(6) is analysed as follows:

The aggregate turnover is the sum of value of all outward supplies falling in the following four categories:



- Taxable supplies
- Exempt supplies
- Exports of goods or services or both
- Inter-State supplies

It excludes:

- The value of inward supplies on which tax is payable by a person on reverse charge basis
- Taxes including cess paid under GST law.

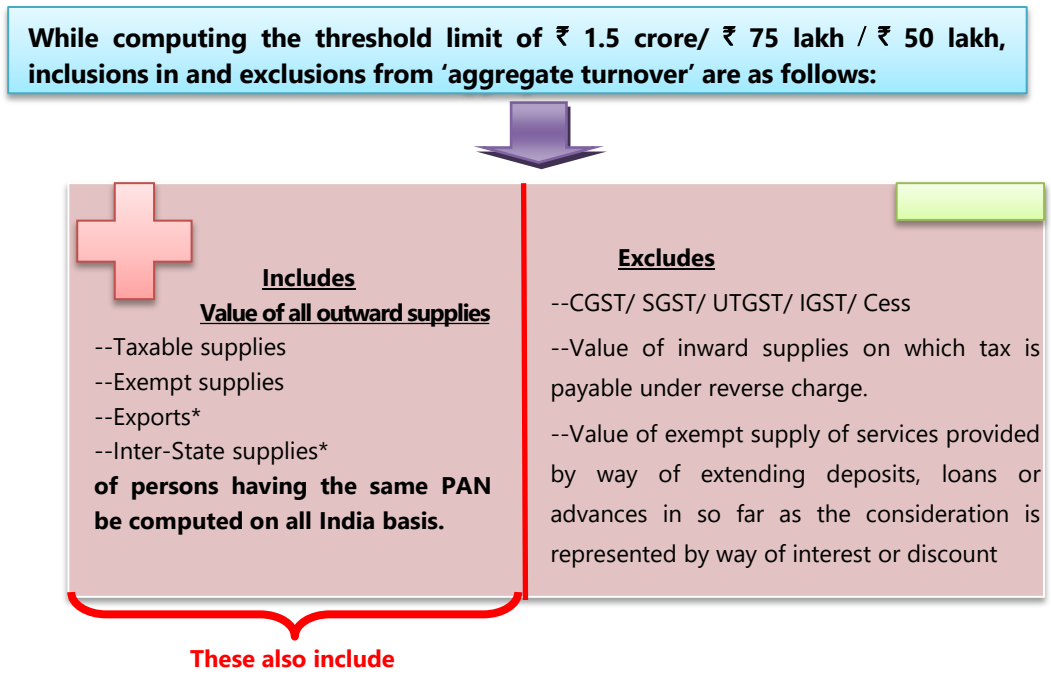
It is computed on all India basis for a person having same Permanent Account Number (PAN).

Further, explanation 1 to section 10 clarifies that for the purposes of computing **aggregate turnover of a registered person for determining his eligibility to pay tax under this section**, aggregate turnover **includes** value of supplies from 1st April of a FY up to the date of his becoming liable for registration and **excludes** value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

On combined reading of the aforesaid provisions, the method of computing the aggregate turnover for the purpose of determining the eligibility of a

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registered person for the composition scheme [for both goods and services] can be depicted in a diagram as follows:



***Note:** The value of exports and inter-State supplies are relevant only while determining the aggregate turnover of the preceding FY. These values are not relevant for determining the aggregate turnover of the current FY in which the composition supplier has opted for composition levy as he is not permitted to make inter-State supplies and exports in the said FY[34].

(4) Rates of tax under the composition levy scheme [Section 10(1) and section 10(2A) read with rule 7]

Rule 7 prescribes the rates at which tax is payable by a registered person opting for composition levy – composition levy under section 10(1) and composition levy under section 10(2A).

[34] *Section 10(2)(c)*

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Rates of tax in case of composition levy under section 10(1)

A registered person opting for composition levy under section 10(1) shall pay tax calculated at the prescribed rates [mentioned in table below] during the current FY, in lieu of the tax payable by him under regular scheme:

S. No.	Category of registered persons	Rate of tax
1	Manufacturers, other than manufacturers of notified goods, i.e. ice cream, pan masala, tobacco, aerated waters, fly ash bricks; fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.	**½ %**[35] of the turnover in the State/Union territory
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II **[referred to as "Restaurant service" in discussion under this chapter]**	**2½ %**[36] of the turnover in the State/Union territory
3	Any other supplier eligible for composition levy under section 10 of CGST Act and Chapter-II [Composition Levy] of CGST Rules.	**½ %**[37] of turnover of taxable supplies of goods & services in the State/Union territory

Note *- Students may note that the 'aggregate turnover' of preceding FY is relevant for the purpose of determining eligibility to avail composition scheme, but the tax has to be paid in accordance with the applicable rates on the 'turnover' (or 'turnover of taxable supplies' in case of third category of registered persons above) in a State/UT. The concept of 'Turnover in the State/UT' under the composition levy has been explained subsequently in this chapter.*

ILLUSTRATION 1

Taxpayer 'Tolaram' is a manufacturer who has opted for composition levy under section 10(1), having one unit – A1 in UP and another unit – A2 in MP. Total

[35] *Effective rate 1% (CGST+ SGST/UTGST)*
[36] *Effective rate 5% (CGST+ SGST/UTGST)*
[37] *Effective rate 1% (CGST+ SGST/UTGST)*

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turnover of two units in preceding FY was ₹ 115 lakh (₹ 85 lakh + ₹ 30 lakh). Turnover of units A1 and A2 in the first quarter of current financial year is ₹5 lakh and ₹ 10 lakh respectively. Compute the amount payable under composition levy under section 10(1) & 10(2) of the CGST Act, 2017 by 'Tolaram'.

ANSWER

Unit	Location	Turnover in previous FY	Turnover in 1st quarter of this FY	Total tax (@1%)
A1	U.P.	₹ 85 lakh	₹ 5 lakh	₹ 5,000
A2	M.P.	₹ 30 lakh	₹ 10 lakh	₹ 10,000
Total		₹ 115 lakh	₹ 15 lakh	₹ 15,000

ILLUSTRATION 2

Taxpayer 'Bholaram' is a trader (who has opted for composition levy under section 10(1)) of both taxable and exempted goods (goods exempted by way of a notification).

It has one retail showroom – A1 in Punjab and another retail showroom – A2 in Rajasthan, both selling taxable as well as exempted goods. Total turnover (including taxable and exempted goods) of the two showrooms in last FY was ₹ 115 lakh (₹ 85 lakh + ₹ 30 lakh respectively).

Turnover of showrooms A1 and A2 in the first quarter of current financial year is ₹ 35 lakh [A1 - ₹ 15 lakh (₹ 5 lakh from sale of taxable goods and ₹ 10 lakh from sale of exempted goods) and A2 - ₹ 20 lakh (₹ 10 lakh from sale of taxable goods and ₹ 10 lakh from sale of exempted goods)]. Compute the amount payable under composition levy under section 10(1) & 10(2) of the CGST Act, 2017 by 'Bholaram'.

ANSWER

Retail showroom	Location	Turnover in previous FY	Taxable turnover* in 1st quarter of this FY	Total tax (@1%)
A1	Punjab	₹ 85 lakh	₹ 5 lakh	₹ 5,000
A2	Rajasthan	₹ 30 lakh	₹ 10 lakh	₹ 10,000
Total		₹ 115 lakh	₹ 15 lakh	₹ 15,000

**Note: A supplier, other than manufacturer and restaurant service provider, eligible for*

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composition levy under section 10(1) & 10(2) has to pay tax @ 1% (CGST+ SGST) of the turnover of only taxable supplies of goods and services in the State.

Rates of tax in case of composition levy under section 10(2A)

A registered person opting for composition levy under section 10(2A) shall pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State or Union territory.

ILLUSTRATION 3

Taxpayer 'Padmavati' is a salon stylist, who has opted for composition levy under section 10(2A), having one branch – B1 in Vasant Kunj, Delhi and another branch – B2 in Gurgaon, Haryana. Total turnover of the two branches in last FY was ₹45 lakh (₹25 lakh + ₹20 lakh respectively). The turnover of branches B1 and B2 in the first quarter of current financial year is ₹5 lakh and ₹10 lakh respectively. Compute the amount payable under composition levy under section 10(2A) of the CGST Act, 2017 by 'Padmavati'.

ANSWER

Branch	Location	Turnover in previous FY	Turnover in 1st quarter of this FY	Total tax (@6%)
B1	Delhi	₹ 25 lakh	₹ 5 lakh	₹ 30,000
B2	Haryana	₹ 20 lakh	₹ 10 lakh	₹ 60,000
Total		₹ 45 lakh	₹ 15 lakh	₹ 90,000

As seen above, since the tax under composition scheme has to computed as a specified % of the turnover in State or turnover in Union territory, it is pertinent to understand what is turnover in `State or turnover in Union territory.

(5) Turnover in State or turnover in Union territory under composition levy [Section 2(112) read with explanation 2 to section 10]

As per section 2(112), turnover in State/ turnover in Union territory means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable



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person but excludes central tax, State tax, Union territory tax, integrated tax and cess.

Further, explanation 2 to section 10 clarifies that for the purposes of **determining the tax payable by a person under this section**, the expression turnover in State or turnover in Union territory **shall not include** the value of following supplies, namely:

(i) supplies from 1st April of a FY up to the date when such person becomes liable for registration under this Act; and

(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

On combined reading of the aforesaid provisions, the method of computing the **turnover in a State/UT for paying tax under the composition scheme** can be depicted in a diagram on the next page:

While computing the Turnover in a State/UT to pay tax under composition levy, inclusions and exclusions are as follows:

Includes	**Excludes**
--All taxable supplies and exempt supplies made within the State/UT* *(While computing turnover in a State/UT of a supplier, other than manufacturer and restaurant service provider, eligible for composition levy under section 10(1) - trader, etc., the exempt supplies will not be taken into consideration)*	--CGST/ SGST/ UTGST/ IGST/ Cess --Value of inward supplies on which tax is payable under reverse charge. --Value of supplies from the first day of April of a FY up to the date when such person becomes liable for registration under this Act --Value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount

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(4) A photographer 'Champak' has commenced providing photography services in Delhi from April this year. His turnover for various quarters till December is as follows:

April-June	₹ 20 lakh
July-Sept	₹ 30 lakh
Oct-Dec	₹ 20 lakh

In the given case, since Champak has started the supply of services in the current financial year, his aggregate turnover in the preceding FY is Nil. Consequently, in the current FY, he is eligible for composition scheme under section 10(2A). He becomes eligible for the registration when his aggregate turnover exceeds ₹ 20 lakh.

While registering under GST, he opts for composition scheme under section 10(2A).

For determining his turnover of the State for payment of tax under composition scheme under section 10(2A), turnover of April-June quarter [₹ 20 lakh] shall be excluded as the value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act are to be excluded for this purpose.

On next ₹ 30 lakh [turnover of July-Sept quarter], he shall pay tax @ 6% [3% CGST and 3% SGST], i.e. CGST ₹ 90,000 and SGST ₹ 90,000.

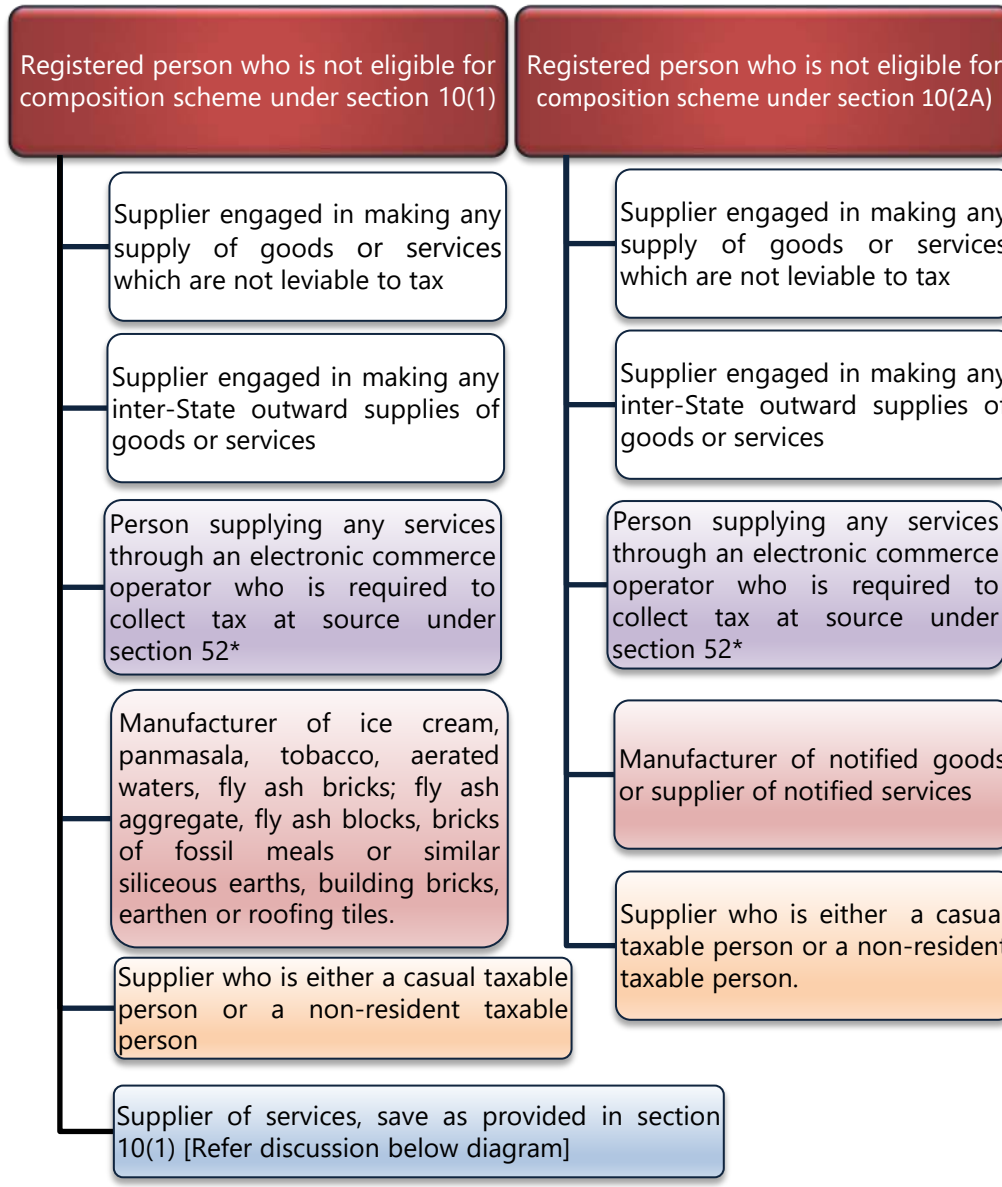
By the end of July-Sept quarter, his aggregate turnover reaches ₹ 50 lakh*.

Consequently, his option to avail composition scheme under section 10(2A) shall lapse by the end of July-Sept quarter and thereafter, he is required to pay tax at the normal rate of 18%. Thus, the tax payable for Oct-Dec quarter is ₹ 20 lakh × 18%, i.e. ₹ 3,60,000.

**while computing aggregate turnover for determining Champak's eligibility to pay tax under composition scheme, value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act (i.e. turnover of April-June quarter), are included.*

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(6) Who are NOT eligible to opt for composition scheme? [Section 10(2) and (2A)]



**Section 52 relating to tax collected at source has been discussed in detail in Chapter 14 – Tax Deduction at Source and Collection of Tax at Source in Module 2 of this Study Material.*

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A person engaged in marginal supply of services other than restaurant service also eligible for composition scheme under section 10(1) [Second proviso to section 10(1) read with section 10(2)(a)]

Fundamentally, the composition scheme under section 10(1) can primarily be availed in respect of goods and only one service namely, restaurant service. However, there are cases where a manufacturer/ trader is also engaged in supply of services other than restaurant service though the percentage of such supply of services is very small as compared to the supplies of goods. There may also be cases where a restaurant service provider is also engaged in supplying a small percentage of other services.

With a view to enable such taxpayers to avail of the benefit of composition scheme under section 10(1), second proviso to section 10(1) permits marginal supply of services [other than restaurant services – not supplying alcoholic liquor for human consumption] for a specified value along with the supply of goods and/or restaurant service, as the case may be. This specified value is value not exceeding:

(a) 10% of the turnover in a State/U.T. in the preceding financial year

or

(b) ₹ 5 lakh,

whichever is higher.

Thus, it can be inferred that where the turnover of a registered person opting for composition scheme under section 10(1) is upto ₹ 50 lakh in the preceding financial year, he can supply services [other than restaurant services] upto a maximum value of ₹ 5 lakh in the current financial year.

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Further, where the turnover of a registered person opting for composition scheme is more than ₹ 50 lakh and upto ₹ 1.5 crore in the preceding financial year, he can supply services [other than restaurant services] in the current financial year upto a maximum value of 10% of the turnover in a State/Union territory in the preceding financial year.



(5) Ramsewak is engaged in supply of goods. His turnover in preceding FY is ₹ 60 lakh. Since his aggregate turnover in the preceding FY does not exceed ₹ 1.5 crore, he is eligible for composition scheme under section 10(1) in current FY. Further, in current FY, he can supply services [other than restaurant services] upto a value of not exceeding:

(a) 10% of ₹ 60 lakh, i.e. ₹ 6 lakh

or

(b) ₹ 5 lakh,

whichever is higher.

Thus, he can supply services upto a value of ₹ 6 lakh in current FY. If the value of services supplied exceeds ₹ 6 lakh, he becomes ineligible for the composition scheme under section 10(1) and has to opt out of the same.

Interest income to be excluded for determining the value of turnover in a State or Union territory under second proviso to section 10(1) [Explanation to second proviso to section 10(1)]

Generally, businesses tend to save and invest money in the form of deposits, loans or advances. However, this way they get engaged in supply of service by way of extending deposits, loans or advances[38] – a service other than restaurant service. And where the income from such services cause the value of services[39] supplied to exceed the value referred in second proviso to section 10(1)[40] [10% of the turnover in the preceding

[38] *It is, however, pertinent to note that services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount are exempt from GST – Discussed in detail in Chapter 5 – Exemptions from GST in this Module of the Study Material.*

[39] *other than restaurant services*

[40] *as discussed in preceding paras*

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FY in a State/Union territory or ₹ 5 lakh, whichever is higher], said business would have become ineligible for the composition scheme under section 10(1) and one has to opt out of the composition scheme. This can cause a lot of hardship to small businesses.

In view of the above, an explanation is inserted after second proviso to section 10(1) to clarify that for the purposes of second proviso to section 10(1), the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account for determining the value of turnover in a State or Union territory.

Under second proviso to section 10(1), a registered person opting for composition scheme may supply services [other than restaurant services] of value not exceeding 10% of the turnover in the preceding financial year in a State/Union territory or ₹ 5 lakh, whichever is higher. **Thus, while computing value of services [other than restaurant services] as referred in this proviso, interest on loans/deposit/advances will not be taken into account.**

The provisions relating to composition levy discussed hereafter are applicable to both composition levy under section 10(1) as well as composition levy under section 10(2A).

(7) Conditions and restrictions for composition levy [Rule 5]

Person opting for composition levy has to comply with the following conditions:

- he shall pay tax under section 9(3)/9(4)[41] (reverse charge) on inward supply of goods or services or both.
- he is neither a casual taxable person nor a non-resident taxable person
- he shall mention the words **"composition taxable person, not eligible to collect tax on supplies"** at the top of the bill of supply issued by him; and

[41] *wherever applicable*

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- he shall mention the words **"composition taxable person"** on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.



Further, where the goods held in stock by him are liable to be taxed under reverse charge under section 9(4)[42], the tax thereon has been paid under reverse charge under section 9(4).

In addition to the above conditions, **a registered person opting for composition scheme under section 10(1) must not be engaged in the manufacture of goods as notified under section 10(2)(e)**, during the preceding FY. The following goods have been hereby notified vide *Notification No. 14/2019 CT dated 07.03.2019* as amended:

Tariff item, subheading, heading or Chapter*	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa 
2106 90 20	Pan masala 

[42] *This condition applies in case where a builder/promoter opting for composition scheme has the stock of the goods on which he is required to pay GST on reverse charge basis under section 9(4) in one or more of the following cases:*

(i) Builder/promoter must purchase at least 80% of inputs and input services used in supplying the service, from registered persons. In case of shortfall, he's required to pay tax under reverse charge on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

(ii) Where cement is received from an unregistered person, promoter/builder has to pay tax on supply of such cement under reverse charge and

(iii) GST on capital goods is payable by the promoter on reverse charge basis.

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24	All goods, i.e. Tobacco and manufactured tobacco substitutes 
2202 1010	Aerated Waters 
6815	Fly ash bricks; fly ash aggregate; Fly ash blocks
6901 00 10	Bricks of fossil meals or similar siliceous earths
6904 10 00	Building bricks
6905 10 00	Earthen or roofing tiles

** as specified in the First Schedule to the Customs Tariff Act, 1975*

(8) Intimation of opting for composition levy [Rules 3 & 4]

(i) **Intimation by person applying for registration:** Any person who is not registered and applies for registration may give an option to pay tax under composition levy **in Part B of the registration form, viz., Form GST REG-01.** The same shall be considered as an intimation to pay tax under composition levy. Such intimation shall be considered only after the grant of registration to the applicant.

The option to pay tax under composition levy shall be effective from the date from which registration is effective[43].

[43] *Registration shall be effective from the date on which* **the person becomes liable to registration** *where the application for registration has been submitted within a period of thirty days from such date. Where an application for registration has been submitted by the applicant after the expiry of thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of the* **grant of registration**. *Discussed in detail in Chapter 9 – Registration in Module 2 of this Study Material.*

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(ii) Intimation by a registered person: A registered person who opts to pay tax under composition levy scheme shall **electronically file an intimation** in prescribed form on the GST Common Portal [www.gst.gov.in]. The intimation shall be filed **prior to the commencement of the FY** for which said option is exercised.

He shall also furnish the **statement in prescribed form** in accordance with the provisions of rule 44(4) of CGST Rules, 2017 *[Discussed in detail in Chapter 8 – Input Tax Credit in Module 2 of this Study Material]* **within 60 days** from the commencement of the relevant FY.

Any intimation in respect of any place of business in a State/UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

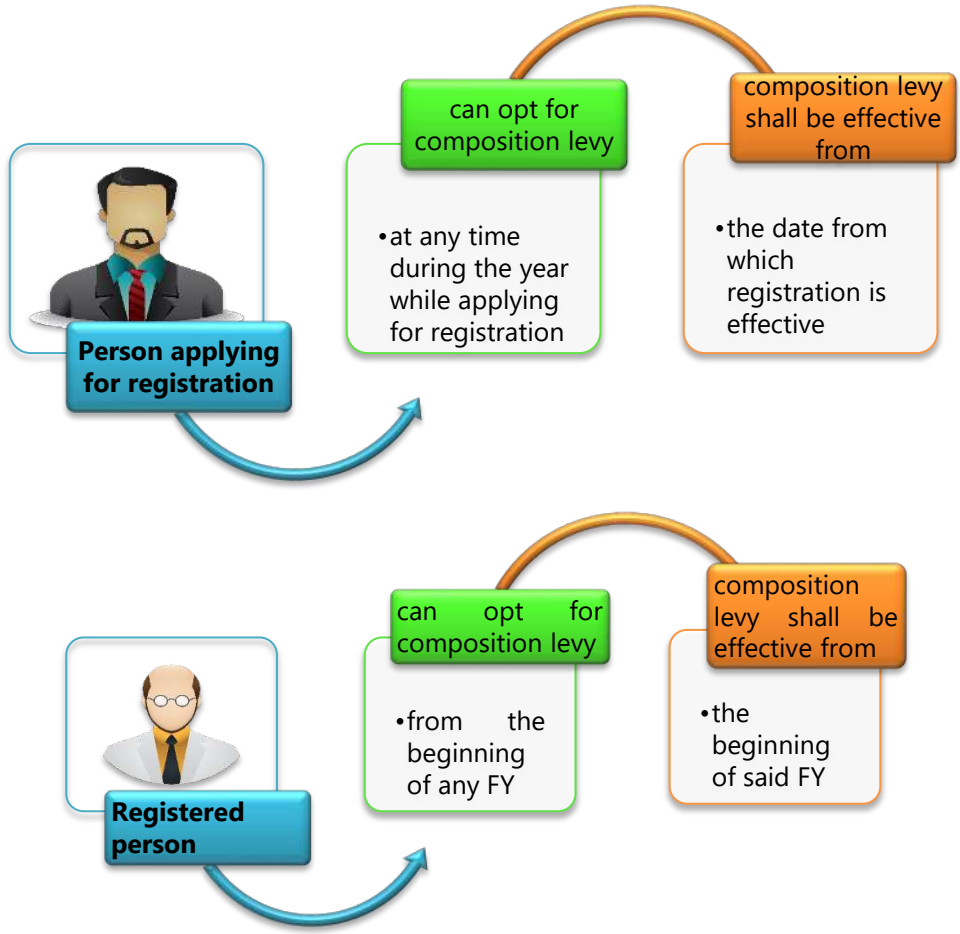
The option to pay tax under composition levy shall be effective from the beginning of the FY.



A person applying for registration can opt for composition at the time of applying for registration [this time being any time of the financial year] and composition levy shall be effective from the date from which registration is effective.

A registered person can opt for composition scheme from the beginning of any FY and composition levy shall be effective from the beginning of said FY. Intimation for opting to pay tax under composition scheme must be filed prior to the commencement of the FY for which said option is exercised.

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(9) Validity of composition levy [Section 10(3) read with rule 6[44]]

I. Withdrawal from the composition scheme by a taxpayer who ceases to satisfy any of the prescribed conditions

❑ The option exercised by a registered person to pay amount under composition levy shall remain valid so long as he satisfies all the conditions mentioned in the relevant section and rules. For instance, the option to pay tax under composition scheme lapses from the day on which aggregate turnover of a registered person exceeds the specified limit (₹ 1.5 crore/ ₹ 75 lakh/ ₹ 50 lakh) during the FY.

[44] *read with Circular No. 77/51/2018 GST dated 31.12.2018*

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- Such person is required to pay tax under regular scheme under section 9(1) from the day he ceases to satisfy any of the conditions prescribed for composition levy. He shall issue tax invoice for every taxable supply made thereafter. Further, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.
- The **effective date from which withdrawal from the composition scheme shall take effect** shall be the date indicated by him in his intimation, but such date may not be prior to the commencement of the financial year in which such intimation is being filed.

II. Withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme

- The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in prescribed form.
- The **effective date from which withdrawal from the composition scheme shall take effect** shall be the date indicated by him in his application, but such date may not be prior to the commencement of the financial year in which such application for withdrawal is being filed.

III. Denial of option to pay tax under the composition scheme by tax authorities

- Where the proper officer has reasons to believe that the registered person was not eligible to pay tax under composition scheme or has contravened the provisions of the CGST Act or provisions of this Chapter, he may issue a show cause notice (SCN) to such person. Upon receipt of reply to SCN, the proper officer shall pass an order either accepting the reply or denying the option to pay tax under composition scheme from the date of the option or from the date of the event concerning such contravention, as the case may be.

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- **In case of denial of option to pay tax under composition levy by the tax authorities**, the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules.

In each of the above cases, such person may furnish a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn/denied, within a period of 30 days from the date from which the option is withdrawn/ or from the date of the order denying composition scheme.

Any intimation or application for withdrawal or denial of the option to pay tax under section 10 in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.



(6) A person availing composition scheme during a financial year crosses the turnover of ₹ 1.5 crore on 9th of December. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds ₹ 1.5 crore, i.e. on 9th December, in this case.

(10) Composition scheme to be adopted uniformly by all the registered persons having the same PAN [Proviso to section 10(2) and proviso to section 10(2A)]

All registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme.



(7) A dealer 'Kishorilal & Sons' has two offices in Delhi and is eligible for composition levy under section 10(1). If 'Kishorilal & Sons' opts for the composition scheme under section 10(1), both the offices would pay taxes under composition scheme and abide by all the conditions as may be prescribed for the said composition scheme.

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(11) Composition scheme supplier cannot collect tax [Section 10(4)]

Taxable person opting for the composition scheme shall not collect tax from the recipient on supplies made by him. It implies that a composition scheme supplier cannot issue a tax invoice.

(12) Composition scheme supplier cannot enter into credit chain [Section 10(4)]

Taxable person opting for the composition scheme shall not be entitled to any credit of input tax.

(13) Imposition of penalty in case of irregular availment of the composition scheme [Section 10(5)]

If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74[45] ***or section 74A***[46] of the CGST Act shall be applicable for determination of tax and penalty.



A registered person _____ is not eligible for composition scheme even though his aggregate turnover does not exceed ₹ 1.5 crore in preceding FY.

(a) trading in pan masala	(b) manufacturing aerated waters	(c) receiving any inter-State inward supplies of goods	(d) making supply of goods exempted by way of a notification

[45] *Provisions of sections 73 and 74 pertain to the period upto Financial year 2023-24*

[46] *Provisions of section 74A pertaining to period from Financial year 2024-25 onwards will be discussed at the Final level.*

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Alladin Electronics is engaged in intra-State supply of air-conditioners and has an aggregate turnover of ₹ 90 lakh in the preceding financial year. In the current financial year, it wishes to opt for composition scheme under section 10(1) and 10(2). It will start providing services of repairing of air conditioners also from 1st April of current financial year. Alladin Electronics can provide services upto the value of _____ to continue availing benefit of composition levy, in the current financial year.

(a) ₹ 5 lakh	(b) ₹ 4.5 lakh	(c) ₹ 10 lakh	(d) ₹ 9 lakh



LET US RECAPITULATE

1. Extent & commencement of CGST Act/ SGST Act/ UTGST Act/ IGST Act

Applicability	CGST	SGST	UTGST	IGST
	Intra-State supply			Inter-State supply
States of India	✔	✔		✔
Union Territories with Legislature	✔	✔		✔
Union Territories without Legislature	✔		✔	✔

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2. Levy and collection of CGST/IGST

Particulars	CGST	IGST
Levied on	Intra-State supplies of goods/services/ both	Inter-State supplies of goods/services/both
Collected and paid by	Taxable person	
Supply outside purview of GST	Alcoholic liquor for human consumption ***and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption***	
Value for levy	Transaction value under section 15 of the CGST Act	
Rates	Rates as notified by Government. Maximum rate of CGST can be 20%.	IGST rate= CGST rate + SGST rate/UTGST rate Maximum rate of IGST can be 40%.
Supplies on which tax would be levied w.e.f. a notified date	❑ petroleum crude ❑ high speed diesel ❑ motor spirit (commonly known as petrol) ❑ natural gas and ❑ aviation turbine fuel	
Tax payable under reverse charge	❑ Supply of goods or services or both, notified by the Government. ❑ Supply of specified categories of goods or services or both by an unregistered supplier to specified class of registered persons.	
Tax payable by the electronic commerce operator	The Government may notify specific categories of services the tax on supplies of which shall be paid by electronic commerce operator (ECO) as if such services are supplied through it.	

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3. Composition levy [Section 10]

Composition levy

•An option for specified categories of small taxpayers to pay GST at a very low rate on the basis of turnover.

Advantages

•Low rates of tax
•Hassel free simple procedures for such taxpayers
•Simple calculation of tax based on turnover
•A very simple annual return

Composition Levy

- Composition levy provided under section 10(1) and 10(2)
- Composition levy provided under section 10(2A)

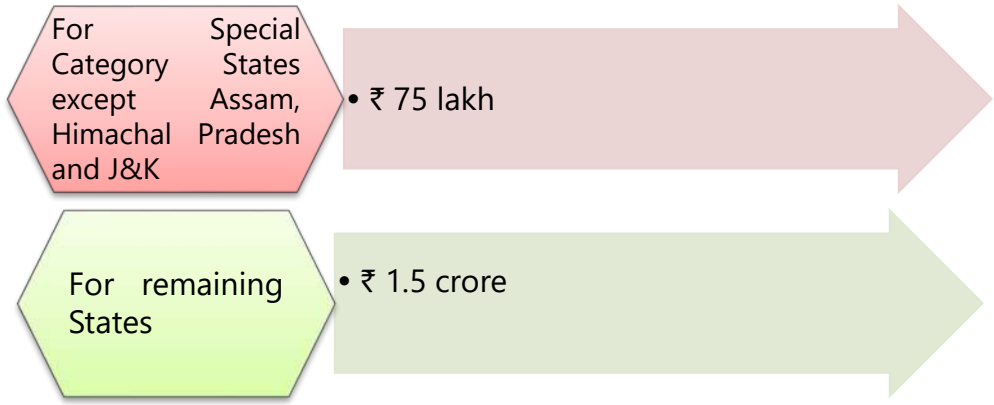
Procedure for opting for the scheme

Category of persons	How to exercise option	Effective date of composition levy
New registration under GST	Intimation in the registration form	From the effective date of registration
Registered person opting for composition levy	Intimation in prescribed form	Beginning of the financial year

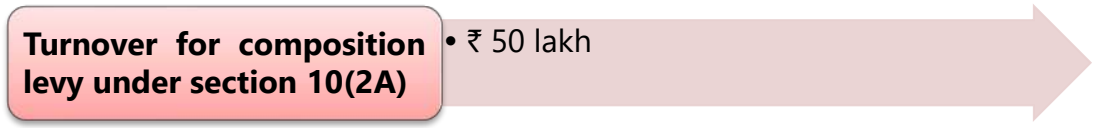
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Turnover limit for composition levy

Turnover limit in preceding FY to opt for composition levy under section 10(1)



Turnover limit in preceding FY to opt for composition scheme under section 10(2A)



Rates of tax

Composition scheme	Category of registered persons	Rate
For goods	Manufacturer	1% (½% CGST + ½% SGST/UTGST) of turnover
	Restaurant service	5% (2½% CGST + 2½% SGST/UTGST) of turnover
	Others	1% (½% CGST + ½% SGST/UTGST) of turnover of taxable supplies
For services		6% (3% CGST + 3% SGST/UTGST) of turnover

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Conditions and restrictions for composition levy

Person opting for composition:

- is neither a casual taxable person nor a non-resident taxable person
- shall pay tax under section 9(3)/9(4) on inward supply
- is not engaged in the manufacture of notified goods** [or notified services also in case of composition scheme under section 10(2A)]
- shall mention the words **"composition taxable person, not eligible to collect tax on supplies"** at the top of the bill of supply issued by him
- shall mention the words "composition taxable person" at a prominent place at his place of business

*** Goods notified for a registered person opting for composition scheme under section 10(1) are ice cream, pan masala, tobacco, aerated waters fly ash bricks, fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.*

Who are NOT eligible to opt for composition scheme?

Registered person who is not eligible for composition scheme under section 10(1)	Registered person who is not eligible for composition scheme under section 10(2A)
Supplier engaged in making any supply of goods or services which are not leviable to tax i.e. non-taxable supplies	Supplier engaged in making any supply of goods or services which are not leviable to tax i.e. non-taxable supplies
Supplier engaged in making any inter-State outward supplies of goods or services	Supplier engaged in making any inter-State outward supplies of goods or services
Person supplying any services through an electronic commerce operator who	Person supplying any services through an electronic commerce operator who

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is required to collect tax at source under section 52	is required to collect tax at source under section 52
Manufacturer of ice cream, pan masala, tobacco, aerated waters fly ash bricks, fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.	Manufacturer of notified goods or supplier of notified services
Supplier who is either a casual taxable person or a non-resident taxable person	Supplier who is either a casual taxable person or a non-resident taxable person.
Supplier of services, save as provided in section 10(1)**	

***A registered person opting for composition scheme under section 10(1) is allowed to supply services [other than restaurant services] alongwith supply of goods or supply of restaurant services of value not exceeding 10% of the turnover in the preceding financial year in a State/Union territory or ₹ 5 lakh, whichever is higher. Here, while computing turnover in a State/UT, interest on loans/deposit/advances will not be taken into account.*

Other points

Bill of supply shall be issued instead of tax invoice.

Tax shall not be collected from recipient of supply

Input tax credit shall not be availed

Composition Scheme if availed shall include all registered persons having same PAN

Penalty shall be imposed in case of irregular availment of the composition scheme

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TEST YOUR KNOWLEDGE

1. *State the person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:*

   (a) Services provided by an arbitral tribunal to any business entity.

   (b) Sponsorship services provided by a company to an individual.

   (c) Renting of immovable property service provided by the Central Government to a registered business entity.

2. *Vivek Goyal, an independent director, appointed in accordance with the provisions of the Companies Act, 2013, of A2Z Pvt. Ltd., has received sitting fee amounting to ₹ 1 lakh from A2Z Pvt. Ltd for attending the Board meetings. Who is the person liable to pay tax in this case?*

3. *Raghu Associates provided sponsorship services to WE-WIN Cricket Academy LLP. Determine the person liable to pay tax in this case.*

4. *Legal Fees is received by Sushrut, an advocate, from M/s. Tatva Trading Company, engaged in making taxable supplies and located in Maharashtra, having turnover of ₹ 50 lakh in preceding financial year. Who is the person liable to pay tax in this case?*

5. *State the person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:*

   (a) Services supplied by an insurance agent to an insurance company.

   (b) Services supplied by a recovery agent to a car dealer.

   (c) Security services (services provided by way of supply of security personnel) provided by a partnership firm to a registered person paying tax under regular scheme.

6. *Sultan & Sons, a partnership firm, based in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and product 'Q' exempt by way of a notification, only within the State of Maharashtra. Its aggregate turnover in the preceding financial year is ₹ 130 lakh. The firm wishes to opt for composition scheme under sub-sections (1) & (2) of section 10 in the current financial year. However, its accountant is of the view that a person engaged in making supply of exempt goods is not eligible for the said scheme. Discuss.*

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Note: Assume that Sultan & Sons is not engaged in manufacture of goods as notified under section 10(2)(e).

7. *A person availing composition scheme, under sub-sections (1) & (2) of section 10, in Haryana during a financial year crosses the turnover of ₹ 1.5 crore in the month of December. Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March? Please advise.*

8. *Determine whether the suppliers in the following cases are eligible for composition levy, under section 10(1) & 10(2), provided their turnover in preceding year does not exceed ₹ 1.5 crore:*

   (i) Mohan Enterprises is engaged only in trading of pan masala in Rajasthan and is registered in the same State.

   (ii) Sugam Manufacturers has registered offices in Punjab and Haryana and sells goods manufactured by it in the neighbouring States.

9. *Subramanian Enterprises has two registered places of business in Delhi. Its aggregate turnover in the preceding financial year for both the places of business is ₹ 120 lakh. It wishes to pay tax under composition levy, under section 10(1) & 10(2), for one of the places of business for the current financial while continuing paying under normal levy for other. You are required to advice Subramanian Enterprises whether he can do so?*

10. *Mr. Ajay has a repair centre, registered under GST, where electronic goods are repaired/serviced. His repair centre is located in State of Rajasthan and he is not engaged in making any inter-State supply of services. His aggregate turnover in the preceding financial year (FY) is ₹ 45 lakh.*

    With reference to the provisions of the CGST Act, 2017, examine whether Mr. Ajay can opt for the composition scheme under section 10(1) &10(2) for the current financial year? Or whether he is eligible to avail benefit of composition scheme under section 10(2A)? Considering the option of payment of tax available to Mr. Ajay, compute the amount of total tax payable by him in the current F.Y. assuming that his aggregate turnover in the current financial year is ₹ 35 lakh.

    Will your answer be different if Mr. Ajay procures few items required for providing repair services from neighbouring State of Madhya Pradesh?

11. *M/s United Electronics, a registered dealer, is supplying all types of electronic appliances in the State of Karnataka. Its aggregate turnover in the preceding financial year by way of supply of appliances is ₹ 120 lakh.*

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The firm also expects to provide repair and maintenance service of such appliances from the current financial year.

With reference to the provisions of the CGST Act, 2017, examine:

(i) Whether the firm can opt for the composition scheme, under section 10(1) and 10(2), for the current financial year, as the turnover may include supply of both goods and services?

(ii) If yes, up to what amount, the services can be supplied?



ANSWERS

1. **(a)** Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.

(b) GST on sponsorship services provided by any person other than body corporate to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided by a body corporate to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – company.

(c) GST on services supplied by Central Government excluding the Ministry of Railways (Indian Railways), State Government, Union territory or local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered business entity.

2. GST on supply of services by director of a company to the said company located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., A2Z Pvt. Ltd.

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3. In case of services provided by any person other than body corporate by way of sponsorship to any body corporate or partnership firm, GST is liable to be paid under reverse charge by such body corporate or partnership firm located in the taxable territory.

Further, for the reverse charge purposes, Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 is also be considered as a partnership firm.

Therefore, in the given case, WE-WIN Cricket Academy LLP is liable to pay GST under reverse charge.

4. GST on legal services supplied by an advocate [Mr. Sushrut] to any business entity [M/s. Tatva Trading Company] located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., M/s. Tatva Trading Company.

5. **(a)** GST on services supplied by an insurance agent to any person carrying on insurance business located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – Insurance Company.

(b) GST on services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company located in the taxable territory is payable under reverse charge. However, since, in the given case, services are being supplied by a recovery agent to a car dealer, GST is payable under forward charge by the service provider - recovery agent.

(c) GST on security services (services provided by way of supply of security personnel) provided by any person other than a body corporate to a registered person, located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered person receiving the services.

6. The view taken by the accountant of Sultan & Sons is not valid in law. A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in

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Delhi. Further, such person must not be engaged in making any supply of goods or services which are not leviable to tax under this Act and must not be engaged in making any inter-State outward supplies of goods or services, for being eligible to pay tax under said scheme.

In the given case, the aggregate turnover of Sultan & Sons does not exceed ₹ 1.5 crore. Further, it is engaged in making only intra-State supply of goods and Product P supplied by it is taxable and Product Q supplied by it is leviable to tax, though exempted by way of notification. Therefore, it is eligible for composition levy under section 10(1) & 10(2) in the current year.

7. No. The option to pay tax under composition scheme lapses immediately from the day on which the aggregate turnover of the person availing composition scheme under section 10(1) during the financial year exceeds the specified limit (₹ 1.5 crore). Once he crosses the threshold, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.

Every person who has furnished such an intimation, may electronically furnish at the common portal, a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn, within a period of 30 days from the date from which the option is withdrawn.

8. **(i)** A supplier engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY is not eligible for composition scheme under section 10(1) and 10(2). Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes, aerated waters, fly ash bricks, fly ash aggregate, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles are notified under this category. However, in the given case, since Mohan Enterprises is engaged in trading of pan masala and not manufacture and his turnover does not exceed ₹ 1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.

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(ii) Since supplier of inter-State outward supplies of goods or services is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.

9. A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Delhi. Since the aggregate turnover of Subramanian Enterprises does not exceed ₹ 1.5 crore, it is eligible for composition levy in the current year. However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Subramanian Enterprises either have to opt for composition levy for both the places of business or under normal levy for both the places of business.

10. Section 10(1) provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore (₹ 75 lakh in Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir), may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates. However, as per proviso to section 10(1), person who opts to pay tax under composition scheme may supply services other than restaurant services, of value not exceeding 10% of the turnover in a State or Union territory in the preceding financial year or ₹ 5 lakh, whichever is higher.

In the given case, since Mr. Ajay is an exclusive supplier of services other than restaurant services [viz. repair services], he is not eligible for composition scheme under section 10(1) & 10(2).

However, section 10(2A) provides an option to a registered person (subject to certain conditions) whose aggregate turnover in the preceding financial year is upto ₹ 50 lakh and who is not eligible to pay tax under composition scheme under section 10(1) & 10(2), to pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State or Union territory.

Thus, in view of the above-mentioned provisions, Mr. Ajay is eligible to avail the composition scheme under section 10(2A) as his aggregate turnover in the preceding FY does not exceed ₹ 50 lakh and he is not eligible to opt for the composition scheme under section 10(1) & 10(2).

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Thus, the amount of tax payable by him as per the composition scheme under section 10(2A) is ₹ 2,10,000 [6% of ₹ 35 lakh].

A registered person cannot opt for composition scheme under section 10(2A), if, *inter alia*, he is engaged in making any inter-State outward supplies. However, there is no restriction on inter-State procurement of goods. Hence, answer will remain the same even if Mr. Ajay procures few items from neighboring State of Madhya Pradesh.

11. **(i)** The registered person, whose aggregate turnover in the preceding financial year does not exceed ₹ 1.5 crore, may opt to pay tax under composition levy, under section 10(1) and 10(2).

The scheme can be availed by an intra-State supplier of goods and supplier of restaurant service.

However, the composition scheme permits supply of marginal services (other than restaurant services) for a specified value along with the supply of goods and restaurant service, as the case may be.

Thus, M/s United Electronics can opt for composition scheme for the current financial year as its aggregate turnover is less than ₹ 1.5 crore in the preceding financial year and it is not engaged in inter-State outward supplies.

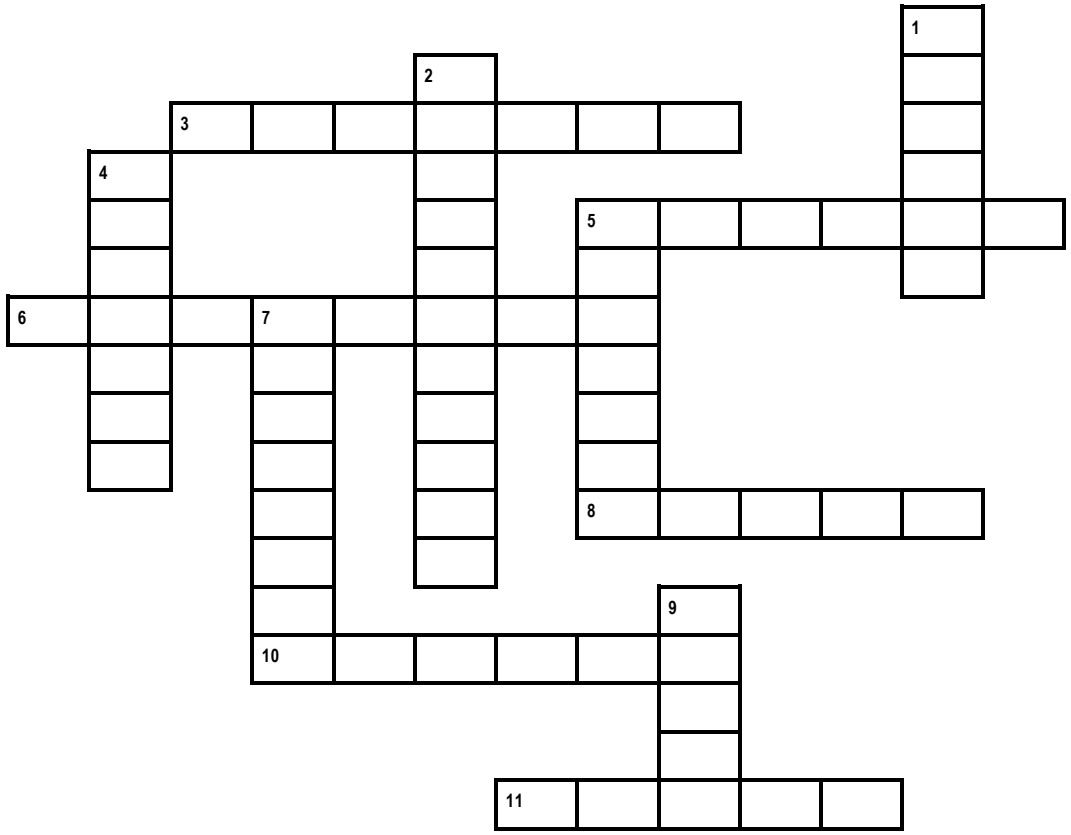
(ii) The registered person opting for composition scheme, under section 10(1) and 10(2), can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher, in the current financial year.

Thus, M/s United Electronics can supply repair and maintenance services up to a value of ₹ 12 lakh [10% of ₹ 120 lakh or ₹ 5 lakh, whichever is higher] in the current financial year.

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CROSSWORD



ACROSS

3. Manufacturer of _____are not eligible for opting for composition levy under section 10(1).

5. GST on _____ shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

6. Tax on service by way of renting of residential _____ to a registered partnership firm is payable under reverse charge.

8. Tax on renting of immovable property services supplied by a _____ authority to a registered person is payable under reverse charge.

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10. Supply of goods which attracts nil rate of tax is an _____ supply.

11. Supplier engaged in making any _____ State outward supplies of goods or services is not eligible for opting for composition levy under section 10(1).

DOWNWARDS

1. HSN stands for Harmonized _____ of Nomenclature.

2. Tax on services provided by business _____ to a banking company is payable under reverse charge.

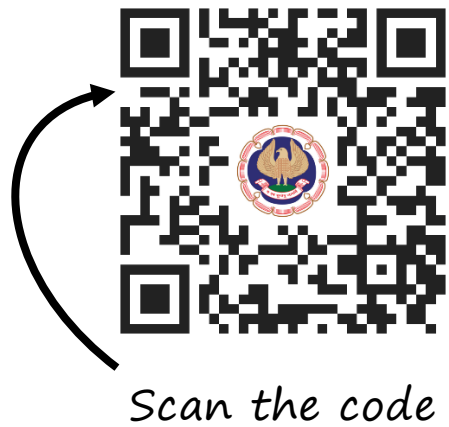
4. Tax on supply of services of security personnel by a body corporate to a registered person is payable under _____ charge.

5. Electronic Commerce means the supply of goods and/or services including digital products over _____ or electronic networks.

7. Supplier engaged in making any supply of goods not _____to tax is not eligible for opting for composition levy under section 10(1).

9. CGST and _____ are payable on intra-State supply of goods in Ladakh. (Acronym)

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



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CHAPTER 4

PLACE OF SUPPLY



The section numbers referred to in the Chapter pertain to the IGST Act, 2017, unless otherwise specified. Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

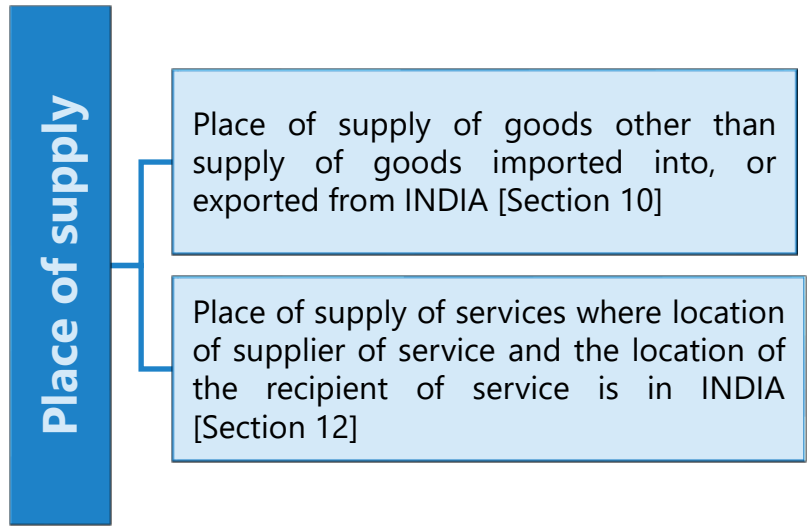
LEARNING OUTCOMES

After studying this chapter, you would be able to -

- explain the provisions relating to determination of place of supply of goods, in case of domestic transactions and analyse the same to determine the place of supply in a given situation
- explain the provisions relating to determination of place of supply of services, in case of domestic transactions and analyse the same to determine the place of supply in a given situation

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CHAPTER OVERVIEW



1. INTRODUCTION

GST is a destination-based tax, i.e the tax is levied at the place where the goods or services are consumed, rather than the place where they are produced.



The determination of **'place of supply'** and the 'location of the supplier' is essential to ascertain the nature of supply, i.e. whether a supply is intra-State or inter- State. In other words, these two factors are required to determine whether a supply is subject to SGST/UTGST plus CGST in a given State/ Union territory or else would attract IGST if it is an inter-State supply.

If an inter-State transaction is wrongly treated as intra-State or *vice-versa* and tax paid accordingly, the correct tax will be required to be paid and refund to be

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claimed for tax wrongly paid. Though no interest is levied in such a case, procedural requirements increase and working capital gets blocked where the amount involved is huge. Hence, determining correct place of supply is of the paramount importance.

Section 2(86) of the CGST Act, 2017 defines 'place of supply' to mean the place of supply as referred to in Chapter V of the Integrated Goods and Services Tax Act, 2017. Thus, in order to understand the provisions of the place of supply, we need to refer the provisions of the relevant Chapter of the Integrated Goods and Services Tax Act, 2017.

In simple words, **'place of supply'** is the place where the supply is consumed. Thus, place of supply determines the jurisdiction where the tax revenue should reach.



Now the question arises as how to determine the place of supply?

Goods, usually being tangible do not pose any significant problems for determination of their place of consumption. Services, usually being intangible pose problems w.r.t determination of place of supply mainly due to following factors:

- The manner of delivery of a service could be altered easily.

  For example, telecom service could change from post-paid to pre-paid or billing address of the customer could be changed, repair or maintenance of software could be changed from onsite to online; banking services earlier required customer to go to the bank, now the customer can avail service from anywhere.



- Service provider, service receiver and the service provided may not be ascertainable or may easily be suppressed as nothing tangible moves and there would hardly be any trail.



- For supplying a service, a fixed location of service provider is not mandatory and even the service recipient may receive service while on the move. The location of billing could be changed overnight.

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- Sometime the same element may flow to more than one location, for example, construction or other services in respect of a railway line, a national highway or a bridge on a river which originate in one State and end in the other State.





Similarly, a copyright for distribution and exhibition of film could be assigned for many States in a single transaction or an advertisement or a programme is broadcasted across the country at the same time.





An airline may issue seasonal tickets, containing say 10 vouchers which could be used for travel between any two locations in the country.

The card issued by New Delhi metro could be used by a person located in Noida, or New Delhi or Faridabad, without the New Delhi metro being able to distinguish the location or journeys at the time of receipt of payment.



- Services are continuously evolving and thus, continue to pose newer challenges. For example, 15-20 years back no one could have thought of DTH, online information, online banking, online booking of tickets, internet, mobile telecommunication etc.



Considering the difficulties in determining the actual place of consumption of services, the various elements involved in a service transaction are used as proxies for determining the place of consumption or place of supply of such services. A proxy which gives more appropriate result than others for determining the place of supply, could be used for determining the place of supply.

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The various elements used for determining the place of supply of a service are:

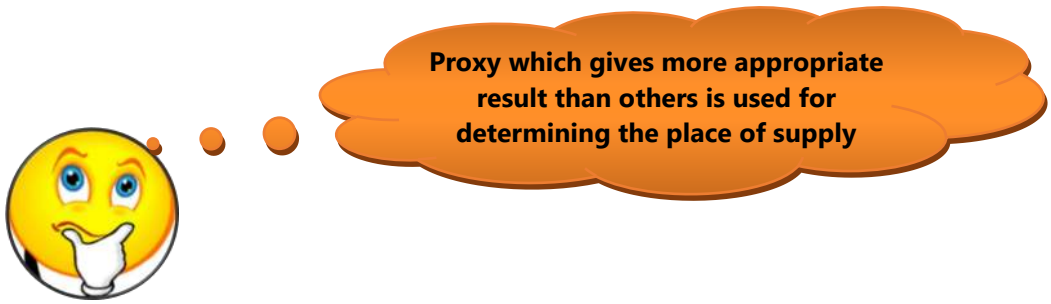
(a) location of service provider

(b) location of service receiver

(c) place where the activity takes place/ place of performance

(d) place where the service is consumed

(e) place/person to which/whom actual benefit flows





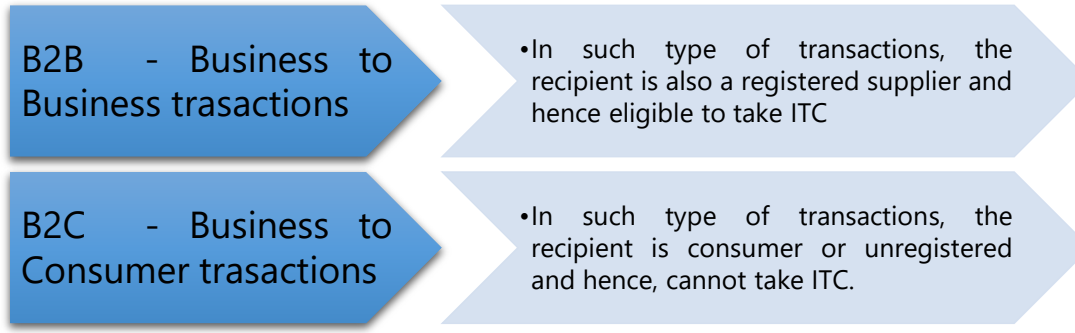
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Separate rules for determining place of supply in respect of B2B and B2C transactions

In respect of **B2B (business to business) transactions**, the supply is made by a registered person to another registered person and the taxes paid are taken as credit by the recipient, so such transactions are just pass through. GST collected on B2B supplies effectively create a liability for the Government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit (ITC) for payment of future tax liability. **For B2B transactions, the location of recipient [LOR] takes care in almost all the situations as further credit is to be taken by recipient.** The recipient usually further supplies to another customer.

The supply is consumed only when a B2B transaction is further converted into B2C (business to consumer) transaction.

In respect of **B2C transactions**, the supply is made to an unregistered person who consumes the same and the taxes paid actually reach the Government.



Provisions for determination of place of supply in GST law

Basis the above guiding principles, **Chapter V of the IGST Act [Sections 10 to 14]** prescribes both general and specific rules to determine place of supply of goods and services in various circumstances. These provisions prescribe the provisions relating to place of supply of goods and services in domestic as well as cross-border transactions.

At the intermediate level, our discussion will be restricted to the provisions relating to the **place of supply of goods and services in domestic transactions** [Section 10 and Section 12] only.

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2. RELEVANT DEFINITIONS

- **Continuous journey** means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

  Explanation––For the purposes of this clause, the term **"stopover"** means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time [Section 2(3)].

  The term **conveyance** has been defined in section 2(34) of the CGST Act to include a vessel, an aircraft and a vehicle.

- **Fixed establishment** means a place other than the place of business which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs [Section 2(7)].

- **Location of the recipient of services** means:

  (a) where a supply is received at a place of business for which registration has been obtained, the location of such place of business;

  (b) where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;

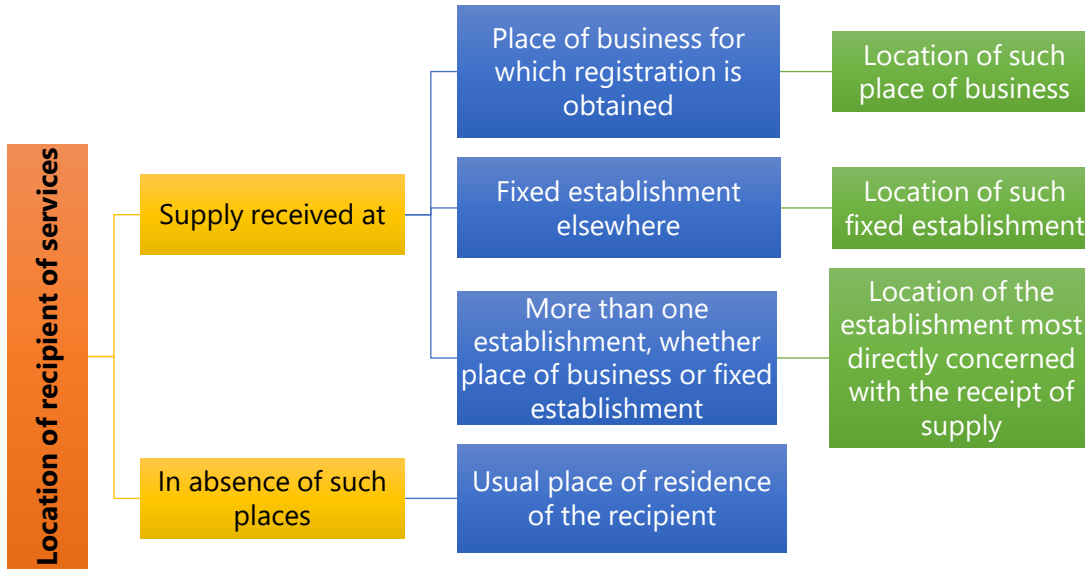
  (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

  (d) in absence of such places, the location of the usual place of residence of the recipient [Section 2(14)].

  The definition of 'fixed establishment' for this purpose has been discussed above. The definition of 'place of business' is discussed later.

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The above definition relates only to services. The term 'location of recipient of goods' has not been defined in the Act.



❑ **Location of the supplier of services** means:

(a) where a supply is made from a place of business for which registration has been obtained, the location of such place of business;

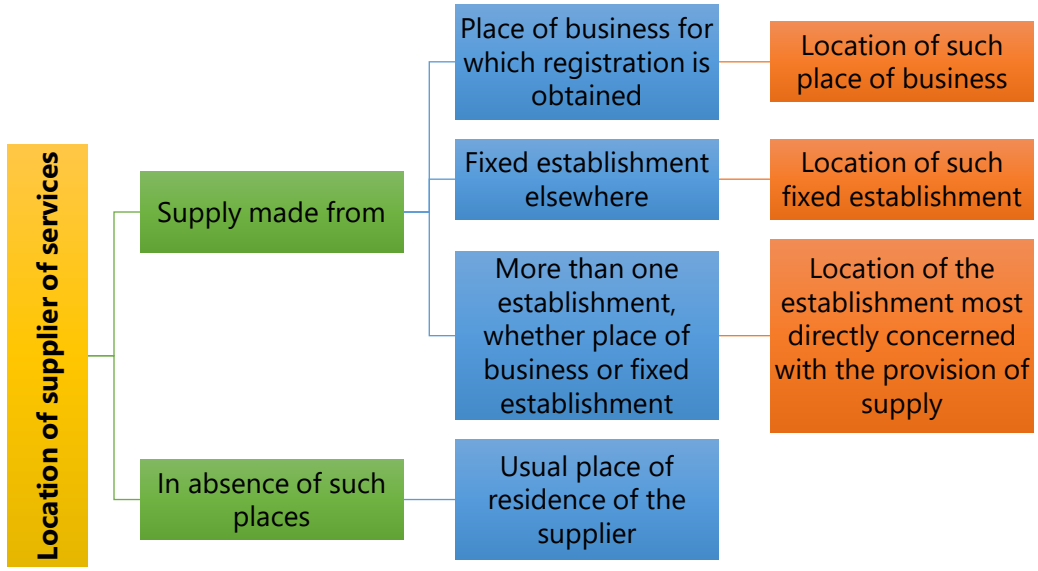
(b) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier [Section 2(15)].

The above definition relates only to services. The term 'location of supplier of goods' has not been defined in the Act.

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As already pointed out that **'Location of supplier of goods'** is not defined in the law, only the location of supplier of services is defined. Services being intangible, sometimes, leave no trail as to the location 'from' where they are supplied and for that reason, a specific definition is required. Whereas in case of goods, it is easier to determine as to where the goods are actually 'located'. Taking a cue from the definition of the place of supply (defined below), location of supplier of goods is where business is ordinarily carried on or where the goods themselves are located.

❑ **Place of business** includes



(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called; [Section 2(85)]



This is an inclusive definition and is applicable for both goods and services.

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- **Supply** shall have the same meaning as assigned to it in section 7 of the Central Goods and Services Tax Act [Section 2(21)].
- **Recipient** of supply of goods or services or both, means—
  - where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
  - where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
  - where no consideration is payable for the supply of a service, the person to whom the service is rendered,
  - and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93) of the CGST Act].
- **Supplier** in relation to any goods or services or both, shall **mean** the person supplying the said goods or services or both and shall **include** an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

  However, a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims [Section 2(105) of the CGST Act].
- **Words and expressions** used and not defined in the IGST Act but defined in the after supplies Central Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts [Section 2(24)].

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3. PLACE OF SUPPLY OF GOODS OTHER THAN SUPPLY OF GOODS IMPORTED INTO, OR EXPORTED FROM INDIA [SECTION 10]

STATUTORY PROVISIONS

Section 10	Place of supply of goods other than supply of goods imported into, or exported from India	
Sub-section	**Clause**	**Particulars**
(1)	The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,––	
	(a)	where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;
	(b)	where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;
	(c)	where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;
	(ca)	Where the supply of goods is made to a person other than a registered person, the place of supply shall,

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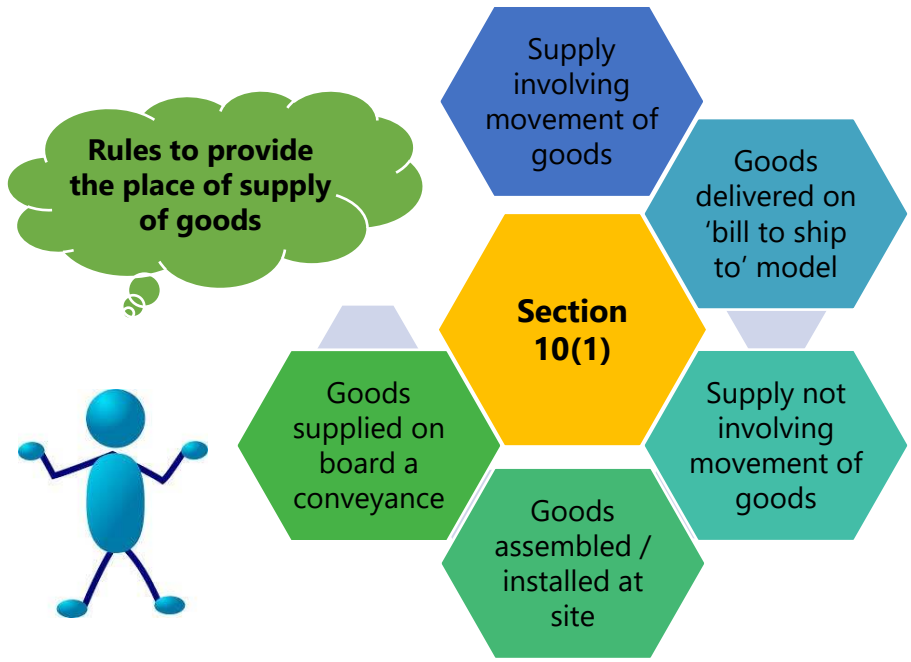
		notwithstanding anything contrary contained in clause (a) or clause (c), be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice. Explanation—For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person
	(d)	*where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;*
	(e)	*where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.*
(2)	*Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.*	



ANALYSIS

Section 10 prescribes the provisions for determining the place of supply of goods in domestic transactions, i.e. within India. Sub-section (1) of section 10 sets out five rules to provide the place of supply of goods in the following specific situations:

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Each of the above situation is discussed below. For residual cases, sub-section (2) of section 10 provides that where the place of supply of goods cannot be determined, the Government may prescribe the manner to ascertain the same.

It must be kept in mind that the provisions of section 10 discussed hereunder are all in relation to domestic supply of goods.

(i) Supply involving movement of goods [Section 10(1)(a)]

In case of supply involving movement of goods, the place of supply is the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.

The 'location of the goods' is a question of fact to be ascertained by observing the journey that the goods so supplied make from their origin (from supplier) to termination (with the recipient). This movement, however, can be undertaken by the supplier or recipient or even any other person (like transporter) after having disclosed the destination of the movement of goods.

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It is important to understand that this provision does not apply in cases where there is no movement of goods. Also, the provision does not link itself to transfer of property in goods but to the movement of the goods.



(1) Babban Pvt. Ltd. of Nasik, Maharashtra sells 10 refrigerators to Chaggan Pvt. Ltd. of Pune, Maharashtra for delivery at place of business of Chaggan Pvt. Ltd. in Pune. The place of supply is Pune in Maharashtra.

(2) Babban Pvt. Ltd. of Nasik, Maharashtra sells 20 refrigerators to Dhakkan Pvt. Ltd. of Ahmedabad, Gujarat for delivery at place of business of Dhakkan Pvt. Ltd. in Ahmedabad. The place of supply is Ahmedabad.

(ii) Supply involving movement of goods where goods are delivered to recipient on the instruction of third person – 'Bill to Ship to' Supply [Section 10(1)(b)]

Clause (b) of section 10(1) lays down the provisions to determine the place of supply in cases where there is a tripartite arrangement of supply, commonly known as 'bill to ship to' transactions or where there is a sale of goods in transit by the original buyer/ agents.

As per section 10(1)(b),

If the goods are delivered to a recipient or any other person by the supplier

↓

on the instructions of a third person (original buyer), who may be acting as an agent or on his own account

↓

before or during movement of goods (but not after the movement terminates)

↓

whether or not there is a transfer of documents of title to the goods

↓

it is deemed that the third person has received the goods and the **place of supply is the principal place of business of such third person**

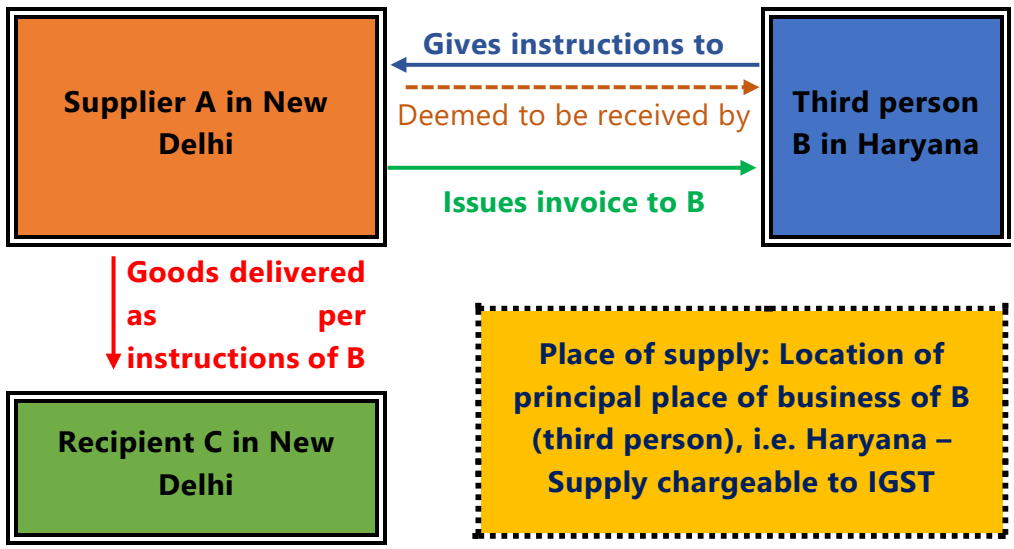
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In simple words, **where goods are delivered by the supplier to the recipient at the instruction of a third person, the place of supply is the principal place of business of such third person and not of the actual recipient.**

It is important to identify the two supplies involved in this transaction– one supply is by supplier to third person and second supply is by third person to recipient. This provision deals only with the first limb of supply, i.e. supply by supplier to third person.

Second limb of supply, i.e. supply by third person to recipient will be governed by the provisions of section 10(1)(a), i.e. the place of supply will be the location of the goods at the time when the movement of goods terminates (ends) for delivery to the recipient.

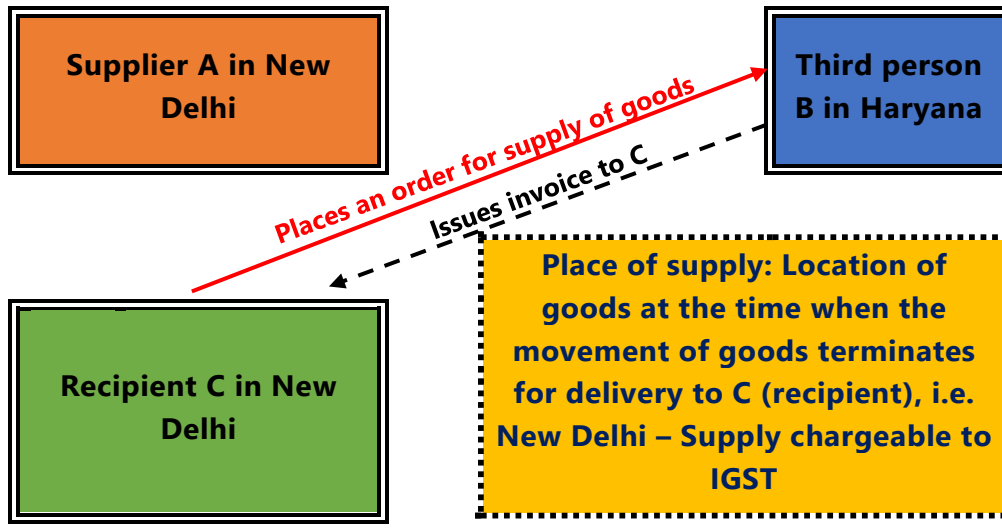
Supply by supplier to third person



Even though section 2(93) of CGST Act defines recipient, *inter alia,* as the 'payer of the consideration'; in this provision, recipient' is the one who actually collects the goods and the third person is the one who enjoys privity with the supplier to be able to direct him to deliver the goods and also usually makes payment to the supplier.

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Supply by third person to recipient





Tolaram Ltd. (a supplier registered in Uttar Pradesh having principal place of business at Noida) asks Bholaram Ltd. of Ahmedabad, Gujarat to deliver 50 washing machines to its buyer Jholaram Ltd. at Jaipur, Rajasthan. The place of supply of supply between Tolaram Ltd. and Jholaram Ltd. is _____ and place of supply of supply between Bholaram Ltd. and Tolaram Ltd. is _____.

(a) Rajasthan; Uttar Pradesh	(b) Uttar Pradesh; Gujarat;	(c) Uttar Pradesh; Rajasthan;	(d) Rajasthan; Gujarat

(iii) Supply not involving movement of goods [Section 10(1)(c)]

If the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient.

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(3) Newton Pvt. Ltd. (New Delhi) has leased its machine (cost ₹ 8,00,000) to Gravity Pvt. Ltd. (Noida, Uttar Pradesh) for production of goods on a monthly rent of ₹ 35,000. After 12 months Gravity Pvt. Ltd. requested Newton Pvt. Ltd. to sell the machine to it for ₹ 5,00,000, which is agreed to by Newton Pvt. Ltd.



In this case, there will be no movement of goods and the same will be sold on as is where is basis. Thus, the location of the machine at the time of such sale will be the place of supply, i.e. Noida.

(4) Gangadhar Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from Gajodhar Builders (Gurugram). It also enters into a separate contract with Gajodhar Builders for purchase of pre-installed office furniture and fixtures in the building.



Though there will be no GST liability on purchase of building (as sale of building is covered under Schedule III to CGST Act), office furniture and fixtures will be liable to GST. Since there is no movement of office furniture and fixtures, the place of supply of such goods is their location at the time of delivery to the recipient (Gangadhar Ltd.), i.e. Gurugram.

(iv) Supply of goods to an unregistered person [Section 10(1)(ca)]

Where the supply of goods is made to a person other than a registered person, the place of supply shall be:

(i) the location as per the address of the said person recorded in the invoice issued in respect of the said supply and

(ii) the location of the supplier where the address of the said person is not recorded in the invoice.

For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person.

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Thus, place of supply in case of sales to unregistered persons is as follows:

Where the **address** of the unregistered person **is recorded** in the invoice.	•Place of supply is location as per address of unregistered person recorded in the invoice**
Where the **address** of the unregistered person **is not recorded** in the invoice.	•Place of supply is location of the supplier

**Simply mentioning the State of unregistered person instead of complete address would be sufficient.

There are cases where an unregistered person purchases goods over the counter (OTC) in one State and thereafter, transports the goods to another State (generally, the State where he resides). For instance, migrant workers, tourists, etc. who come to a State for work, tourism, etc. and purchase goods in that State to take it to their respective State. Similarly, in automobile sector, the residents of a State may travel to another State to purchase vehicle from that State to take advantage of lower registration charges and road tax, which vary from State to State and thereafter, take the vehicle to their State.

In such cases, the place of supply will be determined as per above mentioned provision.

Place of supply of the goods (particularly being supplied through e-commerce platform) to unregistered persons where billing address is different from the address of delivery of goods



Issue: Mr. A (unregistered person) located in X State places an order on an e-commerce platform for supply of a mobile phone, which is to be delivered at an address located in Y State. Mr. A, while placing the order on the e-commerce platform, provides the billing address located in X State. In such a scenario, what would be the place of supply of the said supply of mobile phone, whether the State pertaining to the billing address i.e. State X or the State pertaining to the delivery address i.e. State Y?

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Clarification: As per the provisions of section 10(1)(ca) discussed above, the **place of supply of goods shall be the address of delivery of goods recorded on the invoice** i.e. State Y in the present case where the delivery address is located.



Also, in such cases involving supply of goods to an unregistered person, where the billing address and delivery address are different, the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determination of place of supply of the said supply of goods[1].

(v) Supply involving installation or assembly of goods [Section 10(1)(d)]

If the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly.

This is a case of composite supply of goods wherein two supplies are involved, supply of goods and ancillary supply of installation/assembling service. The principal supply is supply of goods which are being installed.



(5) Ghoomghoom Pvt. Ltd. (New Delhi) purchases a machine from Dhoom Pvt. Ltd. (New Delhi) for being installed in its factory at Noida, Uttar Pradesh. The place of supply is the site at which the machine is installed, i.e. Noida.





(6) Pure Refineries (Mumbai, Maharashtra) gives a contract to Mowgli Ltd. (Ranchi, Jharkhand) to supply a machine which is required to be assembled in a power plant in its refinery located in Kutch, Gujarat. The place of supply is the site of assembly of machine, i.e. Kutch even though Pure refineries is located in Maharashtra.

(vi) Goods supplied on board a conveyance [Section 10(1)(e)]

When goods are sold supplied during a journey on board a conveyance, it becomes difficult to determine the place of supply of goods – whether it is the location from where the journey originates or whether it is the destination or whether it is any of the locations covered by the conveyance during the journey.

[1] *Circular No. 209/3/2024 GST dated 26.06.2024*

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Therefore, section 10(1(e) specifically provides for determination of place of supply of goods supplied on board a conveyance.

Examples of goods supplied on board a conveyance can be books and miscellaneous items supplied by the hawkers in train etc.

Section 10(1)(e) lays down that **place of supply of goods supplied on a board a conveyance like aircraft, train, vessel, motor vehicle is the location where such goods have been taken on board.**

Place of supply of goods supplied on board a conveyance is determined under this provision even if the supply has been made by any of the passenger on board the conveyance and not by the carrier of the conveyance.



(7) Maurya (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey.



The place of supply of goods is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.

4. PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OF SERVICE AND THE LOCATION OF THE RECIPIENT OF SERVICE IS IN INDIA [SECTION 12]

STATUTORY PROVISIONS

Section 12	***Place of supply of services where location of supplier of service and the location of the recipient of service is in India***	
Sub-section	***Clause***	***Particulars***
(1)		*The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.*

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(2)	*The place of supply of services, except the services specified in sub-sections (3) to (14),—*		
	(a)	*made to a registered person shall be the location of such person;*	
	(b)	*made to any person other than a registered person shall be,—*	
		(i)	*the location of the recipient where the address on record exists; and*
		(ii)	*the location of the supplier of services in other cases.*
(3)	*The place of supply of services,—*		
	(a)	*directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or*	
	(b)	*by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or*	
	(c)	*by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or*	
	(d)	*any services ancillary to the services referred to in clauses (a), (b) and (c),*	
	shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:		
	Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.		

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	Explanation.—Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.		
(4)	*The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.*		
(5)	*The place of supply of services in relation to training and performance appraisal to*		
	(a)	*a registered person, shall be the location of such person;*	
	(b)	*a person other than a registered person, shall be the location where the services are actually performed.*	
(6)	*The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.*		
(7)	*The place of supply of services provided by way of ,—*		
	(a)	*organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or*	
	(b)	*services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,–*	
		(i)	*to a registered person, shall be the location of such person;*
		(ii)	*to a person other than a registered person, shall be the place where the event is actually held and if*

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			the event is held outside India, the place of supply shall be the location of the recipient.
	Explanation.—Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.		
(8)	*The place of supply of services by way of transportation of goods, including by mail or courier to,—*		
	(a)	*a registered person, shall be the location of such person;*	
	(b)	*a person other than a registered person, shall be the location at which such goods are handed over for their transportation.*	
(9)	*The place of supply of passenger transportation service to,—*		
	(a)	*a registered person, shall be the location of such person;*	
	(b)	*a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:*	
	Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (2).		
	Explanation.—For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.		
(10)	*The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.*		

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(11)	*The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall,—*		
	(a)	*in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;*	
	(b)	*in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;*	
	(c)	*in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,—*	
		(i)	*through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or*
		(ii)	*by any person to the final subscriber, be the location where such pre- payment is received or such vouchers are sold;*
	(d)	*in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services:*	
	Provided that where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:		
	Provided further that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the		

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	record of the supplier of services shall be the place of supply of such services.	
	Explanation.—Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.	
(12)	*The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:*	
	Provided that if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.	
(13)	*The place of supply of insurance services shall,—*	
	(a)	*to a registered person, be the location of such person;*
	(b)	*to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.*
(14)	*The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.*	

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ANALYSIS

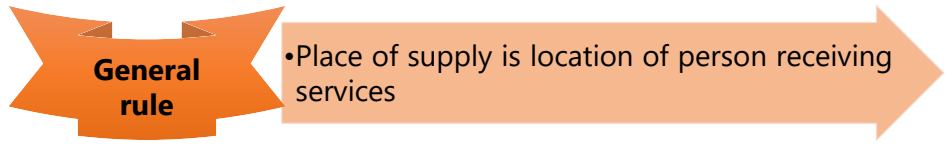
Section 12 contains the provisions for determining the place of supply of services where both the 'location of supplier of services' and the 'location of recipient of services' are in India[2].

Section 12 lays down a general rule to determine the place of supply of services as well as few other rules to determine place of supply of certain specific services. Thus, place of supply is determined as per general rule in respect of services other than the ones covered by the specific rules. It is also important to note that in many cases, the section provides different places of supply for a service supplied to registered and unregistered persons.

It must be kept in mind that the provisions of section 12 discussed hereunder are all in relation to the domestic supply of services.

(i) General Rule [Section 12(2)]

The rule is applicable only if the supply of service does not fall in any of the specific cases provided under section 12. The rule provides that the **place of supply of services made to a registered person is the location of the person receiving the services.** Since the supplier has the GSTIN of the person receiving the service, the location of such GSTIN is the place of supply.



However, if the services is supplied to an unregistered person, the place of supply is:

a) the location of such unregistered person, if the address of the unregistered person is available in the records of the supplier

b) the location of the supplier of services in other cases.

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[2] *If either of the two persons (supplier or recipient) is outside India, the place of supply is determined by section 13. Provisions relating to determination of place of supply of services where location of supplier or location of recipient is outside India are covered at the Final level.*

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The provision can be summarized as under:

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Supply of services other than the ones specified in sub-sections (3) to (14) of section 12	Location of recipient	a) If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person. b) In other cases, the location of the supplier of services

Clarification regarding place of supply of online services supplied by the suppliers of services to unregistered recipients

It has been clarified that a conjoint reading of section 12(2)(b) of the IGST Act, 2017, section 31(2) of the CGST Act[3] and proviso to rule 46(f) of CGST Rules[4] leads to a conclusion that in respect of supply of services made to unregistered persons, irrespective of the value of the said supply, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice, in cases involving supply of online money gaming or supply of taxable services by or through an electronic commerce operator or supply of online information and database access or retrieval (OIDAR) services.

Recording of the name of State of the unregistered recipient on the tax invoice

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[3] *Section 31(2) of the CGST Act, 2017 has been discussed in detail in Chapter-10 of Module-2 of the Study material. It provides that a registered person must issue a tax invoice for taxable services within a prescribed time, showing all required details. The Government may notify specific service categories where any other document can serve as a tax invoice or where issuing a tax invoice is not required.*

[4] *Rule 46(f) of the CGST Rules, 2017 has been discussed in detail in Chapter-10 of Module-2 of the Study material. It provides that recipient details may be mentioned on invoices if requested by recipient for supplies below ₹ 50,000. However, it mandates mentioning the recipient's State in cases of online gaming or certain e-commerce and digital services to unregistered recipients, regardless of value.*

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in respect of such supply of services shall be deemed as the address on record of the recipient for the purpose of determination of place of supply of the said services under section 12(2)(b) of the IGST Act, 2017.



Accordingly, in such cases, the place of supply of such services shall be considered as the location of the recipient of the services as per provisions of clause (i) of section 12(2)(b) of the IGST Act, 2017.

Combined reading of the definitions of 'electronic commerce' and 'electronic commerce operator' as per section 2(44) and section 2(45) of the CGST Act, along with rule 46(f) of CGST Rules, provides an understanding that all services supplied to unregistered recipients over digital or electronic network, either by the supplier using his own digital or electronic facility / platform or through any other electronic or digital platform owned and operated by an independent electronic commerce operator, will be covered under proviso to rule 46(f) of CGST Rules, 2017.

- *Supplier of online services to record name of State of unregistered recipient irrespective of value of supply*
- *Name of State shall be deemed as address on record*
- *Place of Supply- Location of Recipient*

It is, accordingly, clarified that provisions of proviso to rule 46(f) of CGST Rules, 2017 shall be applicable in respect of all the online supplies of services supplied to an unregistered recipient, in addition to the supply of online money gaming and OIDAR services.

Some of the examples of such services are subscription of e-newspapers and e-magazines, online subscription of entertainment services (e.g. OTT platforms), online telecom services, digital services through mobile applications etc.

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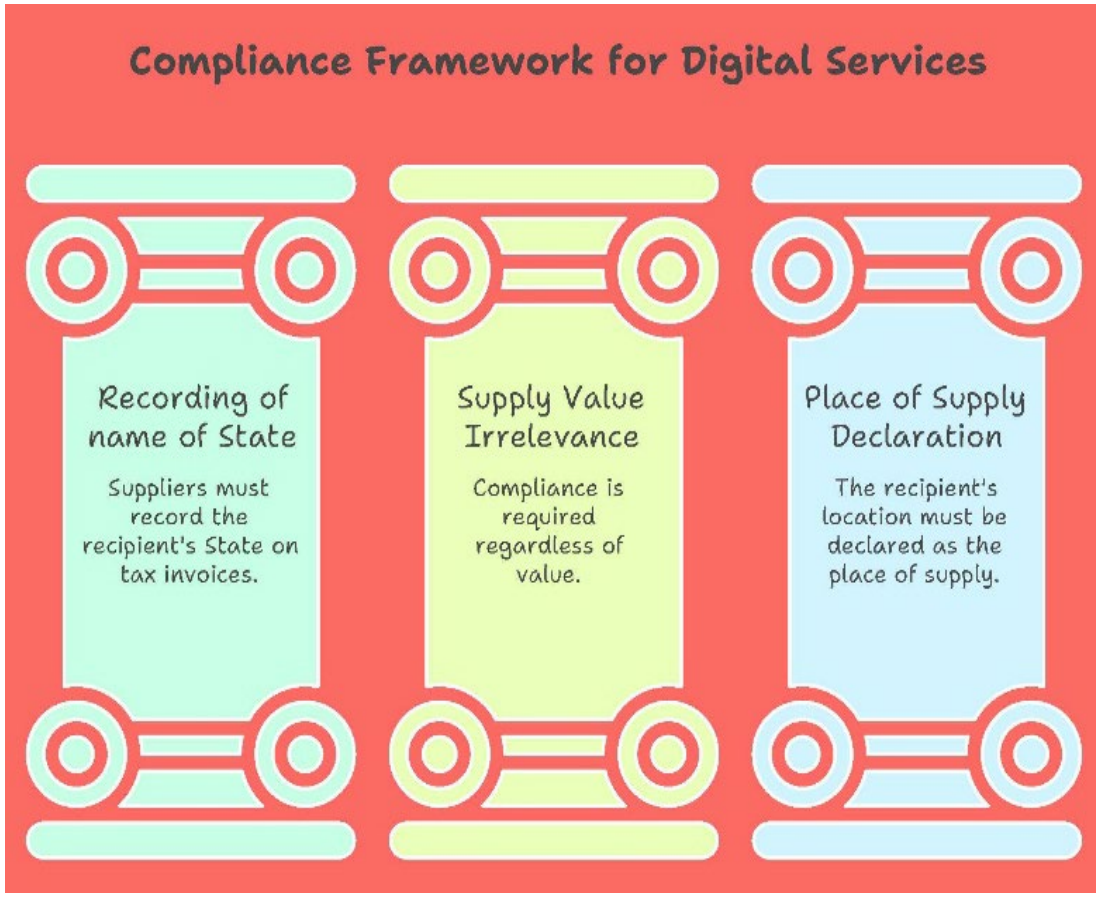
Therefore, in respect of following cases of supplies to unregistered recipients, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice, irrespective of the value of supply of such services, and to declare place of supply of the said services as the location of the recipient (based on the name of state of the recipient) in their details of outward supplies in form GSTR-1/1A.:-

(I) Supply of any such online/ digital services,

(II) OIDAR services and

(III) Online money gaming

[Circular no. 242/36/2024 GST dated 31.12.2024]



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✪ ***The default presumption for place of supply in respect of registered recipients (B2B supply of services) is the location of such person. Since the recipient is registered, address of recipient is always there and the same can be taken as proxy for place of supply.***

✪ ***The default presumption for place of supply in respect of unregistered recipients (B2C supply of services) is also the location of recipient. However, in many cases, the address of recipient is not available; in such cases, location of the supplier of services is taken as proxy for place of supply. For instance, there are various B2C services where the address of the recipient is not recorded by the supplier of services. For instance, a person may visit a bank branch where he is not a regular customer and may get a demand draft against cash or request for conversion of foreign currency into local currency. The bank branch charges commission towards its consideration for the services supplied by it. The place of supply in such cases would be determined based on the location of the branch of the bank as the bank branch doesn't have the address of the said service recipient as a normal business practice.***

(8) Mr. Aryabhatt (a Chartered Accountant registered in New Delhi) makes a supply of service to his client Champak Pvt. Ltd. of Noida, Uttar Pradesh (registered in Uttar Pradesh). In this case, since the supply is made to a registered person, the place of supply is the location of the registered recipient, i.e. Noida.

(9) Mr. Heeralal, a Chartered Accountant in Gurugram, Haryana, (registered in Haryana) provides consultancy services to his client Mr. Pannalal who is a resident of New Delhi but is not registered under GST. If the address of Mr. Pannalal is available in the records of Mr. Heeralal, location of Mr. Pannalal, i.e. New Delhi will be the place of supply, else the location of Mr. Heeralal, which is Gurugram, will be the place of supply.

(ii) Services in relation to an immovable property or lodging accommodation in a hotel/boat/vessel etc. [Section 12(3)]

Section 12(3) covers supplies of services which are (i) **directly** in relation to an immovable property, or (ii) by way of lodging accommodation in a hotel, etc. or a house-boat or vessel, or accommodation in any immovable property for

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organizing social, business functions etc. Such services are classified in the following major categories:

(a) Services provided **directly** in relation to an immovable property including those by



- architects,
- interior decorators,
- surveyors,
- engineers and other related experts,
- estate agents

(b) Service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work

(c) Services provided by way of lodging accommodation by a:



- hotel
- inn
- guest house
- home stay
- club
- campsite
- house boat
- vessel



(d) Services provided by way of accommodation in an immovable property for organizing



- any marriage/reception or matters related thereto,
- official, social, cultural, religious or business functions
- including services provided in relation to such function at such property

(e) Services ancillary to the above-mentioned services

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In all above cases, **location of the immovable property or the boat or the vessel or where such immovable property or the boat or the vessel is intended to be located, is the place of supply.**

This provision is applicable on property already constructed/ developed as well as on the property yet to be constructed/ developed. For example, if the services have been supplied for an immovable property which is yet to be constructed/developed (e.g. architect's services for drawing the plan of a building), the place where such immovable property is intended to be located is the place of supply.

If the immovable property/boat/vessel is located or intended to be located outside India, the location of recipient of the services shall be the place of supply.

example

(10) Sunami Builders (Mumbai) is constructing a factory building for Skylab Pvt. Ltd. (Kolkata), in New Delhi. The place of supply is the location of immovable property, i.e. New Delhi.



(11) Shah and Shah, an architectural firm at Kolkata, has been hired by Maurya Builders of Mumbai to draw up a plan for a high rise building to be constructed by them in Ahmedabad, Gujarat. The place of supply is the place where the immovable property is intended to be located, i.e. Ahmedabad.

(12) Kautilya, a Chartered Accountant, (New Delhi) travels to Mumbai for business and stays in a hotel there. The place of supply of accommodation service is the place where the hotel is located, i.e. Mumbai.

(13) Goluram, a consulting engineer based in Mumbai, Maharashtra renders professional services in respect of an immovable property of Bholuram of Bangalore located in Australia. Since the immovable property is located outside India, the place of supply of service is the location of recipient, i.e. Bangalore and not the place where the immovable property is located (Australia)[5].

[5] *It is important to note that this case should not be confused with the case where either the supplier or recipient is located outside India. Here, the property is located outside India and both supplier and recipients are located in India.*

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The provision can be summarized as under:

Nature of Supply	Location of immovable property/ boat/ vessel	Place of Supply
Supply of services relating to immovable property or lodging accommodation in a hotel/boat/ vessel or accommodation in an immovable property for social/business/religious/cultural functions	**In India**	Location of such immovable property/ boat/ vessel
	Outside India	Location of the recipient

Immovable property/Boat/Vessel located in more than one State/Union territory



Sometimes immovable property may extend to more than one location, for example, a railway line, a national highway or a bridge on a river may originate in one State and end in the other State or a house boat stay may traverse more than one State.

In such cases, i.e. where the immovable property or boat or vessel is located in more than one State/Union territory, the service is deemed to have been supplied in each of the respective States/Union territories, **in proportion to the value for the services determined in terms of the contract or agreement** entered into in this regard.

Manner of determining proportionate value of service in the absence of a contract or agreement

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services supplied in different States/Union territories (where the immovable property or boat or vessel is located) is computed in accordance with rule 4 of the IGST Rules as under:

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S. No.	Type of service in relation to immovable property	Factor which determines the proportionate value of service supplied in different States/Union territories
(a)	Service provided by way of lodging accommodation by hotel, inn, guest house etc. and its ancillary services (other than the cases where such property is a single property located in 2 or more contiguous States/ Union territories or both)	Number of nights stayed in such property *Refer Example 14 on next page*
(b)	• All other services provided in relation to immovable property including services by way of accommodation in any immovable property for organising any marriage or reception etc. and in cases of supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called where such property is a single property located in 2 or more contiguous States or/and Union territories • Services ancillary to services mentioned above	Area of the immovable property lying in each State/ Union territories *Refer Example 15*
(c)	Services by way of lodging accommodation by a house boat or vessel and its ancillary services	Time spent by the boat or vessel in each such State/ Union territories, to be determined on the basis of declaration made by the service provider *Refer Example 16*

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Example 14 - Lodging accommodation by hotel/inn/guest house etc. and ancillary services excluding the property located in 2 or more contiguous States/ Union territories or both



Dondrila Hotel chain charges a consolidated sum of ₹ 30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both Delhi and Uttar Pradesh and the service shall be deemed to have been provided in Delhi and Uttar Pradesh in the ratio of 2:1 respectively. The value of services provided will thus be apportioned as ₹ 20,000/- in Delhi and ₹ 10,000/- in Uttar Pradesh.

Example 15 - Other services provided in relation to immovable property



There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to Munna Constructions. The ratio of land in the two States works out to 12:8 or 3:2 (simplified).

The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.

Example 16 - Lodging accommodation by a house boat or vessel and its ancillary services

A company C provides the service of 24 hours accommodation in a houseboat, which will transit both in Kerala and Karnataka in as much as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the States of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.

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Brijraj is on a business trip for 5 days where he has to stay for 3 days in Mumbai (Maharashtra) and 2 days in Ahmedabad (Gujarat). He stays in the hotels of Royal Group of Hotels for which a consolidated sum of ₹ 50,000/- was charged by the hotel for stay in its two establishments in Mumbai and Ahmedabad for 3 nights and 2 nights respectively. The place of supply in this case is in _____.

(a) Maharashtra and Gujarat both and the service shall be deemed to have been provided in Maharashtra and Gujarat in the ratio 3:2 respectively.	(b) Maharashtra as his stay was longer in Mumbai.	(c) Maharashtra and Gujarat both and the service shall be deemed to have been provided in Maharashtra and Gujarat in the ratio 1:1 respectively.	(d) Gujarat

Clarification regarding place of supply in case of supply of services in respect of advertising sector

Advertising companies are often involved in procuring space on hoardings/ bill-boards erected and mounted on buildings/land, in different States, from various suppliers ("vendors") for providing advertisement services to its corporate clients. There may be variety of arrangements between the advertising company and its vendors as below:

(i) **Issue:** There may be a case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure. What will be the place of supply of services provided by the vendor to the advertising company in such case?

Clarification: The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a).



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As per section 12(3)(a) discussed above, the place of supply of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work shall be the location at which the immovable property is located.

Therefore, the place of supply of service provided by way of supply of sale of space on hoarding/ structure for advertising or for grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.

(ii) **Issue:** There may be another case where the advertising company wants to display its advertisement on hoardings/ billboards at a specific location availing the services of a vendor.

The responsibility of arranging the hoardings/ billboards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertisement company at the said location.

During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure. In this case, what will be the place of supply of such services provided by the vendor to the advertising company?

Clarification: In this case, as the service is being provided by the vendor to the advertising company and there is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property.



Accordingly, the place of supply of the same shall not be covered under section 12(3)(a). Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific

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period of time on his structure possessed/taken on rent by him at the specified location.

Therefore, such services provided by the vendor to advertising company are purely in the nature of advertisement services in respect of which place of supply shall be determined in terms of section 12(2) [discussed earlier in this chapter][6].

(iii) Restaurant and catering service, personal grooming, fitness, beauty and health services [Section 12(4)]

The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is the location where such services are actually performed.






(17) Mr. Dadlani, a businessman from Hyderabad dines in a restaurant at Mumbai while on a business trip. The place of supply of restaurant service is the location where such service is performed, i.e. Mumbai.

(18) Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress based in Mumbai. The place of supply is the location where such service is performed, i.e. Jaipur.

[6] *Circular No. 203/15/2023 GST dated 27.10.2023*

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(iv) Training and performance appraisal services [Section 12(5)]



The place of supply of services in relation to training and performance appraisal depends upon whether the supply is B2B or B2C.

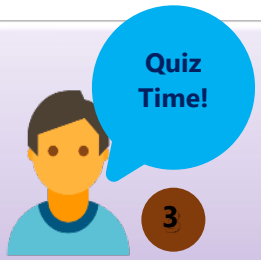
In B2B supply, i.e. **where the recipient of service is a registered person, the place of supply is the location of such person.**

However, in case of B2C supply, i.e. **where the recipient of service is unregistered, the place of supply is the place where the service is actually performed.**



(19) Mr. Suresh (unregistered person based in Noida) signs up with Excellent Linguistics (New Delhi) for receiving training on English speaking at their New Delhi Centre.

Since the recipient is unregistered, the place of supply is the location where services are provided, i.e. New Delhi.



DEO Consultants (Kolkata) impart GST training to accounts and finance personnel of Sun Cements Ltd., Guwahati, Assam (registered office) at the company's Mumbai (Maharashtra) office which is also registered under GST. The contract is entered with Guwahati office. In the given case, place of supply is _____.

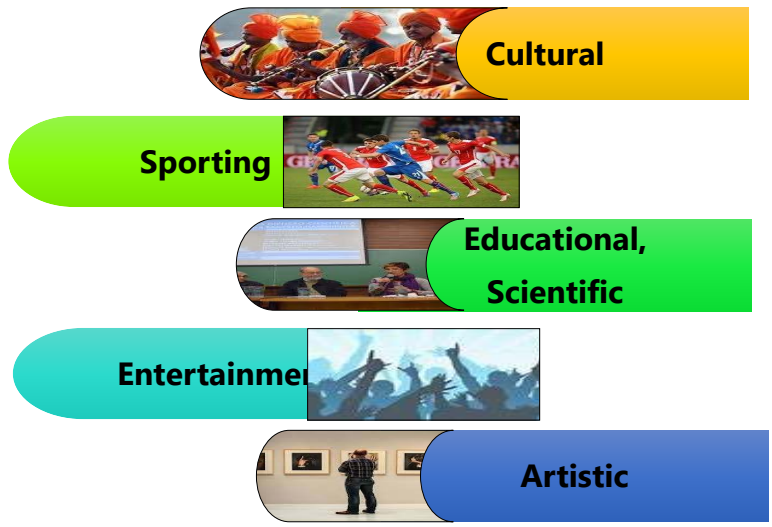
(a) Kolkata	(b) Assam	(c) Maharashtra	(d) Either Assam or Maharashtra at the option of Sun Cements Ltd.

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(v) Services by way of ADMISSION to events/amusement park/other places [Section 12(6)]

The place of supply of following services-

(i) services provided by way of **ADMISSION** to following types of events:



(ii) services provided by way of **ADMISSION** to amusement park or any other place

(iii) services ancillary to the above-mentioned services

is the **place where the event is actually held or where the park or such other place is located.**

(20) Virubhai Virani, a resident of Ghaziabad, Uttar Pradesh, buys a ticket for a circus organized at Gurugram, Haryana by a circus company based in New Delhi. The place of supply is the location where the circus is held, i.e. Gurugram.

(21) Manasvi of New Delhi buys a ticket for an amusement park located in Noida, Uttar Pradesh. The place of the supply is the location where the park is located, i.e. Noida.

(vi) ORGANISATION of events [Section 12(7)]

For supplies related to **ORGANISATION** of events or assigning sponsorship to such events, the place of supply depends on whether the supply is made to a registered person or an unregistered person.

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When such service is provided to a registered person, the place of supply is location of recipient.

When it is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

The event can be a cultural, artistic, sporting, scientific, educational or entertainment event. It can also be a conference, fair, exhibition, celebration or other similar event.

Place of supply of services ancillary to organisation of such type of events or assigning of sponsorship to such events is also determined under sub-section (7) of section 12, i.e. in the manner described above. The provision have been summarized as under:

Nature of Supply	Place of Supply	
	Recipient is registered	**Recipient is unregistered**
Organisation of events or services ancillary to the same or assigning of sponsorship to such events	Location of recipient	Location where the event is held
Organisation of events outside India		Location of recipient



(22) Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mumbai. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e. Ahmedabad.

(23) Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), in Mauritius. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e. Ahmedabad.

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Event held in more than one State/Union territory

If the event is held in more than one State/Union territory and a consolidated amount is charged for services relating to such event, the place of supply of such services is deemed to be in each of the respective States/Union territories in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.

The above provision is applicable only when the recipient is unregistered, as for a registered recipient, the place of supply is the location of such recipient.

Manner of determining proportionate value of service in the absence of a contract or agreement

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in different States/Union territories (where the event is held) is computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.



(24) An event management company -Moonlight Events Private Limited - has to organize some promotional events in States S1 and S2 for a recipient Mr. Atmaram (unregistered). 3 events are to be organized in S1 and 2 in S2. They charge a consolidated amount of ₹ 10,00,000 from Mr. Atmaram.



The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as ₹ 6,00,000/- in S1 and ₹ 4,00,000/- in S2.

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Grand Wedding Planners (Chennai) is hired by Laddoo Singh (unregistered person based in Hyderabad) to plan and organise his wedding. The place of supply is (i) _____ if wedding is to be held at New Delhi, or (ii) _____ if wedding is to be held in Seychelles.

(a) New Delhi; Hyderabad	(b) New Delhi; Seychelles	(c) Chennai; Seychelles	(d) Chennai; Hyderabad

(vii) Transportation of goods including mail or courier [Section 12(8)]

The place of supply of services by way of transportation of goods, including by mail or courier, etc. provided to a registered person, is the location of such person. However, where such services are provided to an unregistered person, the place of supply is the location at which such goods are handed over for their transportation.







Where the goods are being transported outside India, i.e. where the destination of goods transported is outside India, and the supplier of services by way of transportation of goods and its recipient are located in India, place of supply will be determined as per above provisions only.

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(25) M/s Sukhiram Pvt. Ltd. is a registered company in New Delhi. It sends its courier to Pune through M/s Brue Air Courier Service. The recipient being registered person, the place of supply is the location of recipient, i.e. New Delhi.

(26) Mr. Bindisaar, an unregistered person, of New Delhi sends a courier to his brother in Amritsar, Punjab. The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation, i.e. New Delhi.

(27) Pinelaps Pvt. Ltd., a Goods Transportation Agency based in Kanpur, Uttar Pradesh, is hired by Hezal Enterprises (registered in Kanpur) to transport its consignment of goods to a buyer in New Delhi. The recipient being registered, the place of supply is the location of recipient, i.e. Kanpur.

(28) Sukhwinder Transports Pvt. Ltd., a Goods Transportation Agency based in Noida, Uttar Pradesh, is hired by Chhaya Trade Links (registered supplier in New Delhi) to transport its consignment of goods to a buyer in Kanpur, Uttar Pradesh. The recipient being registered, the place of supply is the location of recipient, i.e. New Delhi.

(29) Mr. Srikant, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Srikant's family is stationed in Kanpur, Uttar Pradeh. He hires Goel Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal. The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation, i.e. Kanpur.

(viii) Passenger transportation service [Section 12(9)]

Nature of Supply	Place of Supply	
	Recipient is registered	**Recipient is unregistered**
Passenger transportation	Location of the recipient [LOR]	Location where the passenger embarks on the

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		conveyance for a continuous journey *[See definition]*
Issue of right to passage for future use and the point of boarding not known at the time of issue of right to passage		a) If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person. b) In other cases, the location of the supplier of services [LOS]

The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time.



(30) Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Airjet flight. Mr. Amar has bought the tickets for the journey from Airjet's office registered in New Delhi. The place of supply is the location of recipient, i.e. New Delhi.

(31) Mr. Subramanian (unregistered person in Chennai) has come to Delhi on a vacation. He buys pre-paid Delhi Metro Card from Delhi Metro (New Delhi) for hassle free commute in the National Capital Region. Recipient being unregistered person, the place of supply is the address of Mr. Subramanian, i.e. Chennai. If address of Mr. Subramanian is not available with the Delhi Metro, the place of supply will be the location of the supplier of services, i.e. New Delhi.

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(32) Mr. Shyam, an unregistered person, based in Gurugram, Haryana books a two-way air journey ticket from New Delhi to Mumbai on 5th December. He leaves New Delhi on 10th December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14th December in a morning flight and lands in New Delhi the same day. The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time. Thus, being an unregistered person, the place of supply for the outward and return journeys are the locations where the unregistered person embarks on the conveyance for the continuous journey, i.e. New Delhi and Mumbai respectively.



Examples of issue of right to passage for future use-point of boarding not known at the time of issue of right

(33) An airline may issue seasonal tickets, containing say 10 vouchers which could be used for travel between any two locations in the country.

(34) The card issued by New Delhi metro could be used by a person located in Noida, or New Delhi or Faridabad, without the New Delhi metro being able to distinguish the location or journeys at the time of receipt of payment.

(ix) Service supplied on board a conveyance [Section 12(10)]

Nature of Supply	Place of Supply
Service supplied on board a conveyance*	Location of the first scheduled point of departure of that conveyance for the journey

** Note - Conveyance includes a vessel, an aircraft, a train or a motor vehicle.*

You may recollect that the proxy for place of supply of goods on board a conveyance is the location at which the goods are taken on board. Services being intangible, the same proxy cannot be used for determining the place of supply for services supplied on board a conveyance. Therefore, for services, the proxy is the location of the first scheduled point of departure of that conveyance for the journey However, for determining the place of supply of both goods and services supplied on board a conveyance, no distinction is made between registered and unregistered recipients.

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(35) Mr. Raidhan is travelling from Delhi to Mumbai in an Airjet flight. He desires to watch an English movie during the journey by making the necessary payment. The place of supply of such service of showing 'movie on demand' is the first scheduled point of departure of the conveyance for the journey, i.e. Delhi.

(x) Telecommunication service [Section 12(11)]

Telecommunication services include the services of telephone, data transfer (internet), broadcasting, cable, DTH (Direct to home) services, etc. Section 12(11) classifies the telecommunication services into 3 categories for the purpose of determining the place of supply as under:

- Services provided using a fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna

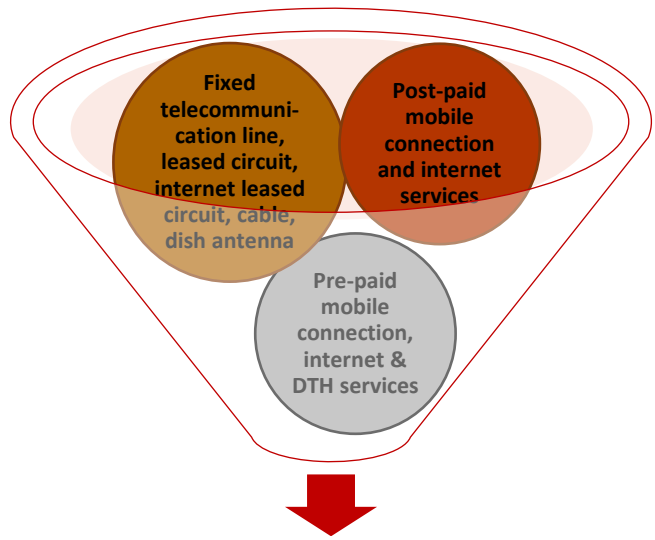




- Post-paid mobile connection and post-paid internet services
- Pre-paid mobile connection and pre-paid internet and DTH services







Telecommunication Services

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The place of supply of the various types of telecommunication services is tabulated as under:

Nature of Supply	Place of Supply	Recipient
❑ Fixed telecommunication line ❑ Leased circuits ❑ Internet leased circuit ❑ Cable or dish antenna	Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services	ANY PERSON
Post-paid mobile connection and internet services	• Location of billing address of the recipient [LOR] of services in the records of the supplier of services • Location of the supplier [LOS] of services, if the address is not available	
Pre-paid mobile connection, internet services and DTH services (recharge coupon, vouchers, net pack etc.)	Address of the selling agent/ re-seller/ distributor at the time of supply	
Services provided through a ❑ selling agent ❑ re-seller ❑ distributor of subscriber identity module card or recharge voucher		
Services provided by any person to final subscriber	Location where such pre-payment is received or such vouchers are sold	
Pre-paid services, the payment for which is made through internet banking/ other electronic mode of payment	Location of the recipient of services in the records of the supplier of services	

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Other cases	• The address of the recipient as per the records of the supplier of services • Location of the supplier of services, if the address is not available	



(36) Mr. Samudragupta (Kolkata) gets a landline phone installed at his home in Kolkata from Skybel Ltd. The place of supply is the location where the telecommunication line is installed, i.e. Kolkata.

(37) Mr. Rajkumar (Mumbai) gets a DTH installed at his home in his village in Uttar Pradesh from RT Ltd. The place of supply is the location where the DTH is installed, i.e. Uttar Pradesh.

(38) Mr. Shastri (Mumbai) takes a post-paid mobile connection in Mumbai from Blubel Ltd. and gives his residence address at Mumbai as the address for billing with supplier. The place of supply is the location of billing address of the recipient, i.e. Mumbai.

(39) Mr. George (New Delhi) gets his post-paid mobile bill (billing address New Delhi) paid online from Goa. The place of supply is the location of the billing address of the recipient, i.e. New Delhi.

(40) Mr. Jhumroo (Pune) purchases a pre-paid card from a selling agent in Mumbai. The place of supply is the address of the selling agent or re-seller, i.e. Mumbai.

(41) Mr. Freddy (Puducherry) gets a pre-paid mobile recharged from a grocery shop in Chennai. The place of supply is the location where such pre-payment is received, i.e. Chennai.

Leased circuit is installed in more than one State/Union territory

If the leased circuit is installed in more than one State/Union territory and a consolidated amount is charged for supply of services, the place of supply is deemed to be in each of the respective States/Union territories in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.

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Manner of determining proportionate value of service in the absence of a contract or agreement

In the absence of a contract or agreement between the supplier and recipient of services, the value of services supplied in different States/Union territories (where the leased circuit is installed) is determined in accordance with rule 6 of the IGST Rules in proportion to the number of points lying in each such State/ Union territory.

The number of points in a circuit is determined in the following manner-

(i) In the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points – *Refer Example 42*

(ii) Any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point – *Refer Example 43 & 44*



Example 42 – Circuit between two points or places

Trinity Ltd. installs a leased circuit between the Delhi and Mumbai offices of Inertia Pvt. Ltd. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence, one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.



Example 43 – Intermediate point or place in the circuit

Turbo Ltd. installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of Rio Ltd. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence, one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.

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Example 44 – Intermediate point or place in the circuit

Sriram Ltd. installs a leased circuit between the Kolkata, Patna and Guwahati offices of Srishyam Ltd. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.

(xi) Financial and stock broking services [Section 12(12)]



The place of supply of banking and other financial services, including stock



broking services to any person is the **location of the recipient of services in the records of the supplier of services.** However, if the location of recipient of services is not available in the records of the supplier, the place of supply is the **location of the supplier of services.**

(45) Mr. Debdas (Chennai) buys shares from a broker in BSE (Mumbai). The place of supply is the location of the recipient of services in the records of the supplier, i.e. Chennai.

(46) Mr. Arihant (New Delhi) withdraws money from Best Bank's ATM in Amritsar. Mr. Arihant has crossed his limit of free ATM withdrawals. The place of supply is the location of the recipient of services in the records of the supplier, i.e. New Delhi.

(47) Mr. Rishabh from Varanasi, Uttar Pradesh, visits a bank registered in New Delhi to get a demand draft made. Mr. Rishabh does not have any account with the said bank. Therefore, since the location of recipient is not available in the records of the supplier, the place of supply is the location of the supplier of services, i.e. New Delhi.

(xii) Insurance services [Section 12(13)]

The place of supply of insurance services is the **location of recipient when provided to a registered recipient.**

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If such services are provided to a person other than a registered person, the place of supply is the **location of the recipient of services in the records of the supplier of services.**



(48) Mr. Shantaram, CEO of Shaurya Ltd., Mumbai (a company registered in Maharashtra) buys insurance cover for the inventory stored in company's factory located at Mumbai, from Excellent Insurers, Chennai (registered in Tamil Nadu). The place of supply is the location of the registered recipient, i.e. Mumbai.

(49) Ms. Barbie (unregistered resident of Kolkata) goes to her native place Patna, Bihar and buys a medical insurance policy for her parents there from Safe Insurers, Patna (registered in Bihar). The place of supply is the location of the recipient of services in the records of the supplier, i.e. Patna.

(xiii) Advertisement service to the Government [Section 12(14)]

Nature of Supply	Place of Supply
Advertisement service to the Central Government/ State Government/ Statutory body/ Local authority meant for the State/Union territory identified in contract or agreement	Each of such States/ Union territories where the advertisement is broadcasted/ run / played/ disseminated.

The value of such supplies specific to each State/Union territory is in proportion to the amount attributable to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard.

The detailed process of manner of determining proportionate value of service in the absence of a contract or agreement has been given for the information of the students in the Annexure to this chapter. The same is not relevant for examination purposes.

After understanding the concept of '**place of supply**' and meaning of the '**location of the supplier**', you will now be in a position to better appreciate the meaning of the terms - inter-State supply, intra-State supply and supply in course of territorial waters. Therefore, these terms have been discussed in detail hereunder:

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5. INTER-STATE SUPPLY [SECTION 7 OF THE IGST ACT]

STATUTORY PROVISIONS

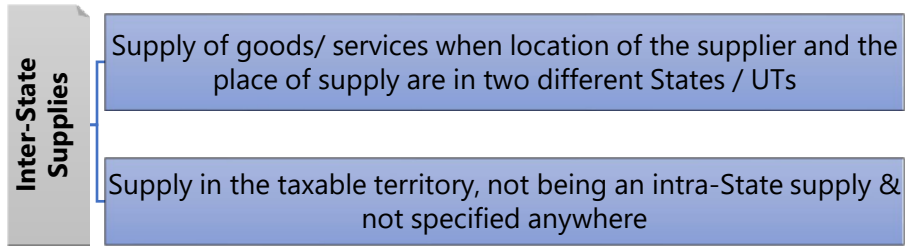
Section 7 (Relevant Extract)	*Inter-State Supply*
Sub-section	*Particulars*
(1)	*Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in—* *(a) two different States;* *(b) two different Union territories; or* *(c) a State and a Union territory,* *shall be treated as a supply of goods in the course of inter-State trade or commerce.*
(3)	*Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in—* *(a) two different States;* *(b) two different Union territories; or* *(c) a State and a Union territory,* *shall be treated as a supply of services in the course of inter-State trade or commerce.*
(5)	*Supply of goods or services or both,—* *(c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,* *shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.*

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ANALYSIS

This section provides as to when the supplies of goods and/or services shall be treated as **Supply in the course of inter-State trade/commerce**.



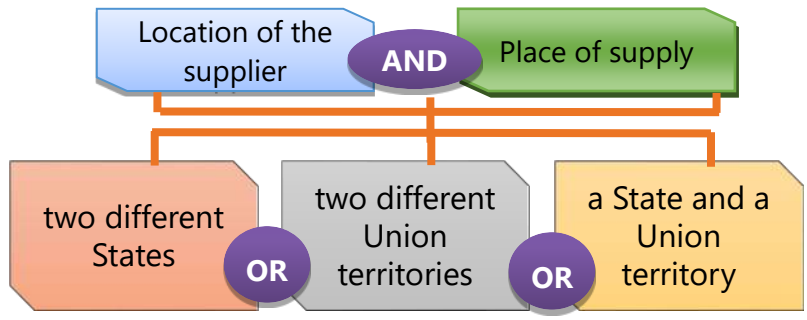
A. 'SUPPLY OF GOODS' in the course of inter-State trade/commerce [Section 7(1) of the IGST Act]



It primarily covers two kinds of supplies – Supply of goods within India and supply of goods imported into India. *Our discussion here will be restricted to the supply of goods within India since provisions relating to import and export of goods are not covered at Intermediate level; they have been discussed in detail at Final level.*

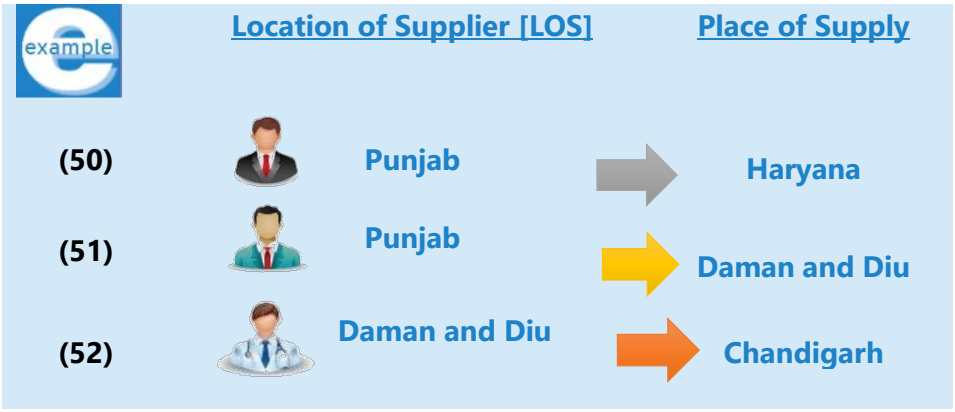
Supplies within India

Supply of goods shall be considered as supply of goods in course of inter-State trade or commerce in the following cases:



Please note that the place of supply here will be determined based on the provisions of section 10 as discussed earlier in this Chapter. The above concept can be easily understood with the help of following examples. In each of the following cases, supplies of goods shall be treated as supply of goods in course of inter-State trade/commerce.

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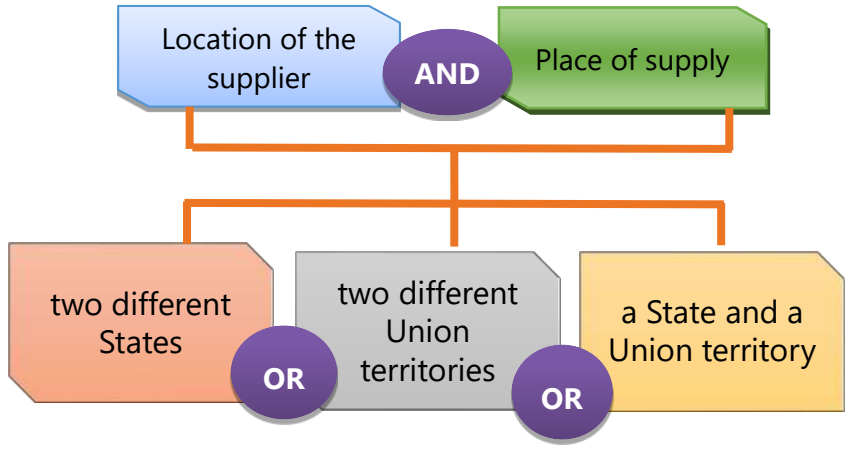


B. 'SUPPLY OF SERVICES' in the course of inter-State trade/commerce [Section 7(3) of the IGST Act]

It primarily covers two kinds of supplies – supply of services within India and import of services into India. *Our discussion here will be restricted to the supply of services within India since provisions relating to import and export of services are not covered at Intermediate level; they have been discussed in detail at Final level.*

Supplies within India

Supply of services shall be considered as supply of services in course of inter-State trade or commerce in the following cases:



Please note that the place of supply here will be determined based on the provisions of section 12 as discussed earlier in this Chapter.

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C. SUPPLY OF GOODS OR SERVICES OR BOTH in the course of inter-State trade or commerce [Section 7(5)(c) of the IGST Act]

Certain supplies are treated as supplies in the course of inter-State trade or commerce and shall equally apply to supply of goods and to supply of services. Clause (c) of section 7(5) is a residuary clause and stipulates that supply of goods and/or services in the taxable territory, not being an intra-State supply & not covered elsewhere in this section 7(5) are considered as inter-State supplies[7].

6. INTRA-STATE SUPPLY [SECTION 8 OF THE IGST ACT]

STATUTORY PROVISIONS

Section 8 (Relevant Extract)	*Intra-State Supply*
Sub-section	*Particulars*
(1)	*Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the*

[7] *As already discussed, provisions relating to import and export of goods and /or services are not covered at the Intermediate level. However, for the purpose of knowledge, students may note that following supplies shall also be treated as a supply of goods in the course of* ***inter-State trade or commerce****:*

(i) Supply of goods imported into the territory of India, till they cross the customs frontiers of India

(ii) Supply of services which are imported into territory of India

(iii) Supply of goods or services or both when the supplier is located in India and the place of supply is outside India

(iv) Supply of goods or services or both to or by a Special Economic Zone developer/ Special Economic Zone unit; SEZ is a geographically bound zone within India where the economic laws relating to export and import are more liberal as compared to other parts of the country. For all tax purposes, SEZ is considered to be a place outside India. Further, supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit are zero-rated supplies.

Above information is not relevant from the examination point of view.

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	same State or same Union territory shall be treated as intra-State supply.
(2)	*Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply.*
	Explanation 1. - For the purposes of this Act, where a person has, - *(ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or* *(iii) an establishment in a State or Union territory and any other establishment registered within that State or Union territory,* *then such establishments shall be treated as establishments of distinct persons.*
	Explanation 2. - A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.



ANALYSIS

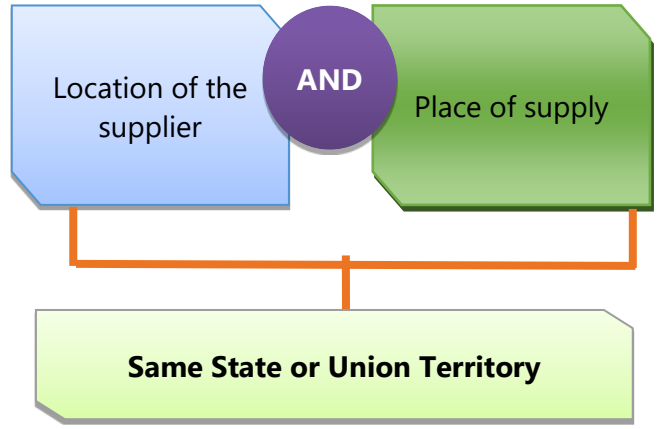
This section provides as to when the supplies of goods and/or services shall be treated as **intra-State supply**.

Which supplies of goods/services shall be treated as intra-State supplies? [Section 8(1) and 8(2) of the IGST Act]

Supply of goods/services where the location of the supplier and the place of supply of goods/services are in the same State or same Union territory shall be treated as intra-State supply.

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Such supplies are exigible to CGST and SGST/UTGST[8].



The concept discussed above has been explained by way of following examples:

example	Location of Supplier [LOS]	Place of Supply	Whether qualifies as intra-State supply?
(53)	Punjab	**Punjab**	**Yes**
(54)	London	**Delhi**	**No**
(55)	Delhi	**Gujarat**	**No**
(56)	Puducherry	**Puducherry**	**Yes**

[8] *As already discussed, provisions relating to import and export of goods and/or services are not covered at the Intermediate level. However, for the purpose of knowledge, students may note that as per the proviso to section 8(1) and proviso to section 8(2) of the IGST Act, following supplies shall not be treated as a supply of goods in the course of* ***intra-State trade or commerce*** *even when the location of supplier and place of supply fall within the same State/ Union Territory:*

(i) Supply of goods/services to or by SEZ Unit or SEZ Developer.

(ii) Supply of goods made to a tourist [referred to in section 15 of the IGST Act].

(iii) Goods imported in India.

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Establishments of distinct persons

Establishments of same entity shall be considered as establishments of distinct persons where a person has:

(i) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or

(ii) an establishment in a State or Union territory and any other establishment registered within that State or Union territory[9].

Thus, any supply between any of the above establishments shall be treated as supply between establishments of distinct persons. Further, a person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

7. SUPPLIES IN TERRITORIAL WATERS [SECTION 9 OF THE IGST ACT]

STATUTORY PROVISIONS

Section 9	*Supplies in territorial waters*

Notwithstanding anything contained in this Act -

(a) where the location of the supplier is in the territorial waters, the location of such supplier; or

(b) where the place of supply is in the territorial waters, the place of supply,

shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

[9] *It may be noted that where a person has an establishment in India and any other establishment outside India, such establishments of same entity shall also be considered as establishments of distinct persons. This is only for the knowledge of the students and not relevant from the examination point of view.*

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ANALYSIS

This section determines the location of supplier and/or the place of supply when such location of supplier and/or the place of supply is in territorial waters. Before that, let us understand the term "territorial waters".

The term '**Territorial waters'** has not been defined in the GST law. However, as per United Nations Convention on the Law of the Sea, the term **'territorial sea'** is a belt of coastal waters extending atmost 12 nautical miles from the baseline of a coastal state. Section 3(2) of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 stipulates that the limit of territorial waters is the line every point of which is at a distance of 12 nautical miles from the nearest point of the appropriate base line. *Refer the pictorial diagram showing 'territorial waters' given in Chapter 3 – Charge of GST.*

Section 9 of the IGST Act provides that where the location of the supplier is in the territorial waters, it shall be deemed that location of such supplier is in the coastal State or Union Territory where the nearest point of the appropriate baseline is located. Similarly, in case where the place of supply is in territorial waters, the place of supply shall be deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

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LET US RECAPITULATE

A. Place of supply of goods other than import and export [Section 10]

S. No.	Nature of Supply	Place of Supply
1.	Where the supply involves the movement of goods, whether by the supplier or the recipient or by any other person	Location of the goods at the time at which, the movement of goods terminates for delivery to the recipient
2.	Where the goods are delivered to the recipient or any person on the direction of the third person by way of transfer of title or otherwise	Principal place of business of such third person
3.	Where there is no movement of goods either by supplier or recipient	Location of such goods at the time of delivery to the recipient
4.	Where supply is made to unregistered persons and the address of such person is recorded in the invoice	Location as per address of unregistered person recorded in the invoice (Simply mentioning the State of such person instead of complete address would be sufficient.)
5.	Where supply is made to unregistered persons and the address of such person is not recorded in the invoice	Location of the supplier
6.	Where goods are assembled or installed at site	Place where the goods are assembled or installed

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7.	Where the goods are supplied on-board a conveyance like a vessel, aircraft, train or motor vehicle	Place where such goods are taken on-board the conveyance
8.	Where the place of supply of goods cannot be determined in terms of the above provisions	To be determined in the prescribed manner

B. Place of supply of services where location of supplier AND recipient is in India [Section 12]

(i) In respect of the following 12 categories of services, the place of supply is determined with reference to a proxy; rest of the services are governed by the default provision.

S. No.	Nature of Service	Place of Supply
1.	Immovable property related-services including accommodation in hotel/ boat/vessel	❑ Location at which the immovable property or boat or vessel is located or intended to be located ❑ If located outside India: Location of the recipient
	If the immovable property or boat or vessel is located in more than one State	Each such State in proportion to the value of services provided in each State – *Refer point (ii) below*
2.	Restaurant and catering services, personal grooming, fitness, beauty treatment and health service	Location where the services are actually performed
3.	Training and performance appraisal	❑ B2B: Location of such registered person

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		❑ B2C: Location where the services are actually performed
4.	Admission to an event or amusement park	Place where the event is actually held or where the park or the other place is located
5.	Organisation of an event including ancillary services and assigning of sponsorship to such events	❑ B2B: Location of such registered person ❑ B2C: Location where the event is actually held • If the event is held outside India: Location of the recipient
	If the event is held in more than one State (in cases of unregistered recipient)	Each such State in proportion to the value of services provided in each State – *Refer point (iii) below*
6.	Transportation of goods, including mails or courier	❑ B2B: Location of such registered person ❑ B2C: Location at which such goods are handed over for their transportation
7.	Passenger transportation	❑ B2B: Location of such registered person ❑ B2C: Place where the passenger embarks on the conveyance for a continuous journey
8.	Services on board a conveyance	Location of the first scheduled point of departure of that conveyance for the journey

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9.	Banking and other financial services including stock broking	❑ Location of the recipient of services in the records of supplier ❑ Location of the supplier of services if location of recipient of services is not available.
10.	Insurance services	❑ B2B: Location of such registered person ❑ B2C: Location of the recipient of services in the records of the supplier
11.	Advertisement services to the Government	❑ Each of States/Union territory where the advertisement is broadcasted/ displayed/ run/disseminated ❑ Proportionate value in case of multiple States
12.	Telecommunication services	❑ Services involving fixed line, leased and internet leased circuits, dish antenna etc: Location of such fixed equipment ❑ Post-paid mobile/ internet services: Location of billing address of the recipient and if the same is not available, location of supplier ❑ Pre-paid mobile/ internet/DTH services provided: • Through selling agent/re-seller/

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		distributor: Address of such selling agent/re-seller/distributor in the records of supplier at the time of supply • By any person to final subscriber: Location where pre-payment is received or place of sale of vouchers • When payment made through electronic mode - Location of recipient in records of supplier ❑ Other cases: Address of the recipient in the records of the supplier and if the same is not available, location of supplier
	If the leased circuit is installed in more than one State	Each such State in proportion to the value of services provided in each State – *Refer point (v) below*

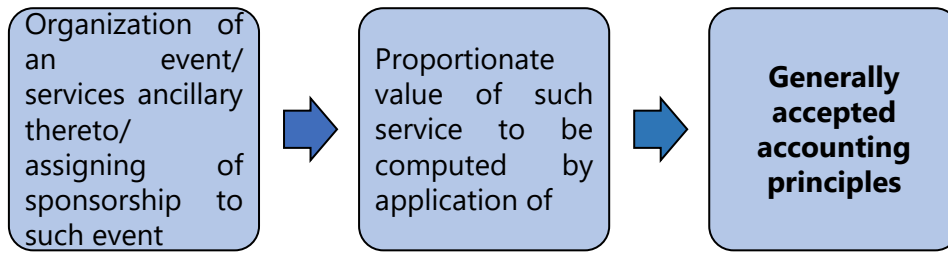
(ii) Manner of determining proportionate value of immovable property related service attributable to different States/Union territories – where the immovable property/boat/vessel is located - in the absence of a contract or agreement in this regard

S. No.	Type of service in relation to immovable property	Factor determining the proportionate value of service
(a)	Service provided by way of lodging accommodation by hotel/ inn/guest house etc. and its ancillary services	Number of nights stayed in such property

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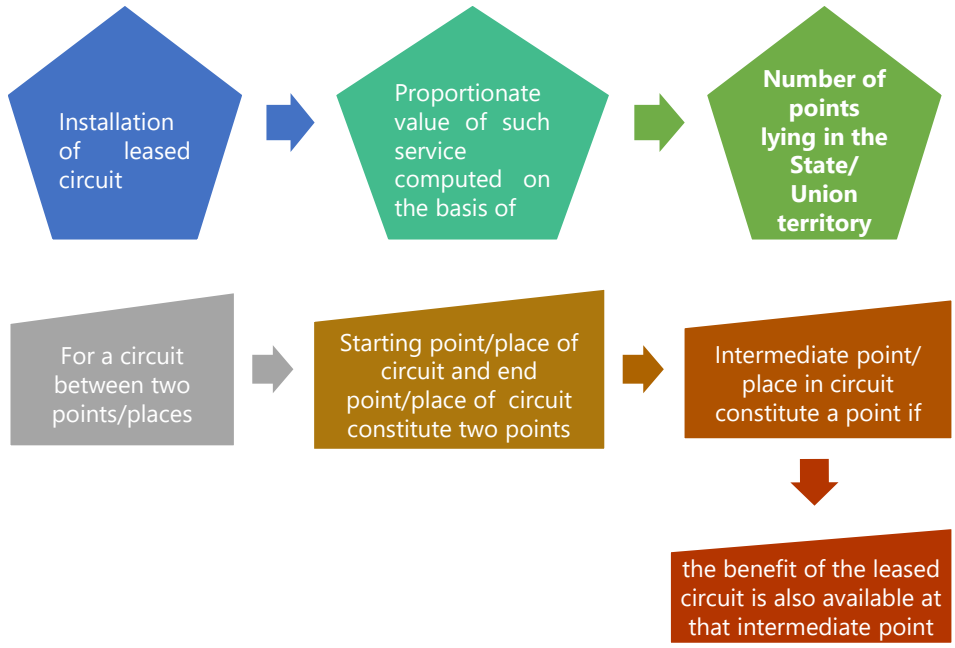
	(other than the cases where such property is a single property located in 2 or more contiguous States/ Union territories or both)	
(b)	All other services provided in relation to immovable property including organising any marriage or reception etc., accommodation in a single property located in 2 or more contiguous States or/and Union territories, services ancillary to such services	Area of the immovable property lying in each State/ Union territories
(c)	Services by way of lodging accommodation by a house boat or vessel and its ancillary services	Time spent by the boat or vessel in each such State/ Union territories, to be determined on the basis of declaration made by the service provider

(iii) Manner of determining proportionate value of service relating to organization of event, attributable to different States/Union territories – where the event is held - in the absence of a contract or agreement in this regard



(iv) Manner of determining proportionate value of service relating to installation of a leased circuit, attributable to different States/Union territories – where the circuit is installed - in the absence of a contract or agreement in this regard.

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(v) For the rest of the services other than those specified above, the default provision has been prescribed as under:

Default rule for the services other than the 12 specified services		
S. No.	**Description of Supply**	**Place of Supply**
1.	B2B	Location of such registered person
2.	B2C	❑ Where the address on record exists: Location of the recipient ❑ **Other cases:** Location of the supplier of services

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TEST YOUR KNOWLEDGE

1. *In case of a domestic supply, what is the place of supply where goods are removed?*
2. *What will be the place of supply if the goods are delivered by the supplier to another person on the direction of a third person?*
3. *What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?*
4. *The place of supply in relation to immovable property (situated in India) is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states.*

   What will be the place of supply of construction services?
5. *What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?*
6. *What is the place of supply of services by way of transportation of goods, including by mail or courier when both the supplier and the recipient of the services are located in India?*
7. *What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?*
8. *What is the place of supply for mobile connection? Can it be the location of supplier?*
9. *A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali.*

   What is the place of supply?
10. *An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai.*

    What is the place of supply of insurance services?

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ANSWERS

1. As per section 10(1)(a), the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

2. As per section 10(1)(b), it would be deemed that the third person has received the goods and the place of supply of such goods will be the principal place of business of such person.

3. As per section 10(1)(e), in respect of goods, the place of supply is the location at which such goods are taken on board.

However, in respect of services, the place of supply is the location of the first scheduled point of departure of that conveyance for the journey in terms of sections 12(10).

4. Where the immovable property is located in more than one State, the supply of service is treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf [Explanation to section 12(3)].

In the absence of a contract or agreement between the supplier and recipient of services in this regard, the proportionate value of services supplied in different States/Union territories (where the immovable property is located) is computed on the basis of the area of the immovable property lying in each State/ Union territories [Rule 4 of the IGST Rules].

5. In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person. However, if the recipient is not registered, the place of supply is the place where event is held.

Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each State in proportion to the value for services determined in terms of the contract or agreement entered into in this regard [Explanation to section 12(7)].

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In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in each State (where the event is held) will be computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.

6. If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation. [Section 12(8)].

7. If the person is registered, the place of supply of passenger transportation service will be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks [Section 12(9)].

However, for the return journey, the place of supply will be Delhi as the return journey has to be treated as separate journey [Explanation to section 12(9)].

8. The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of services on the record of supplier of services.

In case of pre-paid connections, if the service is supplied:-

(i) through a selling agent or a re-seller or a distributor of SIM card or re-charge voucher, the place of supply is the place of address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or

(ii) by any person to the final subscriber, the place of supply is the location where such prepayment is received or such vouchers are sold;

(iii) in other cases, the place of supply is the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services.

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However, if the recharge is done through internet/e-payment, the location of recipient of service on record of the supplier will be taken as the place of supply [Section 12(11)].

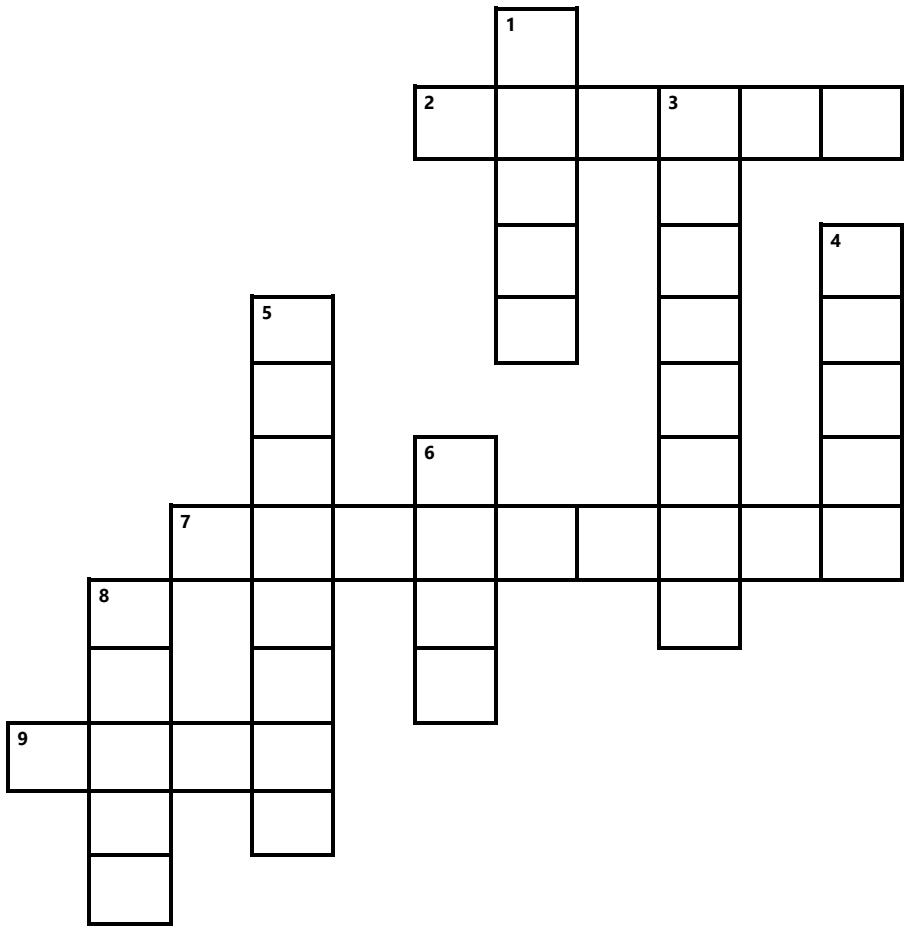
9. The place of supply in case of banking services to any person shall be the location of the recipient of services on the records of the supplier of services. However, if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services i.e. Kullu-Manali, Himachal Pradesh [Section 12(12)].

10. When insurance service is provided to an unregistered person, the location of the recipient of services on the records of the supplier of insurance services is the place of supply. So Gurugram is the place of supply [Section 12(13)].

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ACROSS

2. Conveyance includes a_____, an aircraft and a vehicle.

7. The place of supply in case of banking services to any person shall be the location of the _____ of services on the records of the supplier of services.

9. The place of supply of services by way of transportation of goods, including by _____ or courier, etc. provided to a registered person, is the location of such person.

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DOWNWARDS

1. Place of supply determines the jurisdiction where the tax revenue should _____.

3. _____means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time.

4. The term supplier includes an _____ acting as such on behalf of such supplier in relation to the goods or services or both supplied.

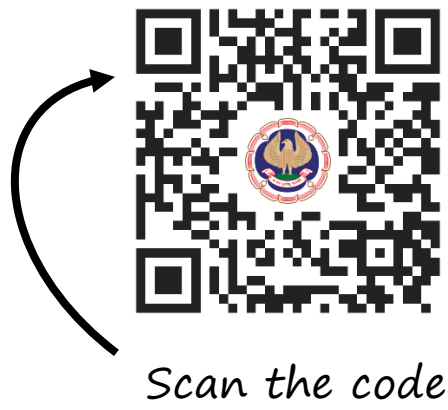
5. If the supply involves goods which are to be assembled at site, the place of supply is the place of _____.

6. If the supply does not involve movement of goods, the place of supply is the location of goods at the _____ of delivery to the recipient.

8. Service supplied on board a _____ is the location of the first scheduled point of departure of the train for the journey.

Note – In all cases relating to determination of place of supply above, it has been assumed that the location of supplier as well as recipient is in India.

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



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Annexure

Manner of determining proportionate value of service in the absence of a contract or agreement

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to different States/Union territories (where the advertisement is broadcasted/ run /played/disseminated) is computed in accordance with rule 3 of the IGST Rules as under:

Sl. No.	Type of advertisement	Value of service attributable to dissemination in different States/Union territories where the advertisement is broadcasted/ run / played/disseminated
1.	Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/Union territory *Refer Example 1*
2.	Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.	Amount payable for the distribution of a specific number of such material in each State/Union territory *Refer Example 2*
3.	Advertisements in hoardings (other than those on trains)	Amount payable for the hoardings located in each State/ Union territory *Refer Example 3*
4.	Advertisements on trains	Amount attributable to each State/Union territory calculated in the ratio of length of the railway track in each of such State/Union territory, for that train *Refer Example 4*

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5.	Advertisements on the back of utility bills of oil and gas companies, etc.	Amount payable to each State/Union territory for the advertisements on bills pertaining to consumers having billing addresses in each of such State/Union territory
6.	Advertisements on railway tickets	Amount attributable to each State/Union territory calculated in the ratio of number of Railway Stations in each of such State/Union territory *Refer Example 5*
7.	Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each State/Union territory *Refer Example 6*
8.	Advertisement on television channels	Amount attributable to each State/Union territory calculated basis the viewership of such channel in each of such State/ Union territory which shall be derived as under: (a) Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council. (b) Figures for the last week of a given quarter is used for calculating viewership for the succeeding quarter. (c) Where the channel viewership figures relate to a region comprising of more than one State/Union territory, the viewership figures for a State/ Union territory of that region, is calculated in ratio of the

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		populations of that State/Union territory, as determined in the latest Census. (d) The ratio of the viewership figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or Union territory *Refer Example 7*
9.	Advertisements in cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State/ Union territory. *Refer Example 8*
10.	Advertisements on internet It is deemed that such service is provided all over India.	Amount attributable to each State/Union territory calculated basis the internet subscribers in each of such State/ Union territory which shall be derived in the following manner: (a) Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI). (b) Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding financial year. (c) Where the internet subscriber figures relate to a region comprising of more than one State/Union territory, the subscriber figures for a

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		State/Union territory of that region shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census. (d) The ratio of the subscriber figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or Union territory *Refer Example 9*
11.	Advertisements through SMS	Amount attributable to each State/Union territory calculated on the basis of the telecom subscribers in each of such State/ Union territory. (a) Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter. (b) Where such figures relate to a telecom circle comprising of more than one State/Union territory, the subscriber figures for that State/Union territory shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census. *Refer Examples 10-13*

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Example 1 - Advertisements in newspapers and publications

ABC is a government agency which deals with the all the advertisement and publicity of the Government. It has various wings dealing with various types of publicity. In furtherance thereof, it issues release orders to various agencies and entities. These agencies and entities thereafter provide the service and then issue invoices to ABC indicating the amount to be paid by them. ABC issues a release order to a newspaper for an advertisement on 'Beti bachao beti padhao', to be published in the newspaper DEF (whose head office is in Delhi) for the editions of Delhi, Pune, Mumbai, Lucknow and Jaipur. The release order will have details of the newspaper like the periodicity, language, size of the advertisement and the amount to be paid to such a newspaper.



The place of supply of this service shall be in the Union territory of Delhi, and the States of Maharashtra, Uttar Pradesh and Rajasthan. The amounts payable to the Pune and Mumbai editions would constitute the proportion of value for the State of Maharashtra which is attributable to the dissemination in Maharashtra. Likewise, the amount payable to the Delhi, Lucknow and Jaipur editions would constitute the proportion of value attributable to the dissemination in the Union territory of Delhi and States of Uttar Pradesh and Rajasthan respectively. DEF should issue separate State-wise and Union territory-wise invoices based on the editions.

Example 2 - Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.

As a part of the campaign 'Swachh Bharat', ABC has engaged a company GH for printing of 1,00,000 pamphlets (at a total cost of ₹ 1,00,000) to be distributed in the States of Haryana, Uttar Pradesh and Rajasthan. In such a case, ABC should ascertain the breakup of the pamphlets to be distributed in each of the three States, i.e. Haryana, Uttar



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Pradesh and Rajasthan, from the Ministry or department concerned at the time of giving the print order. Let us assume that this breakup is 20,000, 50,000 and 30,000 respectively. This breakup should be indicated in the print order.

The place of supply of this service is in Haryana, Uttar Pradesh and Rajasthan. The ratio of this breakup, i.e. 2:5:3 will form the basis of value attributable to the dissemination in each of the three States. Separate invoices will have to be issued State-wise by GH to ABC indicating the value pertaining to that State, i.e. ₹ 20,000 - Haryana, ₹ 50,000 - Uttar Pradesh and ₹ 30,000 - Rajasthan.

Example 3 - Advertisements in hoardings (other than those on trains

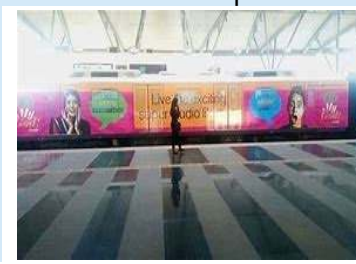
ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings near the Airports in the 4 metros, i.e. Delhi, Mumbai, Chennai and Kolkata. The release order issued by ABC to IJ will have the city-wise, location-wise breakup of the amount payable for such hoardings.

साक्षर भारत
SAAKSHAR BHARAT

The place of supply of this service is in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal. In such a case, the amount actually paid to IJ for the hoardings in each of the 4 metros will constitute the value attributable to the dissemination in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal respectively. Separate invoices will have to be issued State-wise and Union territory-wise by IJ to ABC indicating the value pertaining to that State/UT.

Example 4 - Advertisements on trains

ABC places an order on KL for advertisements to be placed on a train with regard to the 'Janani Suraksha Yojana'. The length of a track in a State will vary from train to train. Thus, for advertisements to be placed on the Hazrat Nizamuddin Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh,



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Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website *www.indianrail.gov.in*.

The place of supply of this service is in the Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa. The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory. If this ratio works out to say 0.5:0.5:2:2:3:3:1, and the amount to be paid to KL is Rs. 1,20,000, then KL will have to calculate the State-wise and Union territory-wise breakup of the value of the service, which will be in the ratio of the length of the track in each State and Union territory.

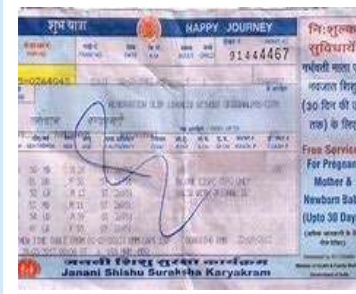
In the given example, the State-wise and Union territory-wise breakup works out to Delhi (₹ 5,000), Haryana (₹ 5,000), Uttar Pradesh (₹ 20,000), Madhya Pradesh (₹ 20,000), Maharashtra (₹ 30,000), Karnataka (₹ 30,000) and Goa (₹ 10,000). Separate invoices will have to be issued State-wise and Union territory-wise by KL to ABC indicating the value pertaining to that State or Union territory.



Example 5 - Advertisements on railway tickets

ABC has issued a release order to MN for display of advertisements relating to the 'Ujjwala' scheme on the railway tickets that are sold from all the Stations in the States of Madhya Pradesh and Chattisgarh.

The place of supply of this service is in Madhya Pradesh and Chattisgarh. The value of advertisement service attributable to these two States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website *www.indianrail.gov.in*.



Let us assume that this ratio is 713:251 and the total bill is ₹ 9,640. The breakup of the amount between Madhya Pradesh and Chattisgarh in this ratio of 713:251 works

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out to ₹ 7,130 and ₹ 2,510 respectively. Separate invoices will have to be issued State-wise by MN to ABC indicating the value pertaining to that State.

Example 6 - Advertisements on radio stations

For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations.

The place of supply of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another State. Separate invoices will have to be issued State-wise and Union territory-wise by MN to ABC based on the value pertaining to each State or Union territory.

Example 7 - Advertisement on television channels

ABC issues a release order with QR channel for telecasting an advertisement relating to the 'Pradhan Mantri Kaushal Vikas Yojana' in the month of November. In the first phase, this will be telecast in the Union territory of Delhi, States of Uttar Pradesh, Uttarakhand, Bihar and Jharkhand.

The place of supply of this service is in Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. In order to calculate the value of supply attributable to Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand, QR has to proceed as under —

I. QR will ascertain the viewership figures for their channel in the last week of September from the Broadcast Audience Research Council. Let us assume it is 1,00,000 for Delhi and 2,00,000 for the region comprising of Uttar Pradesh and Uttarakhand and 1,00,000 for the region comprising of Bihar and Jharkhand.

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II. Since the Broadcast Audience Research Council clubs Uttar Pradesh and Uttarakhand into one region and Bihar and Jharkhand into another region, QR will ascertain the population figures for Uttar Pradesh, Uttarakhand, Bihar and Jharkhand from the latest census.

III. By applying the ratio of the populations of Uttar Pradesh and Uttarakhand, as so ascertained, to the Broadcast Audience Research Council viewership figures for their channel for this region, the viewership figures for Uttar Pradesh and Uttarakhand can be calculated. Let us assume that the ratio of the populations of Uttar Pradesh and Uttarakhand works out to 9:1. When this ratio is applied to the viewership figures of 2,00,000 for this region, the viewership figures for Uttar Pradesh and Uttarakhand work out to 1,80,000 and 20,000 respectively.

IV. In a similar manner, the breakup of the viewership figures for Bihar and Jharkhand can be calculated. Let us assume that the ratio of populations is 4:1 and when this is applied to the viewership figure of 1,00,000 for this region, the viewership figure for Bihar and Jharkhand works out to 80,000 and 20,000 respectively.

V. The viewership figure for each State works out to Delhi (1,00,000), Uttar Pradesh (1,80,000), Uttarakhand (20,000), Bihar (80,000) and Jharkhand (20,000). The ratio is thus 10:18:2:8:2 or 5:9:1:4:1 (simplification).



VI. This ratio has to be applied when indicating the breakup of the amount pertaining to each State. Thus, if the total amount payable to QR by ABC is ₹ 20,00,000, the State-wise breakup is ₹ 5,00,000 (Delhi), ₹ 9,00,000 (Uttar Pradesh) ₹ 1,00,000 (Uttarakhand), ₹ 4,00,000 (Bihar) and ₹ 1,00,000 (Jharkhand). Separate invoices will have to be issued State-wise and Union territory-wise by QR to ABC indicating the value pertaining to that State or Union territory.

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Example 8 - Advertisements in cinema halls

ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad. The place of supply of this service is in the States of Tamil Nadu and Telangana. The amount actually paid to the cinema hall or screens in a multiplex, in Tamil Nadu and Telangana as the case may be, is the value of advertisement service in Tamil Nadu and Telangana respectively. Separate invoices will have to be issued State-wise and Union territory-wise by ST to ABC indicating the value pertaining to that State.

Example 9 - Advertisements on internet

ABC issues a release order to WX for a campaign over internet regarding linking Aadhaar with one's bank account and mobile number. WX runs this campaign over certain websites. In order to ascertain the State-wise breakup of the value of this service which is to be reflected in the invoice issued by WX to ABC, WX has to first refer to the Telecom Regulatory Authority of India figures for quarter ending March, 2017, as indicated on their website www.trai.gov.in. These figures show the service area wise internet subscribers. There are 22 service areas. Some relate to individual States some to two or more States and some to part of one State and another complete State. Some of these areas are metropolitan areas.

In order to calculate the State-wise breakup, first the State-wise breakup of the number of internet subscribers is arrived at. (In case figures of internet subscribers of one or more States are clubbed, the subscribers in each State is to be arrived at by applying the ratio of the respective populations of these States as per the latest census.). Once the actual number of subscribers for each State has been determined, the second step for WX involves calculating the State-wise ratio of internet subscribers. Let us assume that this works out to 8:1:2..... and so on for Andhra Pradesh, Arunachal Pradesh, Assam... and so on. The third step for WX will be to apply these ratios to the total amount payable to WX so as to arrive at the value attributable to each State. Separate invoices will have to be issued

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State-wise and Union territory-wise by WX to ABC indicating the value pertaining to that State or Union territory.



Advertisements through SMS

(10) In the case of the telecom circle of Assam, the amount attributed to the telecom circle of Assam is the value of advertisement service in Assam.



(11) The telecom circle of North East covers the States of Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Manipur and Tripura. The ratio of populations of each of these States in the latest census will have to be determined and this ratio applied to the total number of subscribers for this telecom circle so as to arrive at the State-wise figures of telecom subscribers. Separate invoices will have to be issued State-wise by the service provider to ABC indicating the value pertaining to that State.

(12) ABC commissions UV to send short messaging service to voters asking them to exercise their franchise in elections to be held in Maharashtra and Goa. The place of supply of this service is in Maharashtra and Goa. The telecom circle of Maharashtra consists of the area of the State of Maharashtra (excluding the areas covered by Mumbai which forms another circle) and the State of Goa. When calculating the number of subscribers pertaining to Maharashtra and Goa, UV has to -

I. obtain the subscriber figures for Maharashtra circle and Mumbai circle and add them to obtain a combined figure of subscribers;

II. obtain the figures of the population of Maharashtra and Goa from the latest census and derive the ratio of these two populations;

III. this ratio will then have to be applied to the combined figure of subscribers so as to arrive at the separate figures of subscribers pertaining to Maharashtra and Goa;

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IV. the ratio of these subscribers when applied to the amount payable for the short messaging service in Maharashtra circle and Mumbai circle, will give breakup of the amount pertaining to Maharashtra and Goa. Separate invoices will have to be issued State-wise by UV to ABC indicating the value pertaining to that State.

(13) The telecom circle of Andhra Pradesh consists of the areas of the States of Andhra Pradesh, Telangana and Yanam, an area of the Union territory of Puducherry. The subscribers attributable to Telangana and Yanam will have to be excluded when calculating the subscribers pertaining to Andhra Pradesh.

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CHAPTER 5

EXEMPTIONS FROM GST



The section numbers referred to in the Chapter pertain to the CGST Act, 2017, unless otherwise specified. Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

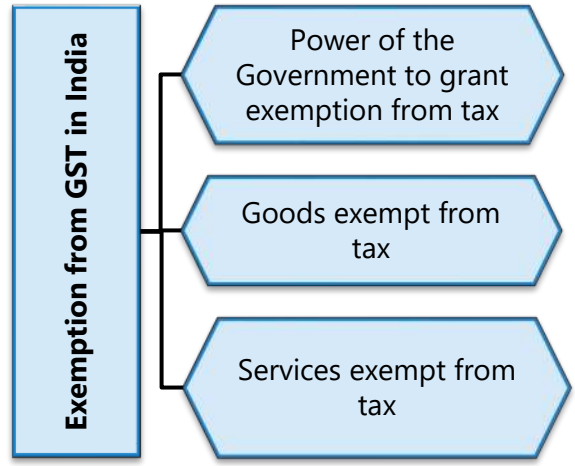
LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- describe the power of the Government to grant exemption from CGST/IGST.
- provide an overview of the goods exempt from GST.
- identify and analyse various services exempt from GST.

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CHAPTER OVERVIEW



1. INTRODUCTION

When a supply of goods and/or services falls within the purview of charging section, such supply is chargeable to GST. However, for determining the liability to pay the tax, one needs to further check whether such supply of goods and/or services are exempt from tax.



Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply [Section 2(47)].

Non-taxable supply means a supply of goods or services or both which is **not leviable to tax** under CGST Act or under the IGST Act [Section 2(78)]. Thus, under GST, a supply not leviable to tax is also included within the purview of 'exempt supply'.

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Supplies not leviable to tax are alcoholic liquor for human consumption, specified petroleum products namely Petroleum Crude, High Speed Diesel, Motor spirit (commonly known Petrol), Natural Gas and Aviation Turbine Fuel.

Power to grant exemption from GST has been granted vide section 11 of the CGST Act and vide section 6 of the IGST Act. State GST laws also contain identical provisions granting power to exempt SGST. Under GST, **essential goods/services, i.e. public consumption products/services, have been exempted.** Items such as unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST. Further, essential services like health care services, education services, etc. have also been exempted.

It is important to note that exemption under GST may be provided in any of the following manner:

(a)	**Exemption to specified activities or transactions** Sometimes, exemption is provided in respect of specified activities or transactions. Consequently, the status of the supplier or recipient becomes immaterial.  **(1)** Services **by way of** transfer of a going concern, as a whole or an independent part thereof. **(2)** Services **by way of** loading, unloading, packing, storage or warehousing of rice.
(b)	**Exemption to specified suppliers** At times, exemption is given to specified suppliers only. Here, the status of recipient becomes immaterial.  **(3)** Services provided **by** the Central Government, State Government, Union territory or local authority where the consideration for such services does not exceed ₹ 5,000. **(4)** Services **by** an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of charitable activities.
(c)	**Exemption to specified recipients** In some cases, exemption is given to specified recipient only. Here, the status of supplier becomes immaterial.

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	 **(6)** Services provided **to** the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory. **(7)** Services provided **to** the Central Government, State Government, Union territory administration under any training programme, for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration.
(d)	**Exemption to specified suppliers and specified recipients** Sometimes, exemption is given only when activities or transactions are carried out by specified suppliers for specified recipients only.  **(8)** Services **by** the Employees' State Insurance Corporation **to** persons governed under the Employees' State Insurance Act, 1948. **(9)** Services by **National Pension System (NPS) Trust** to its members against consideration in the form of administrative fee.

In this chapter, we shall discuss the power to grant exemption from tax under CGST Act/IGST Act, list of services exempt from GST in detail and an overview of the goods exempt from tax.

2. POWER TO GRANT EXEMPTION FROM TAX [SECTION 11 OF THE CGST ACT/SECTION 6 OF THE IGST ACT]

STATUTORY PROVISIONS

Section 11	***Power to grant exemption from tax***
Sub-section	***Particulars***
(1)	*Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the*

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	Council, **by notification**, *exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification*
(2)	*Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council,* **by special order** *in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.*
(3)	*The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.*

Explanation*—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.*



ANALYSIS

(i) Exemption from payment of tax: GST law empowers the Central Government or State Government, as the case may be, to grant exemption from tax. The exemption is granted on recommendation of the GST Council.

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Exemption can be **from whole** of the tax **or part of the tax**. It should be granted in public interest.

Exemption can be from whole of tax or part of tax

Exemption can be granted by a notification or by a special order

Exemption can be granted to goods or services or both of any specified description, **by way of issuance of notification**, either **absolutely** [i.e. unconditional exemption; exemption is not subject to any condition(s)] or **conditionally** [i.e. exemption is subject to specified condition(s)]. Exemption may be granted **by a special order** in case of the circumstances of an **exceptional nature**.

Unconditional exemption is mandatory

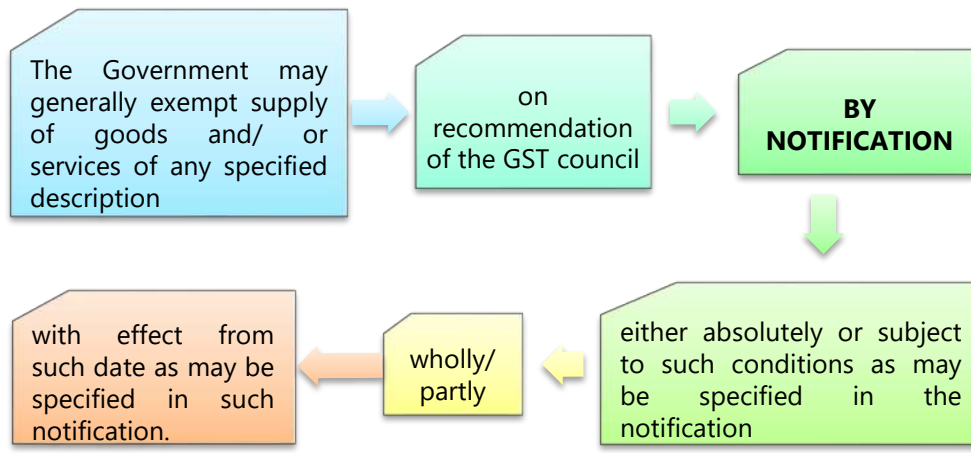
The **absolute/ unconditional exemption is mandatory** in nature. Where the supply of the goods or services or both are **unconditionally exempted from whole of the tax**, the registered person doesn't have option to collect and pay tax on such supply of goods or services or both.

Where the supply of the goods or services or both are **unconditionally exempted from part of the tax**, the registered person doesn't have option to collect and pay the tax, in excess of the effective rate, on such supply of goods or services or both.

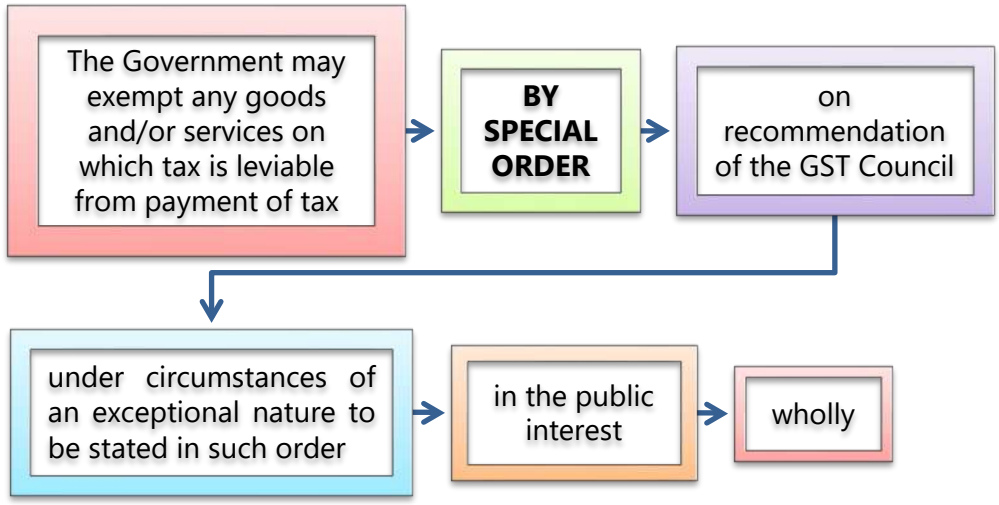
Conditional exemption is optional

However, where the **exemption is conditional**, it is **at the option** of the registered person whether to avail the same or not.

The above provisions have been explained by way of a diagram as follows:



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(ii) Explanation inserted within 1 year, for the purpose of clarifying the scope or applicability of any notification/order, to have retrospective effect: Wherever the Government feels that there is a need to clarify the scope or applicability of any notification/order issued under this section, it can issue an explanation within 1 year of issue of said notification/ order. Such explanation shall have effect as if it was there when first such notification/ order was issued, i.e. explanation so inserted would be effective retrospectively.

It is hereby clarified that the explanation so inserted for a particular entry in the notification, is effective from the inception of the entry in notification and not from the date from which the notification (that inserted said explanation) becomes effective.



(10) Principal *Notification No. 11/2017 CT (R) dated 28.06.2017*[1] came into force with effect from 01.07.2017. Thereafter, a new entry - Entry no. 3(vi) was inserted w.e.f. 21.09.2017. Subsequently, an explanation was also inserted with respect to entry no. 3(vi) by issue of a notification on 26.07.2018 [i.e. within 1 year of the insertion of entry 3(vi)].

[1] *This notification notifies the rate of tax applicable on various services.*

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Although the effective date mentioned in the notification which inserted said explanation was 27.07.2018, said explanation will be effective from the inception of entry 3(vi) in notification i.e. 21.09.2017 and not 27.07.2018.

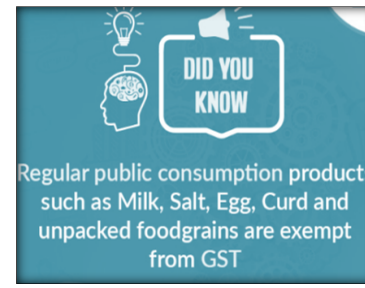
[Circular No. 120/39/2019 GST dated 11.10.2019]

Similar provisions granting power to exempt IGST have been provided under section 6 of the IGST Act.

3. GOODS EXEMPT FROM TAX

A list of items has been notified under section 11(1) of the CGST Act, 2017/ section 6(1) of the IGST Act, 2017. These items have been exempted from whole of the tax.

Under GST, everyday items used by the common man have been included in the list of exempted items. Items such as unbranded atta/ maida/ besan, unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST.



Some of the examples of the goods exempted from tax have been provided herein[2]:



Live fish (0301)



Fresh Milk (0401)



Potatoes (0701)



Grapes (0806)



Indian National Flag (63)



Plastic Bangles (3926)

[2] *Students may go through the complete list of goods exempt from GST on CBIC website – www.cbic.gov.in, for knowledge purposes.*

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4. LIST OF SERVICES EXEMPT FROM TAX

I. SPECIFIC SERVICES EXEMPT FROM CGST AND IGST

Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017[3] **(hereafter referred to as "the Notification") unless otherwise specified,** has exempted various services **wholly** from CGST. Each of the entries of the exemption notification have been discussed below:

1. Services related to charitable and religious activities

Entry No.[4]	Description of services
1	Services by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of **charitable activities**.
13	Services by a person by way of- (a) conduct of any religious ceremony; (b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA or 12AB of the Income-tax Act, 1961 or a trust or an institution registered under section 10(23C)(v) of the Income-tax Act or a body or an authority covered under section 10(23BBA) of the said Income-tax Act. However, nothing contained in entry (b) of this exemption shall apply to- (i) **renting of rooms** where charges are **₹ 1,000 or more** per day; (ii) **renting of premises, community halls, kalyanmandapam**

[3] *Exemption from IGST has been granted to various services vide Notification No. 9/2017 Integrated Tax (Rate) dated 28.06.2017. All the services exempted from CGST & SGST/UTGST have also been exempted from IGST. Apart from these, there are few additional services which have been exempted only under IGST law.* ***Such services will be discussed at the Final Level.***

[4] *Entry Nos. mentioned herein correspond to entries in Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017. However, these entry numbers have been given only for reference purposes and are not relevant for examination purpose.*

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	or open area, and the like where charges are **₹ 10,000 or more** per day; (iii) **renting of shops or other spaces for business or commerce** where charges are **₹ 10,000 or more** per month.
60	Services by a specified organisation in respect of a **religious pilgrimage** facilitated by the Government of India, under bilateral arrangement.
80	Services by way of training or coaching in- (a) recreational activities relating to arts or culture, by an individual, or (b) sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.



ANALYSIS

A. SERVICES PROVIDED BY CHARITABLE/RELIGIOUS TRUST

Entry 1 exempts services supplied by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of charitable activities. Thus, in order to claim exemption under Entry 1, following two conditions must be satisfied:-

(i) The entity should be **registered under section 12AA or 12AB of the Income-tax Act, 1961, and**

(ii) The entity must carry out one or more of the specified charitable activities.

Before proceeding further, let us first understand the meaning of term '**charitable activities'.** The term 'charitable activities' mean **activities relating** to-



(i) **PUBLIC HEALTH** by way of-

(A) care or counseling of

(I) terminally ill persons or persons with severe physical or mental disability;

(II) persons afflicted with HIV or AIDS;

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(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) **ADVANCEMENT OF RELIGION, SPIRITUALITY OR YOGA**;

(iii) **ADVANCEMENT OF EDUCATIONAL PROGRAMMES/SKILL DEVELOPMENT** relating to,-

(A) abandoned, orphaned or homeless children;

(B) **physically or mentally abused** and traumatized persons;

(C) **prisoners**; or

(D) persons over the age of **65 years** residing in a **rural area**;

(iv) **PRESERVATION OF ENVIRONMENT** including watershed, forests & wildlife.

Thus, only those services provided by a charitable and religious trusts [registered under section 12AA or 12AB of the Income-tax Act] which fall within the above definition of charitable activities, are eligible for exemption from GST. There could be many other services provided by such charitable and religious trusts which are not covered by the definition of charitable activities and hence, such services would attract GST.

For instance, grant of advertising rights to a person for publicity, on the premises of the charitable/religious trust or on publications of the trust, or granting admission to events, functions, celebrations, shows against admission tickets or fee etc. would attract GST.

In the following paras, we have examined some of the services supplied by the entities registered under section 12AA or 12AB of the Income-tax Act:

Management of educational institutions by charitable trusts

Activities of schools, colleges or any other educational institutions run by charitable trusts by way of education or skill development of abandoned, orphans, homeless children, physically or mentally abused persons, prisoners, or persons over age of 65 years or above residing in a **rural area**, will be considered as charitable activities and income from such supplies will be wholly exempt from GST.

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The term **rural area** means the area comprised in a village as defined in land revenue records, excluding the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government.



(11) Shiksha Academy, an educational institute run by Sarvsewa Trust, a charitable trust registered under section 12AB of the Income-tax Act, 1961, has organized a Skill Development Programme for the old age people over the age of 65 years residing in Bangalore city (an urban area).

Services provided by Shiksha Academy do not fall within the purview of 'charitable activities'. The activities relating to advancement of skill development relating to persons over the age of 65 years, are covered under the definition of 'charitable activities' only when such persons are residing in rural area.

Activities of a school, college or an institution run by a trust which do not come within the ambit of charitable activities will not be exempt under Entry 1. However, such activities may be exempt under Entry 66 *[discussed later in this chapter]* provided the school, college or institution qualifies as an 'educational institution'.

Hostel accommodation provided by trusts

Hostel accommodation services provided by trusts to students do not fall within the ambit of charitable activities as defined above.

Religious yatras or pilgrimage

Religious yatras/pilgrimage organised by any charitable or religious trust are not exempt.

Only such services of religious pilgrimage as are provided by **specified organization** in respect of a **religious pilgrimage facilitated by the Government of India** (GoI), under bilateral arrangement, are exempt from GST. *[See **Entry 60** in above table]*. The term **specified organization** as referred herein means-

- Kumaon Mandal Vikas Nigam Limited (KMVN), a Government of Uttarakhand Undertaking; or
- 'Haj Committee of India' or 'State Haj Committee including Joint State Committee'.

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In short, as per **Entry 60**, the services provided by the Haj Committee and KMVN in relation to pilgrimage to Mecca and Kailash - Mansarovar respectively are not liable to GST.

(12) KMVN supplies numerous services, namely, medical facilities, catering services, security, accommodation services, etc. to the pilgrims undertaking Kailash-Mansarovar pilgrimage. Such services provided by KMVN in respect of the religious pilgrimage to Kailash-Mansarovar are covered under entry 60 and thus, are exempt.

Arranging yoga and meditation camp by charitable trusts



As discussed above, services provided by entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt as such activities are covered in definition of charitable activities.

Fee or consideration charged in any other form from the participants for participating in a religious, yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt.



Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the **primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga**.

However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable[5].

(13) Bhavyajyoti Foundation, a charitable trust registered under section 12AB of the Income-tax Act, 1961, has organized a 'Yoga Meditation Camp' for the old age people. GST would be exempt on the same as services provided by entity registered under section 12AB of the Income-tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt.

[5] *Circular No. 66/40/2018 GST dated 26.09.2018*

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Hospitals managed by charitable trusts



Exemption available to health care services under Entry 74 *[discussed later in this chapter]* is also applicable to the health care services provided by a **clinical establishment, an authorised medical practitioner or paramedics of a religious or charitable trust** also.

Training or coaching in arts, culture or sports

As per **Entry 80**, services by way of training or coaching in-

(a) recreational activities relating to arts or culture, by an individual, or

(b) sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act

are exempt from GST.

It is important to note that the exemption with regard to services provided by way of training or coaching in **recreational activities relating to arts or culture** is available when the same is provided by an individual. Similarly, services of training or coaching in **sports** are exempt only when such services are provided by a charitable entity registered under section 12AA or 12AB of Income-tax Act.





Let us now analyse the term **'recreational activities'.** The term recreational activities is very wide. However, under this entry, the scope of training or coaching in recreational activities is restricted to the area of arts and culture. Hence, the training or coaching in **recreational activities relating to the areas other than arts or culture** is outside the purview of this entry.

Further, training or coaching in **all forms of arts, culture or sports** is covered under this entry, namely, dance, music, painting, sculpture making, literary activities, theatre, etc. of any school, tradition or language or any of the sports.



(14) Manavtaa Sansthaan, a charitable trust registered under section 12AB of the Income-tax Act, 1961, has organized a 'Basketball Training Camp' for teenagers. GST would be exempt on the same as services provided by entity registered under section 12AB of the Income-tax Act, 1961 by way of training or coaching in sports are exempt.

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GST on services provided TO charitable trusts

Services provided to charitable or religious trusts are not outside the ambit of GST. *Unless specifically exempted*, all goods and services supplied to charitable or religious trusts are leviable to GST.

B. CONDUCT OF ANY RELIGIOUS CEREMONY

Going through Entry 13(a), it can be inferred that the amount charged, by whatever name called, for the conduct of any religious ceremony is exempt from GST. Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies.



(15) Raamanand Joshi, a priest, charges ₹ 12,000 for conducting a religious ceremony on the birthday of Ghanshyam's son. The amount charged for the conduct of any religious ceremony is exempt from GST.

C. RENTING OF PRECINCTS OF RELIGIOUS PLACE MEANT FOR GENERAL PUBLIC

- **Entry 13(b)** exempts **renting of precincts of a religious place meant for general public** owned by an entity registered under any of the specified sections of the Income Tax Act provided the consideration charged for such renting does not exceed the prescribed ceiling limits as given in said entry. Thus, this exemption is determined on the basis of amount of consideration charged for such renting. Let us understand the meaning of the terms 'religious place', 'general public' and 'precincts' referred herein.



- **Religious place** means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality.
- **General public** means the body of people at large sufficiently defined by some common quality of public or impersonal nature.
- The word **'precincts'** is not to be interpreted in a restricted manner and **all immovable property of the religious place located within the outer boundary walls** of the complex (of buildings and facilities) in which the religious place is located, is to be considered as being located in the precincts

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of the religious place. The immovable property located in the immediate vicinity and surrounding of the religious place and owned by the religious place or under the same management as the religious place, may be considered as being located in the precincts of the religious place and extended the benefit of above exemption.

- Activities other than - conduct of religious ceremony and renting of precincts of religious place - will be taxable irrespective of the manner or the name in which the consideration is received.

  For example, if donation is received with specific instructions/mutual understanding between the donor and the receiver that religious place will host an advertisement promoting business of the donor, such donation will be subject to GST. However, where the donation is received without such instructions or when the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). In other words, there is no obligation *(quid pro quo)* on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration[6].



(16) Durgadevi Trust, a religious trust registered under section 12AB of the Income-tax Act, owns and manages a temple in their locality. It rents the commercial shops located in the precincts of the temple for a rent of ₹ 10,000 per month per shop. The consideration so received is liable to GST as such services are exempt only when the consideration is less than ₹ 10,000 per month.

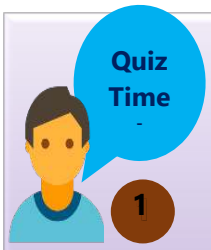


(17) Sarvodaya Trust, a religious trust, registered under section 10(23BBA) of the Income-tax Act, owns and manages a gurudwara. It rents the community hall located in the precincts of the gurudwara for a rent of ₹ 9,000 per day for a marriage function. The consideration so received is exempt from GST as the consideration is less than ₹ 10,000 per day.

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[6] *Discussion under this heading is primarily based on CBIC GST Flyer – Chapter 39 - GST on Charitable and Religious Trusts and other clarifications issued by CBIC*

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ABC Trust, a charitable trust registered under section 12AB of the Income-tax Act, is registered under GST in Rajasthan. It provided coaching for cricket to teenagers, yoga training to middle-aged people and skill development services to persons over the age of 65 years residing in a metro city, in the month of June. ABC Trust is liable to pay GST on:

(a) Skill development services and yoga training	(b) Skill development services	(c) Coaching for cricket, yoga training and skill development services	(d) Coaching for cricket and yoga training

2. Agriculture related services

Entry No.	Description of services
24	Services by way of loading, unloading, packing, storage or warehousing of rice.
24A	Services by way of warehousing of minor forest produce.
24B	Services by way of storage/ warehousing of cereals, pulses, fruits and vegetables.
54	Services relating to cultivation of plants and rearing of all life forms of animals, <u>except the rearing of horses</u>, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of— 
	(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;

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	(b) supply of **farm labour**; (c) **processes carried out at an agricultural farm** including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) **renting or leasing of agro machinery or vacant land** with or without a structure incidental to its use; (e) **loading, unloading, packing, storage or warehousing** of agricultural produce; (f) **agricultural extension services**; (g) services by any **Agricultural Produce Marketing Committee** or Board or services provided by a commission agent for sale or purchase of agricultural produce.
55	Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.
55A	Services by way of artificial insemination of livestock (other than horses).



ANALYSIS

ENTRY 54

The words **'Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products'** used in **Entry 54** include activities like breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry, etc.



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Further, the term **'agricultural produce'** means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, **on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics, but makes it marketable for primary market**.



It is important to note that agricultural produce is either subject to no further processing at all or if any processing is undertaken on the agricultural produce it should not alter its essential characteristics but may make it marketable for primary market. Few instances of such processes are the processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, etc.





Let us examine what is exempt under Entry 54.

Entry 54 exempts the agricultural operations directly related to production of any agricultural produce such as cultivation, harvesting, threshing, plant protection or testing. Further, processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like **operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market** are also exempt. In view of the same, following processes are outside the purview of this entry and thus, are liable to GST:-

(a) Process which alters the essential characteristics of the agricultural produce: For instance, potato chips or tomato ketchup, etc. are manufactured through processes which alter the essential characteristic of farm produce (potatoes and tomatoes in this case).

(b) Process which makes agricultural produce marketable in the retail market: The processes of grinding, sterilizing, extraction packaging in retail packs of agricultural products, which make the agricultural products marketable in retail market, would NOT be covered in this entry. Only such processes are covered in this entry which makes agricultural produce marketable in the primary market and not retail market.

Apart from this, supply of farm labour is also exempt from GST.

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Renting or leasing of agro machinery or vacant land



Item (d) of the entry exempts **renting or leasing of agro machinery or vacant land** with or without a structure incidental to its use.

(18) Moolchand has leased out to a farmer – Tulsidas - a vacant land for agriculture. The land has a greenhouse and a storage shed which are incidental to its use for agriculture. Such service of leasing of vacant land with a greenhouse and a storage shed which is incidental to its use for agriculture is exempt from GST.

Agricultural extension services

Item (f) of the entry exempts **Agricultural Extension Services (AES)**. Said services have been defined under the notification to mean the application of scientific research and knowledge to agricultural practices through farmer education or training.

The main objective of AES is to transmit latest technical know-how to farmers. It also focuses on enhancing farmers' knowledge about crop techniques and help them to increase productivity. This is done through training courses, kisan call centres, farm visits, on-farm trials, kisan melas, kisan clubs, advisory bulletins and the like.

Agricultural Produce Marketing Committee services



Services by any **Agricultural Produce Marketing Committee** or Board or services provided by a commission agent for sale or purchase of agricultural produce are not liable to GST. Agricultural Produce Marketing Committee or Board means any committee or board set up under a State Law for the time being in force for purpose of regulating the marketing of agricultural produce.

Such marketing committees or boards have been set up in most of the States and provide a variety of support services for facilitating the marketing of agricultural produce by provision of facilities and amenities like, sheds, water, light, electricity, grading facilities etc. They also take measures for prevention of sale or purchase of agricultural produce below the minimum support price. APMCs **collect market fees, license fees, rents** etc.

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Services provided by such Agricultural Produce Marketing Committee or Board are covered in item (g) of entry 54. However, any service provided by such bodies **which is not directly related to cultivation** of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce, will be liable to tax e.g. renting of shops or other property for commercial purposes.

Warehousing of agriculture produce

Item (e) of entry 54 exempts loading, unloading, packing, storage or warehousing of **agricultural produce**. In this regard, following may be noted:

Processed Tea and coffee





Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same. Thus, green tea leaves and not tea is the "agricultural produce" eligible for exemption under entry 54 where such exemption is available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.

Jaggery





Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce.

Pulses



Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore, pulses (dehusked or split) are also not agricultural produce. However, whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.

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In view of the above, it is inferred that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce and therefore do not fall within item (e) of entry 54[7].

ENTRY 55

Custom milling of paddy into rice

Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce is exempt under GST.



Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested.



Further, processing of paddy into rice is not usually carried out by cultivators, but by rice millers.

Milling of paddy into rice also changes its essential characteristics.

Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.

In view of the above, it is clarified that milling of paddy into rice is not eligible for exemption under Entry 55[8].

[7] *Circular No. 16/16/2017 GST dated 15.11.2017*
[8] *Circular No. 19/19/2017 GST dated 20.11.2017*

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Which of the following services relating to agriculture are not exempt from GST?

2

(a) Loading, unloading, packing, storage or warehousing of rice.	(b) Milling of paddy into rice	(c) Agricultural extension services	(d) Renting of agro machinery

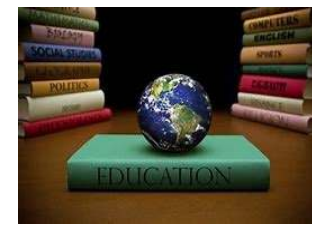
3. Educational services

Entry No.	Description of services
66	Services provided - (a) by an educational institution to its students, faculty and staff; (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee; (b) to an educational institution, by way of,- (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or house-keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; (v) supply of online educational journals or periodicals. However, nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution

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	providing services by way of pre-school education and education up to higher secondary school or equivalent. Further, nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,- (i) pre-school education and education up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course.
66A	Services of affiliation provided by a Central or State Educational Board or Council or any other similar body, by whatever name called, to a school established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity.

ANALYSIS



Education is fundamental to the nation building process. The term "Education" is not defined in the CGST Act, 2017, but as per Apex Court decision in *"Loka Shikshana Trust v. CIT"*, education is process of training and developing knowledge, skill and character of students by normal schooling.

Taxing the Education Sector has always been a sensitive issue, as education is seen more as a social activity than a business one. The Government has a constitutional obligation to provide free and compulsory elementary education to every child. Thus, to promote education, it would be beneficial if educational services are exempted from tax.



However, commercialization of education is also a reality. The distinction between core and ancillary education is blurring and education is now an organised industry with huge revenues. The GST law tries to maintain a fine balance whereby core educational services provided and specified services received by educational institutions are exempt and other services are sought to be taxed.

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Exemption from GST granted vide Entry 66 stated above can be discussed under two broad categories – output services and input services of an educational institution. The discussion in succeeding paras fundamentally revolves around these two areas:

Output services



- Services provided **by an educational institution to its students, faculty and staff** and by way of **conduct of entrance examination against consideration in the form of entrance fee** are exempt from GST.

  Since exemption with respect to said services is available only when these services are provided BY 'educational institution', it is important to analyse the term **EDUCATIONAL INSTITUTION** first:

  Educational institution means an institution providing services by way of,-

  (i) **pre-school education** and education up to **higher secondary school** or equivalent;

  (ii) education as a part of a curriculum for obtaining a **qualification recognised by any law** for the time being in force;

  (iii) education as a part of an **approved vocational education** course.

- It is to be noted that only those institutions, whose operations conform to the specifics given in the definition of the term "educational institution", would be treated as one entitled to avail exemptions provided by the law.



- **Sub-clause (ii):** The term **'education as a part of curriculum for obtaining a qualification recognised by any law for the time being in force'** means the education delivered as **'a part'** of the curriculum that has been prescribed for obtaining a qualification prescribed by law. Thus, in order to be covered under Entry 66, the education service should be delivered as part of curriculum. In view of same, it can be inferred that:

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Education services provided	Covered in sub-clause (ii)	Reasons
Conduct of **degree courses by colleges, universities or institutions**	✓	These courses lead to grant of qualifications recognized by law
Training given by private coaching institutes	✗	Such training does not lead to grant of a recognized qualification.
Education as a part of a prescribed curriculum for obtaining a qualification recognized by a law of a foreign country	✗	Only a course recognized by an Indian law is covered herein.



(19) 'Dharam Institute of Technology' (DIT), a private engineering college in M.P., offers post graduate engineering programmes. All the engineering courses including the distance learning post graduate engineering programme offered by DIT are recognised by the law [The All India Council for Technical Education (AICTE)]. Since DIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the same is an educational institution.

- **Sub-clause (i):** An institution providing pre-school education and education up to higher secondary school or equivalent qualify as an educational institution.



(20) 'Littleways Public School' is a school loacted in Tamil Nadu. The school has two branches – one is a pre-school and another is a higher secondary school affiliated to CBSE. A pre-school and a higher secondary school are educational institutions. Thus, Littleways Public School qualifies as an educational institution.

- **Sub-clause (iii)** covers institutions providing services by way of education as a part of approved vocational education course.

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An **approved vocational education course** means, -



- a **course run by an ITI/ ITC**[9] affiliated to the National Council for Vocational Education and Training (NCVET) or State Council for Vocational Training (SCVT) **offering courses in designated trades** notified under the Apprentices Act, 1961** or
- a **Modular Employable Skill Course**, approved by the NCVET, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship.

  The Modular Employable Skills is the minimum skill set which is sufficient for gainful employment or self-employment in the world of work. It provides employable skills to early school drop-outs, existing workers seeking skill upgradation, workers seeking certification of their skills acquired informally, etc. to improve their employability and provides certification after completion of the course.

****Designated trade** means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of Apprentices Act, 1961[10].



(21) Kaladrishti ITI, Gorakhpur is engaged in providing skill development courses in other than designated trades notified under the Apprentices Act, 1961. Since courses offered by Kaladrishti ITI are not in designated trades notified under the Apprentices Act, 1961, education provided by it is not approved as vocational educational course as defined above. Resultantly, it doesn't qualify as an educational institution.

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[9] *Industrial Training Institute/ Industrial Training Centre*

[10] *Some of the designated trades notified under the Apprentices Act, 1961 are electrician, wireman, carpenter, plumber, mason, mechanic, tool and die maker, baker and confectioner, weaver, tailor, footwear maker, photographer, beautician, painter, desk top publishing operator, gardener, cable television operator, library assistant, etc.*

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In view of the above definition, some of the institutions providing education services have been examined as under:

Private ITIs

- **Private ITIs** qualify as an educational institution if the education provided by these ITIs is approved as vocational educational course as defined above.





Accordingly, services provided by a private ITI **only in respect of designated trades notified under Apprentices Act, 1961 are exempt** from GST under this entry. Services in respect of other than designated trades are liable to GST.





Further, in case of designated trades, **services provided by private ITI** by way of **conduct of entrance examination** against consideration in the form of entrance fee will also be exempt.

Moreover, in respect of such designated trades, **services provided TO private ITIs** relating to admission to or **conduct of examination** by a private ITI will also be exempt.



In case of **other than designated trades** in private ITIs, **GST is payable** on the aforesaid services provided by/to the private ITIs[11].

Government ITIs

As far as **Government ITIs** are concerned, services provided by a Government ITI to individual trainees/ students, are exempt under Entry 6 as these are in the nature of services provided by the Central or State Government to individuals *[Entry 6 is discussed in detail subsequently]*.



Such exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITIs[12].

[11] *Circular No. 55/29/2018 GST dated 09.08.2018*
[12] *Circular No. 55/29/2018 GST dated 09.08.2018*

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Unrecognized educational institutions

- Private coaching centres or other unrecognized institutions, though self-styled as educational institutions, would not be treated as educational institutions under GST and thus cannot avail exemptions available to an educational institution.



22) 'Super Minds', a coaching institute in Raipur, provides coaching for Institute of Banking Personnel Selection (IBPS) Probationary Officers Exam. Super Minds, being a coaching centre which trains candidates to secure a banking job, is not an educational institution in terms of the exemption notification.

Educational institutions up to Higher secondary schools

- By virtue of Entry 66, educational institutions up to Higher Secondary School level do not suffer GST on output services and also on specified input services *[discussed in subsequent paras]*. However, some of the input services like repairs and maintenance etc. provided by private players to educational institutions are subject to GST.



- Output services of lodging/boarding in hostels provided by such educational institutions which are providing pre-school education and education up to higher secondary school or equivalent or education leading to a qualification recognised by law, are fully exempt from GST. Annual subscription/fees charged as lodging/boarding charges by such educational institutions from its students for hostel accommodation shall therefore, not attract GST.

- **Boarding schools** provide service of education coupled with other services like providing dwelling units for residence and food. This may be a case of composite supply if the charges for education and lodging and boarding are inseparable. Their taxability will be determined in terms of the principles laid down in section 2(30) read with section 8[13].

[13] *Section 2(30) provides the definition of composite supply and section 8 contains the provisions relating to tax liability on composite and mixed supplies. The concept of composite and mixed supply has been discussed in detail in Chapter 2 – Supply under GST in this Module of the Study Material.*

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Such services in the case of boarding schools are naturally bundled and supplied in the ordinary course of business. Therefore, the bundle of services will be treated as consisting entirely of the principal supply, which means the service which forms the predominant element of such a bundle.

In this case since the predominant nature is determined by the service of education, the other service of providing residential dwelling will not be considered for the purpose of determining the tax liability and in this case, the entire consideration for the supply will be exempt.

Educational institutions providing qualification recognized by law

- We have already seen that the institutions providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force qualify as educational institutions.

  However, the question arises that in case where **a course in a college leads to dual qualification only one of which is recognized by law**, would service provided by the college by way of such education be covered by the exemption notification?

- Provision of dual qualifications is in the nature of two separate services as the curriculum and fees for each of such qualifications are prescribed separately. Service in respect of each qualification would, therefore, be assessed separately.

  If an artificial bundle of service is created by clubbing two courses together, when only single fee is charged for both, only one of which leads to a qualification recognized by law, then by application of the rule of determination of taxability of a supply which is not bundled in the ordinary course of business, it shall be treated as a mixed supply as per provisions contained in section 2(74) [14] read with section 8.

  Dual qualifications where only one is recognised by law

  The taxability will be determined by the supply which attracts highest rate of GST.

[14] *Section 2(74) provides the definition of mixed supply.*

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- However, **incidental auxiliary courses provided by way of hobby classes or extra-curricular activities in furtherance of overall well-being** will be an example of naturally bundled course, and therefore treated as composite supply. One relevant consideration in such cases will be the amount of extra billing being done for the unrecognized component viz-a-viz the recognized course.

Incidental auxiliary courses

If extra billing is being done, it may be a case of artificial bundling of two different supplies, not supplied together in the ordinary course of business, and therefore will be treated as a mixed supply, attracting the rate of the higher taxed component for the entire consideration[15].

IIMs



- Indian Institutes of Management Act, 2017 (IIM Act, 2017) empowers IIMs to (i) grant degrees, diplomas, and other academic distinctions or titles, (ii) specify the criteria and process for admission to courses or programmes of study, and (iii) specify the academic content of programmes.
- Resultantly, all the IIMs fall under purview of "educational institutions" as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force.
- IIMs provide various **long duration programs (1 year or more)** for which they award **diploma/ degree certificate** duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. Services provided by IIMs to their students in all such long duration programs (one year or more), are exempt from levy of GST.

*Long duration programs of IIMs – **Exempt***

[15] *The view taken in the preceding paras, that education coupled with other incidental services is a composite supply and is exempt since the principal supply [education service] is exempt, is based on the CBIC Flyer - Chapter 40 – 'GST on Education Services'. However, it is also possible to take a different view since as per the definition of composite supply under section 2(30), composite supply consists of two or more **taxable supplies**.*

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- IIMs also provide various **short duration/ short term programs (less than 1 year)** for which they award **participation certificate** to the executives/ professionals as they are considered as "participants" of the said programmes. These participation certificates are not any qualification recognized by law.

*Short duration programs of IIMs – **Not exempt***

- Such participants are also not considered as students of IIM. Services provided by IIMs as an educational institution to such participants is not exempt from GST and GST is payable on the same[16].

Conduct of entrance examination by authority/board/body set up by CG/SG

Any authority, board or body set up by the Central Government or State Government (including National Testing Agency) for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.

Central and State Education Boards

It is important to note that the Central and State Educational Boards shall be treated as 'Educational Institution' for the limited purpose of providing services by way of conduct of examination to the students. In this regard, following is clarified:

- Various services are supplied by Centre and State Boards such as National Board of Examination (NBE). These services include entrance examination (on charging a fee) for admission to educational institution, input services for conducting such entrance examination for students, accreditation of educational institutions or professional so as to authorise them to provide their respective services.

[16] *Circular No. 82/01/2019 GST dated 01.01.2019*

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- For example, NBE provides services of conducting entrance examinations for admission to courses including Diplomat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions. It carries out all functions as are normally carried out by central or state educational boards and is thus a central educational board. "Central and State Educational Boards" are treated as educational institutions for the limited purpose of providing services by way of conduct of examination to the students. Therefore, NBE is an 'educational institution' in so far as it provides services by way of conduct of examination, including any entrance examination, to the students.

- It is clarified that:

  (i) GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution under Entry 66(aa). Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.

  (ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc., when provided to such Boards under Entry 66(b)(iv).

  (iii) GST is applicable to other services provided by such Boards, namely of providing accreditation to an institution or to a professional [accreditation fee or registration fee such as fee for FMGE (Foreign Medical Graduate Examination) screening test] so as to authorise them to provide their respective services[17].

[17] *Circular No. 151/07/2021 GST dated 17.06.2021*

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Supply of food in a mess or canteen

- Educational institutions generally have mess facility for providing food to their students and staff.

  Such facility is either:

  (i) run by the institution/ students themselves or

  (ii) outsourced to a third person.



- **If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above**, then the same is exempt [covered under item (a) of entry 66].

- **If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution**, i.e. the institution outsources the catering activity to an outside contractor, then it is a supply of service to the concerned educational institution by such outside caterer and attracts GST.

  However, said services when provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt from tax [covered under item (b)(ii) of Entry 66].

Supply of food in anganwadis and schools

- An anganwadi, inter alia, provides pre-school non-formal education. Hence, anganwadi is covered by the definition of educational institution (as pre-school).

- As seen above that as per entry 66(b)(ii), any catering service provided to an educational institution (pre-school and schools) is exempt from GST and it includes mid- day meal service also. The **scope of this entry is thus wide enough to cover any serving of any food to a school** (including pre-school).

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- It is further clarified that services provided to an educational institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations.
- Hence, **serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates**[18].

Entrance fee for conduct of entrance examination/ fee for admission/ issuance of migration certificate

- As discussed earlier, Entry 66 exempts, inter alia, services provided –

  (a) by an educational institution to its students, faculty and staff;

  (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.
- Therefore, it can be seen that all services supplied by an 'educational institution' to its students are exempt from GST. Consideration charged by the educational institutes by way of entrance fee for conduct of entrance examination is also exempt.
- The exemption is wide enough to cover the amount or fee charged for admission or entrance, or amount charged for application fee for entrance, or the fee charged from prospective students for issuance of eligibility certificate to them in the process of their entrance/admission to the educational institution.
- Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption. Accordingly, such activities of educational institutions are also exempt[19].

[18] *Circular No. 149/05/2021 GST dated 17.06.2021*
[19] *Circular No. 177/09/2022 GST dated 03.08.2022*

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Fees charged from prospective employers

Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses/MNCs, who come to the institutes for recruiting candidates through campus interviews in relation to **campus recruitments**. Such services shall also be liable to tax.

Maritime courses approved by DG Shipping

- Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014.
- Therefore, Maritime Training Institutes are educational institutions and the courses conducted by them are exempt subject to fulfilment of other conditions specified herein[20].

Input services



- Regarding, input services, it may be noted that where output services are exempted, the educational institutions may not be able to avail credit of tax paid on the input side. The auxiliary education services *[services which educational institutions ordinarily carry out themselves, but may obtain as outsourced services from any other person]* specified in item (b) of entry 66 only have been exempted [Sub-items (i) to (v) of item (b) of Entry 66].
- However, the said exemption comes with a rider. Auxiliary services of (i) transportation of students, faculty, and staff, (ii) catering including any mid-day meals scheme sponsored by Government and (iii) security or cleaning or housekeeping services are exempt only if such auxiliary education services are provided to educational institutions providing services by way of education up to higher secondary or equivalent, (from pre-school to HSC). Thus, if such auxiliary education services are provided to educational institutions providing degree or higher education or institutions providing approved vocational education course, the same would not be exempt.

[20] *Circular No. 117/36/2019 GST dated 11.10.2019*

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- Similarly, services of supply of online educational journals/periodicals are exempt only if they are provided to an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force[21].



(23) Little Millennium – a pre school in outskirts of Mumbai – has subscribed the online journals on child development and experiential learning. Services of supply of online educational journals or periodicals provided, *inter alia,* to an institution providing services by way of pre-school education are not exempt.



(24) SM Transporters has provided services of transportation of students and faculty from their residence to school and back, to Pathwheels School - a higher secondary school. Services of transportation of students, faculty and staff provided, *inter alia,* to an institution providing services by way of education up to higher secondary school or equivalent are exempt.



(25) Shiksha College, offering degree courses (recognised by law), has to conduct its half yearly examination in November. For this purpose, it has paid the honorarium to paper setters and examiners (not on the rolls of Shiksha College) for their services. Further, it availed the printing services for printing the question papers (paper and content are provided by Shiksha College) for conducting examination. Services provided to an educational institution relating to admission to, or conduct of examination by, such institution are exempt. Therefore, services of paper setters and examiners and printing services availed by Shiksha College are exempt.



(26) Gyaani Public School – a higher secondary school – has hired Suvidha Services Ltd. for security and housekeeping services in the school. Security and housekeeping services provided within the premises of, *inter alia,* a higher secondary school are exempt. Therefore, said services provided by Suvidha Services Ltd. are exempt.

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[21] *The discussion in the foregoing paras is primarily based on CBIC Flyer - Chapter 40 – 'GST on Education Services' unless otherwise specified.*

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The school susbequently hired Suvidha Services Ltd. for providing the security and housekeeping services at School's Annual Day function organised in an auditorium outside the school campus. Security and housekeeping services provided to Gyaani Public School for School's Annual Day function organised outside the school campus will be taxable as only the security and housekeeping services performed within the premises of the higher secondary school are exempt.

The exemptions available in respect of input and output services of an educational institution have been tabulated as follows:

	Type of educational institution		
	Educational institution providing pre-school education and education up to higher secondary school or equivalent	**Educational institution providing education as a part of a curriculum for obtaining a recognised qualification**	**Educational institution providing education as a part of approved vocational education course**
Exempt input services	(i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or house-keeping services performed in such educational institution; (iv) services relating to admission to, or	(i) services relating to admission to, or conduct of examination by, such institution (ii) supply of online educational journals or periodicals	Services relating to admission to, or conduct of examination by, such institution.

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	conduct of examination by, such institution		
Exempt output services	Services provided by an educational institution - (a) to its students, faculty and staff; (aa) by way of conduct of entrance examination against consideration in the form of entrance fee.		

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Which of the following educational services are not exempt from GST?

(a) JEE Mains entrance exam conducted by National Testing Agency.	(b) Long duration programs (2 years) conducted by Indian Institutes of Management	(c) Coaching for preparation of UPSC entrance examination provided by perfect coaching classes .	(d) Catering services provided to Little Angels Public School

Affiliation provided by universities to colleges

- The activity of affiliation is to monitor and ensure whether the institution possesses the required infrastructure in terms of space, technical prowess, financial liquidity, faculty strength, etc. and is thereby eligible for the privileges to conduct the course/program of study for the degree/title extended by the University to the students enrolled in such institutions.
- The affiliation services provided by the universities are not related to the admission of students to such colleges or the conduct of examinations by such colleges.

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- It has been clarified by CBIC that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions. *[Circular No. 234/28/2024 GST dated 11.10.2024]*

Affiliation provided by Central and State educational boards or Councils, or other similar bodies, to schools

- The activity of affiliation carried out by educational boards or councils, or other similar bodies, is to monitor and ensure whether the schools possess the required infrastructure, finances, faculty strength etc. and are thereby eligible for the privileges to operate under the aegis of said boards or councils.
- The affiliation services are not related to the admission of students to such schools or the conduct of examinations by such schools.
- It has been clarified by CBIC that such services of affiliation, provided to schools by Central or State educational boards or councils, or other similar bodies, by whatever name called, are taxable *[Circular No. 234/28/2024 GST dated 11.10.2024]*.

However, it may be noted that the affiliation services provided by Central and State educational boards or Councils, or other similar bodies to GOVERNMENT SCHOOLS i.e. schools established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity are exempt vide Entry 66A of Exemption Notification.

4. Health care services

Entry No.	Description of services
46	Services by a veterinary clinic in relation to health care of animals or birds.
74	Services by way of- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics; 

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	However, nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services. (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.



ANALYSIS



Entry 74 - Health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST [Entry 74(a)].

However, services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services will not be exempt.

The term **'health care services'** is defined as follows:

Health care services



- means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in **any recognised system of medicines** in India and
- includes services by way of **transportation of the patient to and from** a clinical establishment, but
- does **not include hair transplant or cosmetic or plastic surgery**, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

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- As it is apparent from the definition of health care services, only services in **recognized systems of medicines in India** are exempt under this entry. Following systems of medicines are the recognized systems of medicines in India[22]:-
- Allopathy
- Yoga
- Naturopathy
- Ayurveda
- Homeopathy
- Siddha
- Unani
- Any other system of medicine that may be recognized by Central Government



Let us now understand the meaning of terms - 'clinical establishment', 'authorised medical practitioner' and 'paramedics'.



Clinical establishment: means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases.

Thus, diagnostic or investigative services of diseases provided by pathological labs are not liable to GST.

[22] *Section 2(h) of the Clinical Establishments (Registration and Regulation) Act, 2010*

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Authorised medical practitioner: means a medical practitioner registered with any of the councils of recognised system of medicines established/recognised by law in India & includes a medical professional having requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force.



Further, **Paramedics** are trained health care professionals, for example, nursing staff, physiotherapists, technicians, lab assistants etc. Services by them in a clinical establishment would be in the capacity of employee and not provided in independent capacity and will thus be considered as services by such clinical establishment. Similar services in independent capacity are also exempted.



Rent of rooms provided to in-patients

Rent of the rooms having room charges upto ₹ 5000 per day to a person receiving health care services in hospitals is exempt[23].

Services provided by senior doctors/ consultants/ technicians

- Hospitals hire senior doctors/ consultants/ technicians independently. Such persons do not have any contract with the patient. Hospitals pay them consultancy charges and there is no employer-employee relationship between them.
- It is clarified by CBIC that services provided by such senior doctors/ consultants/ technicians, whether employees or not, are healthcare services which are exempt from GST *[Circular No. 32/06/2018 GST dated 12.02.2018]*.

Amount charged by hospitals from the patients

- In above cases, suppose hospitals charge the patients, say, ₹ 10,000/- and pay to the consultants/technicians only ₹ 7,500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure, etc. Going through the definition of health care services [given above], it can be inferred that hospitals also provide healthcare services.



[23] *Circular No. 27/01/2018 GST dated 04.01.2018 read with proviso to Entry 74(a)*

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- The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt *[Circular No. 32/06/2018 GST dated 12.02.2018]*.

Food supplied to the patients



- Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the hospitals from outdoor caterers.
- When outsourced, there is no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC.
- Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable.
- Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable *[Circular No. 32/06/2018 GST dated 12.02.2018]*[24].

Services other than health care services in clinical establishment's premises

- Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements etc. will be subject to GST[25].

Services by way of Assisted Reproductive Technology (ART) procedures such as In vitro fertilization (IVF)

- As per the definition of health care services given earlier, it means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical

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*[24] The view taken in the preceding paras, that health care services coupled with other incidental services is a composite supply and is exempt since the principal supply [health care service] is exempt, is based on Circular No. 32/06/2018 GST dated 12.02.2018. However, it is also possible to take a different view since as per the definition of composite supply under section 2(30) of the CGST Act, composite supply consists of two or more **taxable supplies**.*

[25] As clarified by the CBIC GST Flyer – Chapter 39 - GST on Charitable and Religious Trusts

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establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

- **Since, the abnormality/disease/ailment of infertility is treated using ART procedure such as IVF, it is clarified that services by way of IVF are also covered under the definition of health care services[26].**

ILLUSTRATION 1

Good Health Medical Centre, a clinical establishment, offers the following services:

(i) Reiki healing treatments.

(ii) Plastic surgeries. One such surgery was conducted to repair cleft lip of a new born baby.

(iii) Air ambulance services to transport critically ill patients from distant locations to the Medical Centre.

(iv) Palliative care for terminally ill patients. On request, such care is also provided to patients at their homes. (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease).

(v) Alternative medical treatments by way of yoga.

Good Health Medical Centre also operates a cord blood bank which provides services in relation to preservation of stem cells.

Good Health Medical Centre is of the view that since it is a clinical establishment, all the health care services provided by it as well as all the taxable services provided to it are exempt from GST.

You are required to examine the situation in the light of relevant statutory provisions.

ANSWER

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST under Entry 74. In light of the

[26] *Circular No. 177/09/2022 GST dated 03.08.2022*

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same, the eligibility to exemption in respect of each service offered by Good Health Medical Centre is examined below:

(i) **Not Exempt.** Since reiki healing is not a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, it would not be exempt and thus, GST would be payable thereon.

(ii) **Exempt.** Health care service does not include, inter alia, cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Therefore, plastic surgeries will not be entitled to the said exemption and thus, GST would be payable thereon. However, plastic surgery conducted to repair a cleft lip will be eligible for exemption as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).

(iii) **Exempt.** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Good Health Medical Centre would be eligible for exemption under the said notification.

(iv) **Exempt.** Health care service means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. It is immaterial whether such service is provided at the clinical establishment or at the home of the patient or at any other place. Thus, palliative care for terminally ill patients is exempt.

(v) **Exempt.** Since Yoga is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.

Further, services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are not exempt from GST. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Good Health Medical Centre will be liable to GST.

It is important to note that Entry 74 of the exemption notification grants exemption to health care services provided BY a clinical establishment and not to services

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provided TO a clinical establishment. Therefore, Good Health Medical Centre's contention that since it is a clinical establishment, all the services provided to it are also exempt from GST is not correct in law.



Which of the following services provided by Healthy Wealthy Nursing Home are not exempt from GST?

(a) Renting of rooms with per day charges of ₹ 6,000 to in-patients.	(b) Food supplied to in-patients.	(c) Healing of patients through naturopathy	(d) Services provided in Intensive Care Unit for which ₹12,000 are charged per day.

5. Services provided by Government

Entry No.	**Description of services**
4	Services by governmental authority by way of **any activity in relation to any function entrusted to a municipality** under article 243W of the Constitution are exempt.
5	Services by a governmental authority by way of any activity in relation to **any function entrusted to a Panchayat** under article 243G of the Constitution.
6	Services by the Central Government, State Government, Union territory or local authority excluding the following services— (a) services by the **Department of Posts and the Ministry of Railways (Indian Railways);** (b) services in relation to **an aircraft or a vessel,** inside or outside the precincts of a port or an airport; (c) **transport of goods or passengers**; or

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	(d) any service, other than services covered under entries (a) to (c) above, **provided to business entities**.
7	Services provided by the Central Government, State Government, Union territory or local authority **to a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption** from registration under the Central Goods and Services Tax Act, 2017. Explanation - For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to following services:- (i) item (a), (b) and (c) of Entry 6 above. (ii) services by way of **renting of immovable property**.
8	Services provided by the Central Government, State Government, Union territory or local authority **to another Central Government, State Government, Union territory or local authority**. *However, nothing contained in this entry shall apply to services referred in item (a), (b) and (c) of Entry 6 above.*
9	Services provided by Central Government, State Government, Union territory or a local authority **where the consideration for such services does not exceed ₹ 5,000**. *However, nothing contained in this entry shall apply to services referred in item (a), (b) and (c) of Entry 6 above* Further, in case where **continuous supply of service*** is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed **₹ 5,000 in a FY.** **as defined in section 2(33)*
9C	Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, **in the form of grants**.

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9D	Services by: **an old age home** run by: ✓ Central Government, State Government or ✓ an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 to its residents (aged 60 years or more) against consideration upto ₹ 25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance. 
9E	Services provided by Ministry of Railways (Indian Railways) to individuals by way of – (a) sale of platform tickets (b) facility of retiring rooms/waiting rooms; (c) cloak room services; (d) battery operated car services
9F	Services provided by one zone/division under Ministry of Railways (Indian Railways) to another zone(s)/division(s) under Ministry of Railways (Indian Railways)[27].
24C	Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams).
34A	Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions[28].

[27] *Apart from the above mentioned services, "Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways (Indian Railways) by way of allowing Ministry of Railways (Indian Railways) to use the infrastructure built and owned by them during the concession period against consideration and services of maintenance supplied by Ministry of Railways (Indian Railways) to SPVs in relation to the said infrastructure built and owned by the SPVs during the concession period against consideration" is also exempt which shall be discussed at the Final level.*

[28] *Circular No.154/10/2021 GST dated 17.06.2021 reiterates that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under Entry 34A.*

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47	Services provided by the Central Government, State Government, Union territory or local authority by way of- (a) registration required under any law for the time being in force; (b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.
61	Services provided by the Central Government, State Government, Union territory or local authority **by way of issuance of passport, visa, driving license, birth certificate or death certificate**.
62	Services provided by the Central Government, State Government, Union territory or local authority **by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable** to the Central Government, State Government, Union territory or local authority under such contract.
63	Services provided by the Central Government, State Government, Union territory or local authority by way of **assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals**, except the rearing of horses, for food, fibre, fuel, raw material or other similar products.
65	Services provided by the Central Government, State Government, Union territory by way of **deputing officers after office hours or on holidays for inspection or container stuffing** or such other duties in relation to import export cargo on payment of Merchant Overtime charges.
65B	Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders. However, at the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of GST deposited by mining lease holders on royalty is more than the GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of GST paid by mining lease holders is less than the amount of GST exempted,

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	the exemption shall be restricted to such amount as is equal to the amount of GST paid by the mining lease holders and the ERCC shall pay the difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty. Explanation- **Mining lease holder** means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957, the rules made thereunder or the rules made by a State Government under section 15(1) of the said Act.
74A	 Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income-tax Act, 1961.



ANALYSIS

Relevant definitions are as under:

- **Business entity:** means any person carrying out business.
- **Governmental authority:** means an authority or a board or any other body,



(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with 90%, or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution.

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- **Government Entity**: means an authority or a board or any other body including a society, trust, corporation,

  (i) set up by an Act of Parliament or State Legislature; or

  (ii) established by any Government,

  with 90%, or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.

- **Aircraft:** means any machine which can derive support in the atmosphere from reactions of the air, other than reactions of the air against the earth's surface and includes balloons, whether fixed or free, airships, kites, gliders and flying machines [Section 2(1) of the Aircraft Act, 1934].

- **Airport:** means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in section 2(2) of the Aircraft Act, 1934 [Section 2(b) of the Airports Authority of India Act, 1994].

Exemption to services provided by Government

❑ **Not all services provided by the Government or a local authority are exempt from tax**. As for instance, following services are not exempt:





(a) services by the Department of Posts and the Ministry of Railways (Indian Railways);

(b) services in relation to an aircraft or a vessel, inside or outside the precincts of an airport or a port;



(c) transport of goods or passengers; or

(d) any service, **other than** services covered under (a) to (c) above provided to business entities [with aggregate turnover exceeding such amount in the preceding financial year as makes it eligible for exemption from registration under CGST Act].

Services mentioned in clause (a) to (c) above have been referred to as **"specified services"** in discussion hereunder.

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Applicability of GST on accommodation services supplied by Air Force Mess and other similar messes to its personnel

- Accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Entry 6 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority[29].

Let us first understand what does 'Government' and 'local authority' mean?

Meaning of Government



- As per section 2(53), 'Government' means the Central Government.
- Various State/ Union Territories (with Legislatures) GST Acts define 'Government' as Government of respective State Government/ Union Territory. For Union Territories (without State Legislatures), 'Government' means the Administrator or any Authority or officer authorized to act as Administrator by the Central Government.
- Regulatory bodies/agencies, for instance, Competition Commission of India, Press Council of India, Directorate General of Civil Aviation, Forward Market Commission, Inland Water Supply Authority of India, Central Pollution Control Board, Securities and Exchange Board of India, do not fall under the definition of Government.

Meaning of local authority

- Local authority is defined in section 2(69) and means the following:
  - ✓ a **"Panchayat"** as defined in clause (d) of article 243 of the Constitution;
  - ✓ a **"Municipality"** as defined in clause (e) of article 243P of the Constitution;
  - ✓ a **Municipal Committee, a Zilla Parishad, a District Board,** and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

[29] *Circular No. 190/02/2023 GST dated 13.01.2023*

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- ✓ a **Cantonment Board** as defined in section 3 of the Cantonments Act, 2006;
- ✓ a **Regional Council or a District Council** constituted under the Sixth Schedule to the Constitution;
- ✓ a Development Board constituted under article 371 and article 371J of the Constitution;
- ✓ a **Regional Council** constituted under article 371A of the Constitution.

Thus, 'local authority' includes only those bodies which are listed in the above definition. It would not include other body which is merely described as a 'local body' by virtue of a local law. For example, local developmental authorities - setup by State Governments to undertake developmental works - like Delhi Development Authority, Ahmedabad Development Authority, Bangalore Development Authority, etc. are not qualified as local authorities.

In the subsequent paras, we have examined some of the Government services:

Services provided to a business entity

- ❑ Entry 7 provides that services provided to a business entity are exempt if its aggregate turnover is upto such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act.
- ❑ However, this exemption is not applicable to **specified services,** and renting of immovable property. **Renting in relation to immovable property** means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.
- ❑ GST on services, other than **specified services,** supplied by the Central Government, State Government, Union territory or local authority to a business entity [whose turnover exceeds such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act] is payable under reverse charge by such business entity.

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However, reverse charge provisions are not applicable to renting of immovable property services provided to unregistered persons and where **'specified services'** are being provided to such business entity *[See the reverse charge provisions as discussed in Chapter – 3: Charge of GST in this Module of the Study Material]*.

Services provided by the Department of Posts



- Department of Posts provide basic mail services known as postal services such as post card, inland letter, book post, registered post provided exclusively by the Department of Posts to meet the universal postal obligations. It also provides services of transfer of money through money orders, operation of savings accounts, issue of postal orders, pension payments and other such services.
- Moreover, it provides services like distribution of mutual funds, bonds, passport applications, collection of telephone and electricity bills **on commission basis**. These services are in the nature of intermediary and are generally called **agency services**.



- Entry 6 stipulates that the services provided by the Central Government, State Government, Union territory or local authority are exempt excluding the services by the Department of Posts and the Ministry of Railways (Indian Railways). Further, entry 24C exempts the services provided by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams). Thus, on remaining services provided by the **Department of Posts, it is liable to pay tax** without the application of reverse charge.

Services provided by one Department of the Government to another Department of the Government

- Services (except specified services) provided by one Department of the Central Government/ State Government to another Department of the Central Government/ State Government are exempt under Entry 8.

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Services by governmental authority by way of any activity in relation to any function entrusted to Panchayat/ Municipality





Services provided by governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution[30] and services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution[31] are exempt vide Entry 4 and Entry 5 respectively.

Services provided by police/security agencies of Government to PSUs/corporate entities/sports events held by private entities



- Services provided by Police/security agencies of Government to PSU/private business entities are not exempt from GST.
- Such services are taxable supplies and the recipients are required to pay the tax under reverse charge mechanism on the amount of consideration paid to Government for such supply of services *[See the reverse charge provisions as discussed in Chapter – 3: Charge of GST in this Module of the Study Material]*.

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[30] The functions entrusted to municipality under the Twelfth Schedule to Article 243W of the Constitution include urban planning including town planning, roads and bridges, public health, sanitation conservancy and solid waste management, fire services, slum improvement and upgradation, promotion of cultural, educational and aesthetic aspects, provision of urban amenities and facilities such as parks, gardens, playgrounds, public amenities including street lighting, parking lots, bus stops and public conveniences, etc.

[31] The functions entrusted to Panchayat under the Eleventh Schedule to Article 243G of the Constitution include Agriculture, including agricultural extension, Animal husbandry, dairying and poultry, Fisheries, Small scale industries, including food processing industries, Drinking water, Fuel and fodder, Rural electrification, including distribution of electricity, Health and sanitation, including hospitals, primary health centres and dispensaries, Women and child development, Public distribution system, etc.

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(28) The Karnataka Cricket Association, Bangalore requests the Commissioner of Police, Bangalore to provide security in and around the Cricket Stadium for the purpose of conducting the cricket match.

The Commissioner of Police arranges the required security for an agreed consideration. In this case, services of providing security by the police personnel are not exempt.

As the services are provided by Government, Karnataka Cricket Association is liable to pay the tax on the consideration paid, albeit under reverse charge mechanism.

Services provided by way of tolerating non-performance of a contract

- Non-performance of a contract or breach of contract is one of the conditions normally stipulated in the Government contracts for supply of goods or services. The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract.
- In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party. **Tolerating non-performance of a contract is an activity or transaction which is treated as a supply of service** *[as per Schedule II – as explained in Chapter 2 – Supply under GST in this Module of the Study Material]* **and the person is deemed to have received the consideration in the form of fines or penalty and is, accordingly, required to pay tax on such amount**[32].

[32] *As per the clarification of CBIC in Circular No. 178/08/2022.GST dated 03.08.2022, where the amount paid as 'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases liquidated damages are mere a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.*

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- However, **in case of supplies made to Government, services [provided by Government] by way of tolerating the non-performance of contract by the supplier of service is covered under the exemption under Entry 62.** Thus, any consideration received by the Government from any person or supplier for non-performance of contract is exempted from tax.



(29) Public Works Department of Karnataka entered into an agreement with M/s. ABC, a construction company, for construction of its office complex for an agreed consideration. In the agreement dated 10th July, it was agreed by both the parties that M/s. ABC shall complete the construction work and handover the project on or before 31st December.

It was further agreed that any breach of the terms of contract by either party would give right to the other party to claim for damages or penalty. M/s. ABC did not complete the construction and did not handover the project by the specified date i.e., on or before 31st December.

As per the contract, the Department asked for damages/penalty from M/s. ABC and threatened to go to the court if not paid. Resultantly, M/s. ABC paid an amount of ₹ 10,00,000/- to the Department for non-performance of contract. Amount paid by M/s. ABC to Department is exempt from payment of tax.

6. Construction services

Entry No.	Description of services
10	Services provided by way of **pure labour contracts** of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the **Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana**.

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10A	Services supplied by **Electricity Distribution Utilities** by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use.
11	Services by way of **pure labour contracts** of construction, erection, commissioning, or installation of original works pertaining to a **single residential unit otherwise than as a part of a residential complex**.



ANALYSIS

Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana (hereinafter referred to as PMAY) is a programme launched by the Ministry of Housing and Urban Poverty Alleviation (MoHUPA) which envisions provision of Housing for All by 2022 when the nation completes 75 years of its independence.

The mission seeks to address the housing requirement of urban poor including slum dwellers through following, *inter alia*, programme verticals:

- Slum rehabilitation of Slum Dwellers with participation of private developers using land as a resource.
- Promotion of Affordable Housing for weaker section through credit linked subsidy.
- Affordable Housing in Partnership with Public & Private sectors.
- Subsidy for beneficiary-led individual house construction/enhancement.

Last component of the mission is assistance to individual eligible families belonging to Economically Weaker Section (EWS) categories to either construct new houses or enhance existing houses on their own to cover the beneficiaries who are not able to take advantage of other components of the mission. Such families may avail specified amount of central assistance for construction of new houses or for enhancement of existing users under the mission.

Entry 10 exempts the services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original

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works pertaining to the beneficiary-led individual house construction or enhancement under the PMAY from GST.



The term **'original works'** means-

- all **new constructions**;
- all types of **additions and alterations to abandoned or damaged structures** on land that are required to make them workable;
- erection, commissioning or **installation of plant, machinery or equipment** or structures, whether pre-fabricated or otherwise.

Entry 11 exempts the services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex from GST.

The term **'residential complex'** means any complex comprising of a building or buildings, having more than one single residential unit. Further, '**single residential unit'** means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.

7. Passenger transportation services

Entry No.	**Description of services**
15	Transport of passengers, with/ without accompanied belongings, by – (a) air, in economy class, embarking from or terminating in an airport located in the State of **Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;** (b) **non-air conditioned contract carriage** other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) **stage carriage other than air- conditioned stage carriage**. However, nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the CGST, 2017.

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16	Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a **RCS (Regional Connectivity Scheme) airport**, against consideration in the form of viability gap funding. However, nothing contained in this entry shall apply on or after the expiry of a period of **3 years** from the date of commencement of operations of the RCS airport as notified by the Ministry of Civil Aviation.
17	Service of transportation of passengers, with or without accompanied belongings, by— (a) railways in a class other than— (i) first class; or (ii) an air-conditioned coach; (b) metro, monorail or tramway; (c) inland waterways; (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and (e) metered cabs or auto rickshaws (including e-rickshaws). However, nothing contained in item (e) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the CGST, 2017.



ANALYSIS

Services of transportation of passengers are usually chargeable to GST. Entry 6 *[Services provided by Government - discussed earlier]* specifically excludes the transport of passengers' services provided by the Government or local authority from its purview, which implies that transport of passengers' services provided by the Government or local authority are liable to GST. However, services of transportation of passengers specified in Entries 15, 16 and 17 mentioned above

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are exempt from GST (whether provided by Government or otherwise) with or without accompanied belongings.

Services provided by way of transportation of passengers have been analysed as follows:

Entry 15

Clause (a)

- Transport of passengers by air, embarking from or terminating in an airport located in the States of North-East India or at Bagdogra located in West Bengal is exempt from GST provided said transportation is in economy class.



(30) Rituraj has booked air tickets in economy class of a flight from Delhi to Guwahati, Assam. Transport of passengers by air terminating in an airport located in Assam is exempt from GST.

Clause (b)

- Passenger transportation service provided by a non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire, are exempt from GST. Conducted tour is a short visit to a place in which someone shows you around and tells you information about it[33].

  The term **contract carriage** means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder

  of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum-

  (a) on a time basis, whether or not with reference to any route or distance; or

[33] *www.macmillandictionary.com*

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(b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes--

(i) a maxicab; and

(ii) a motor cab notwithstanding that separate fares are charged for its passengers [Section 2(7) of Motor Vehicles Act, 1988].

Further, **radio taxi** means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service.



(31) Subroto has hired a non-air conditioned bus from Mohit Travels for organising a recreation tour from Delhi to Jaipur. Transport of passengers by a non-air-conditioned contract carriage are exempt from GST. However, said transportation of passengers for tourism purposes is excluded therefrom. Therefore, in the given case, passenger transportation services are taxable.

Hiring of non-air conditioned contract carriages by firms for transportation of their employees to and from work

Exemption under this clause would apply to passenger transportation services by **non-air conditioned contract carriages where transportation takes place over pre-determined route on a pre-determined schedule.** The **exemption shall not be applicable** where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider[34].

Clause (c)

- Passenger transportation services provided by a stage carriage other than air conditioned stage carriage are also exempt.

[34] *Circular No. 177/09/2022 GST dated 03.08.2022*

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The term **stage carriage** means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey [Section 2(40) of the Motor Vehicles Act, 1988].



(32) The non-air conditioned buses are being operated by a State Transport Corporation for carrying passengers within the State. The passengers are being picked and dropped from and to various points by issuing individual tickets to the passengers. Such services provided by said State Transport Corporation are exempt from GST.

Proviso

It is important to note that in case where services of transport of passengers, by non-air conditioned contract carriage other than radio taxi excluding tourism, conducted tour, charter or hire or by non-air conditioned stage carriage, are supplied through Electronic Commerce Operator (ECO)[35], such services are not exempt from GST. Further, tax on such services shall be paid by ECO.

Entry 16

- Services provided to the Central Government, by way of transport of passengers by air, embarking from or terminating at a RCS airport, against consideration in the form of viability gap funding are exempt.

  A **Regional Connectivity Scheme** is introduced to facilitate / stimulate regional air connectivity by making it affordable by supporting airline operators through (1) concessions by Central Government/State Governments and airport operators to reduce the cost of airline operations on regional routes/other support measures and (2) financial (viability gap funding or VGF) support to meet the gap, if any, between the cost of airline operations and expected revenues on such routes.

  Under RCS, the underserved airports of India are aimed to be connected to key airports through flights that will cost ₹ 2,500 for per hour flight.

[35] *Provisions relating to ECOs have been discussed in detail in Chapter 3 – Charge of GST in this Module of the Study Material.*

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Entry 17

❑ Transportation of passengers by following specified modes of transport is exempt:

(a) railways in a class other than—

(i) first class; or

(ii) an air-conditioned coach;

(b) metro, monorail or tramway;

(c) inland waterways;

(d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and

(e) metered cabs or auto rickshaws (including e-rickshaws).



The term **metered cab** means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 and the rules made thereunder (but does not include radio taxi).



The term **E-rickshaw** means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf.



It is important to note that in case where service of transport of passengers by metered cabs or auto rickshaws (including e-rickshaws) are supplied through ECO, such services are not exempt from GST. Further, tax on such services shall be paid by ECO.

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Clause (d) of Entry 17

As regards transportation of passengers by vessels in clause (d) of Entry 17 *[See the table given above]*, the words **'other than predominantly for tourism purpose'** qualify the preceding words **"public transport"**. This implies that to qualify for exemption under this entry, the public transport by a vessel between places located in India should not be predominantly for tourism purposes.

Normal public ships or other vessels that sail between places located in India would be covered in this entry even if some of the passengers on board are using the service for tourism because predominantly, such service is not for tourism purpose. However, services provided by leisure/charter vessels/a cruise ship, predominant purpose of which is tourism, would not be covered in here even if some of the passengers in such vessels are not tourists.



(33) Services by way of transportation of passengers [not predominantly for tourism purpose] on a vessel, from Kolkata to Port Blair (mainland to island) or Port Blair to Neil Island (inter island) is covered in clause (d) of Entry 17 since such transportation is between two places located in India.

Where such public transport is owned by private operators. For instance, private ferries are used as means of transport from one island to another in Andaman and Nicobar Islands. Exemption under Entry 17(d) would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government.

The **expression 'public transport' used in this Entry only means that the transport should be open to public**. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.[36].

[36] *Circular No. 177/09/2022 GST dated 03.08.2022*

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Which of the following services are not exempt from GST?

(a) Services of transportation of employees in air conditioned vans for pick up and drop over pre-determined route on a pre-determined schedule.	(b) Transportation of passengers by railways in sleeper class.	(c) Transportation of passengers in autorickshaw.	(d) Transportation of passengers by air, in economy class, from Delhi to Manipur.

8. Goods transportation services

Entry No.	Description of services
18	Services by way of transportation of goods- (a) by road except the services of— (i) a goods transportation agency; (ii) a courier agency; (b) by inland waterways.
20	Services by way of **transportation by rail or a vessel** from one place in India to another of the following goods – (a) **relief materials** meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) **defence or military equipments**; (c) **newspaper or magazines** registered with the Registrar of Newspapers; (e) **agricultural produce**;





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	(f) **milk, salt and food grain** including flours, pulses and rice; and (g) **organic manure**.
	Goods Transport Agency (GTA) Service
21	Services provided by a goods transport agency, by way of transport in a goods carriage of – (a) agricultural produce; (d) milk, salt and food grain including flour, pulses and rice; (e) organic manure; (f) newspaper or magazines registered with the Registrar of Newspapers; (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or (h) defence or military equipments.
21A	Services provided **by a GTA to an unregistered person**, including an unregistered casual taxable person, other than the following recipients, namely: - (a) any factory registered under/governed by the Factories Act, 1948; or (b) any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any Co-operative Society established by or under any law for the time being in force; or (d) any body corporate established, by or under any law for the time being in force; or (e) any partnership firm whether registered or not under any law including association of persons; (f) any **casual taxable person registered** under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.



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21B	Services provided **by a GTA**, by way of transport of goods in a goods carriage, to, - (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.



ANALYSIS

Transportation of goods by rail/vessel/GTA in goods carriage

Exemptions granted to transport of specified goods through rail or a vessel or by a GTA in goods carriage are presented in the following table:**

Transportation of the following goods by rail / vessel / GTA in goods carriage is exempt
(a) agricultural produce
(b) milk, salt and food grain including flours, pulses and rice
(c) organic manure
(d) newspaper or magazines registered with the Registrar of Newspapers
(e) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap
(f) defence or military equipments

****Goods carriage** means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.

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Transportation of goods by road

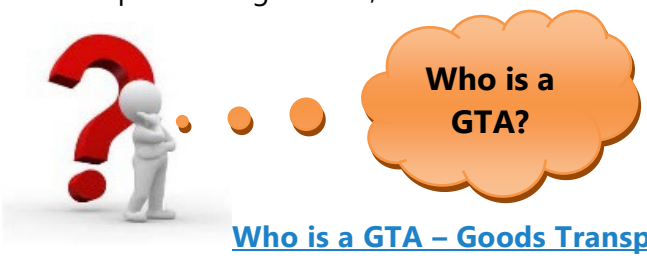
- The services of transportation of goods by road are exempt from GST under **Entry 18**. Services of GTA and courier services are an exception to this exemption. However, GTA services provided to an unregistered person [including unregistered casual taxable person[37]] are exempt from GST by virtue of **Entry 21A**.
- Further, GTA services provided to registered casual taxable person and following persons, even if unregistered under GST law, are liable to tax:
  - (i) factory registered under Factories Act,
  - (ii) society registered under Societies Act,
  - (iii) Co-operative society,
  - (iv) body corporate and
  - (v) partnership firm including AOP.
- In other words, the GTA services provided to only an unregistered individual end consumer, whether being a casual taxable person or not, are exempt from GST.
- Thus, GTA services provided to:
  - ✓ person registered under GST law & registered casual taxable person, and
  - ✓ a factory registered under Factories Act, society registered under Societies Act, Co-operative society, body corporate and partnership firm including AOP – whether or not registered under GST law, are liable to tax.
- Transportation of goods service provided by GTA in a goods carriage, to a Central/State Government (Union Territory) Department or Establishment or local authority or Governmental agencies which has taken registration under GST law only for the purpose of deducting TDS under section 51 and not for making a taxable supply of goods or services are exempt under **Entry 21B**.

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[37] The concept of 'casual taxable person' has been discussed in detail in Chapter 9 – Registration in Module 2 of this Study Material.

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Before proceeding further, we shall now understand the meaning of GTA:



Who is a GTA – Goods Transport Agency?

Let us understand the meaning of Goods Transport agency (GTA). Goods transport agency has been defined in the Notification to mean any person who:

- provides service **in relation to transport of goods by road** and
- issues **consignment note**, by whatever name called.

- Thus, it can be seen that **issuance of a consignment note is the *sine-qua-non* for a supplier of service to be considered as a GTA**. If such a consignment note is not issued by the transporter, the service provider will not come within the ambit of GTA.
- **If a consignment note is issued, it indicates that the lien on the goods has been transferred** (to the transporter) and the transporter becomes responsible for the goods till its safe delivery to the consignee. It is only the services of such GTA, which assumes agency functions, that has been brought into the GST net.
- **Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA.** As a result, the services provided by such individual transporters who do not issue a consignment note will be covered by the entry at Entry 18 of Notification, which are exempt from GST.



(34) Hari Prasad owns a truck and operates it himself. He carries the goods booked for his truck without issuance of consignment note. Services provided by Hari Prasad by way of transportation of goods by road are exempt under Entry 18.

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- **Consignment note** means a document, issued by a GTA against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains:



  - ✓ the name of the consignor and consignee,
  - ✓ registration number of the goods carriage in which the goods are transported,
  - ✓ details of the goods transported,
  - ✓ details of the place of origin and destination,
  - ✓ gross weight of the consignment;
  - ✓ GSTIN of the person liable for paying tax whether consignor, consignee or GTA
  - ✓ other particulars as prescribed for a tax invoice[38].

Significance of the term 'in relation to' in the definition of GTA





The use of the phrase **'in relation to'** has extended the scope of the definition of GTA. It includes not only the actual transportation of goods, but also various intermediary and ancillary services, such as, loading/ unloading, packing/ unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods by road. These services are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services.

It is clarified by CBIC that ancillary or incidental services provided by GTA in the course of transportation of goods by road, such as loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as composite supply of transport of goods.

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[38] *Meaning of GTA and consignment note elaborated in foregoing paras is primarily based on CBIC GST flyer - Chapter 38 – Goods Transport Agency in GST.*

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The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service.

However, if such services are not provided in the course of transportation of goods and are invoiced separately, then these services will not be treated as composite supply of transport of goods[39].

What is courier agency?



Courier agency has been defined in the Notification to mean any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.

Express cargo service: Some transporters undertake door-to-door transportation of goods or articles and they have made special arrangements for speedy transportation and timely delivery of such goods or articles.

Such services are known as 'Express Cargo Service' with assurance of timely delivery. The nature of service provided by 'Express Cargo Service' falls within the scope and definition of the courier agency. Hence, the said service relating to transportation of goods by road is not exempt.

Transport of minerals within a mining area by vehicles deployed with driver for a specific duration of time

The issue which arose for consideration was whether transport of minerals within a mining area, say from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time would be covered under Entry 18 which exempts transport of goods by road except by a GTA.

Usually in such cases the vehicles such as tippers, dumpers, loader, trucks etc., are given on hire to the mining lease operator. Expenses for fuel are generally borne by the recipient of service. The vehicles with driver are at the disposal of the mining lease operator for transport of minerals within the mine area (mining pit to railway siding, beneficiation plant etc.) as per his requirement during the period of contract.

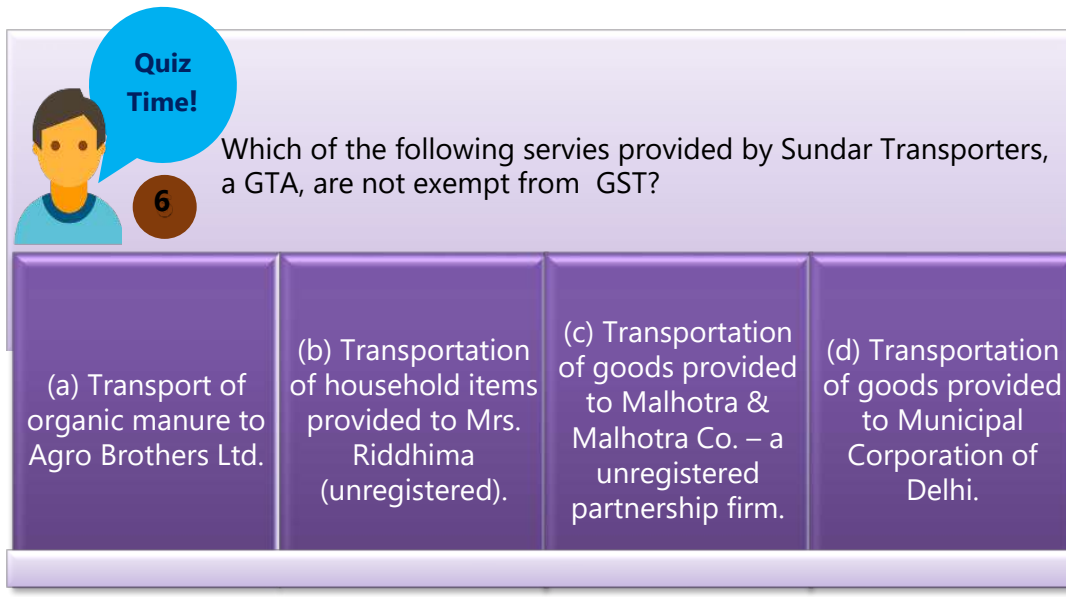
[39] *As clarified in answer to question no. 6 of CBIC FAQs on Transport & Logistics read with Circular No. 234/28/2024 GST dated 11.10.2024.*

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Such services are nothing but "rental services of transport vehicles with operator". The person who takes the vehicle on rent defines how and when the vehicles will be operated, determines schedules, routes and other operational considerations.

The person who gives the vehicles on rent with operator cannot be said to be supplying the service by way of transport of goods.

Accordingly, it is clarified that such renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles with operator and not service of transportation of goods by road. Consequently, it is not eligible for exemption under Entry 18[40].



9. Banking and financial services

Entry No.	Description of services
27	Services by way of— (a) **extending deposits, loans or advances** in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);

[40] *Circular No. 177/09/2022 GST dated 03.08.2022*

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	(b) *inter se* **sale or purchase of foreign currency** amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.
27A	Services provided by a **banking company to Basic Saving Bank Deposit (BSBD) account holders** under Pradhan Mantri Jan Dhan Yojana (PMJDY).
34	Services by an acquiring bank, to any person in relation to settlement of an amount upto ₹ 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service. *Explanation.*— For the purposes of this entry, **"acquiring bank"** means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.
39A	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR). Explanation.- For the purposes of this entry, the intermediary of financial services in IFSC is a person,- (i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or (ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or (iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.

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ANALYSIS



Banks and financial institutions provide a bouquet of financial services relating to lending or borrowing of money or investments in money.

Specified banking services exempt from GST vide Entry 27 have been discussed below:

(A) Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount: This entry covers any such service wherein moneys due are allowed to be used or retained on payment of interest or on a discount. The words used are '**deposits, loans or advances'** and have to be taken in the generic sense.



They would cover any facility by which an amount of money is lent or allowed to be used or retained on payment of what is commonly called the time value of money which could be in the form of an interest or a discount. **This entry would not cover investments by way of equity or any other manner where the investor is entitled to a share of profit.**



Interest: means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.

❑ **Illustrations of services exempt under Entry 27** are -



- ✓ Fixed deposits or saving deposits or any other such deposits in a bank or a financial institution for which return is received by way of interest.
- ✓ Providing a loan or overdraft facility or a credit limit facility in consideration for payment of interest.



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- ✓ Mortgages or loans with a collateral security to the extent that the consideration for advancing such loans or advances are represented by way of interest.
- ✓ Corporate deposits to the extent that the consideration for advancing such loans or advances are represented by way of interest or discount.

- ❑ **Service charges/ fees, documentation fees, broking charges, administrative charges, entry charges or such like fees or charges collected over and above interest** on loan, advance or a deposit are not exempt and thus, represent taxable consideration.
- ❑ **Invoice discounting/ cheque discounting or any other similar form of discounting** is covered only to the extent consideration is represented by way of discount as such discounting is a manner of extending a credit facility or a loan.
- ❑ **Any interest/ delayed payment charges charged to clients for delay in payment of brokerage amount/ settlement obligations/ margin trading facility:** is exempt from GST since settlement obligations/ margin trading facilities are transactions which are in the nature of extending loans or advances and are covered by Entry 27[41].
- ❑ **Charges for late payment of outstanding dues on credit card**: Interest charged on outstanding credit card balances has been specifically excluded from Entry 27. Hence, the same is liable to GST.
- ❑ **Additional/ penal interest on the overdue loan**: In cases where the Equated Monthly Instalment (EMI)[42] is not paid at the scheduled time, there is a levy of additional/ penal interest on account of delay in payment of EMI.

  There may arise a doubt as to whether this additional / penal interest on the overdue loan is exempt under Entry 27 or such penal interest is to be treated as consideration for liquidated damages [amounting to a

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[41] *As clarified vide FAQs on Banking, Insurance and Stock Brokers Sector issued by CBIC.*

[42] *An Equated Monthly Instalments (EMI) is a fixed amount paid by a borrower to a lender at a specified date every calendar month. EMIs are used to pay off both interest and principal every month, so that over a specified period, the loan is fully paid off along with interest.*

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separate taxable supply of services under GST covered under entry 5(e) of Schedule II i.e. "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act"]

There are two transaction options involving EMI that are prevalent in the trade. These two options, alongwith the GST applicability on them, have been explained with the help of illustrations as under –



(35) X sells a mobile phone to Y. The cost of mobile phone is ₹ 40,000. However, X gives Y an option to pay in installments, ₹ 11,000 every month before 10th day of the following month, over next four months (₹ 11,000/- × 4 = ₹ 44,000/-). As per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/ penal interest amounting to ₹ 500/- per month for the delay.

In some instances, X is charging Y ₹ 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/ penal interest amounting to ₹ 500/- per month for each delay in payment.

In this case, the amount of penal interest is to be included in the value of supply[43]. The transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.

(36) X sells a mobile phone to Y. The cost of mobile phone is ₹ 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan

[43] *Here, the amount of penal interest is to be included in the value of supply in terms of the provisions of section 15(2)(d). Section 15(2)(d) provides that the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply. The provisions of section 15 have been discussed in detail in Chapter 7: Value of Supply in this Module of the Study Material.*

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and an additional/ penal interest @ 1.25% per month for any delay in payment.

Here, the additional/ penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under exemption Entry 27. Consequently, in this case the 'penal interest' charged thereon on a transaction between Y and M/s. ABC Ltd. would not be subject to GST as the same would be covered under said exemption entry. However, any service fee/ charge or any other charges, if any, are levied by M/s. ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in exemption notification, and accordingly will not be exempt.

Moreover, the value of supply of mobile by X to Y would be ₹ 40,000/- for the purpose of levy of GST.

Since this levy of additional/ penal interest satisfies the definition of "interest" as contained in Entry 27 above, the same cannot be treated as consideration for liquidated damages. Consequently, transaction of levy of additional/ penal interest does not fall within the ambit of Schedule II i.e. "agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act"[44] *[Circular No. 102/21/2019-GST dated 28.06.2019]*.

(B) Services provided by banks or authorized dealers of foreign exchange by way of sale of foreign exchange: The term **'authorised dealer of foreign exchange'** means an authorised dealer, money changer, off-shore banking unit or any other person for the time being authorised under section 10(1) of FEMA, 1999 to deal in foreign exchange or foreign securities [Section 2(c) of the Foreign Exchange Management Act, 1999].



[44] *Schedule II has been discussed in detail in Chapter 2 – Supply under GST in this Module of the Study Material.*

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It is important to note that such services provided to general public will not be covered in this entry as this entry only covers sale or purchase of foreign exchange:-

(i) amongst banks or

(ii) amongst authorized dealers of foreign exchange or

(iii) amongst banks and such dealers.

Services provided by commercial banks to RBI would be taxable as these are not covered by any of the exemptions/exclusions under the GST law.

ILLUSTRATION 2

M/s. Apna Bank Limited, a scheduled commercial bank, has furnished the following details for the month of August:

Particulars	*Amount [₹ in crores] (excluding GST)*
Extended housing loan to its customers	*100*
Processing fees collected from its customers on sanction of loan	*20*
Commission collected from its customers on bank guarantee	*30*
Interest income on credit card issued by the bank	*40*
Interest received on housing loan extended by the bank	*25*
Minimum balance charges collected from current account and saving account holder	*01*

Compute the value of taxable outward supply.

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ANSWER

Computation of value of taxable outward supply of M/s. Apna Bank Limited for the month of August:

Particulars	Amount in crores (₹)
Housing loan extended to customers [Since money does not constitute goods, extending housing loan is not a supply.]	Nil
Processing fee collected on sanction of loan [Interest does not include processing fee on sanction of the loan. Hence, the same is taxable.]	20
Commission collected on bank guarantee [Any commission collected over and above interest on loan, advance or deposit are not exempt.]	30
Interest income on credit card issued by the bank [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax. However, interest involved in credit card services is specifically excluded from this exemption entry.]	40
Interest received on housing loan [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax.]	Nil
Minimum balance charges collected from current account and saving account holder [Any charges collected over and above interest on loan, advance or deposit are not exempt.]	01
Value of taxable outward supply	91

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Which of the following amounts received by Sindhbad Bank are not exempt from GST?

(a)	(b)	(c)	(d)
Cheque discounting charges received	Interest on overdraft facility	Charges for late payment of outstanding dues on credit card	Interest received on housing loan

10. Life insurance business services

Entry No.	Description of services
28	Services of life insurance business provided by way of annuity under the **National Pension System** regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013.
29	Services of life insurance business provided or agreed to be provided by the **Army, Naval and Air Force Group Insurance Funds** to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.
29A	Services of life insurance provided or agreed to be provided by the **Naval Group Insurance Fund** to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.
29B	Services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) **Group Insurance Funds** to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.

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36	Services of life insurance business provided under following schemes- (a) Janashree Bima Yojana; (b) Aam Aadmi Bima Yojana; (c) Life micro-insurance product** as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ₹ 2,00,000; (d) Varishtha Pension Bima Yojana; (e) Pradhan Mantri Jeevan Jyoti Bima Yojana; (f) Pradhan Mantri Jan Dhan Yojana; (g) Pradhan Mantri Vaya Vandan Yojana. ****Life micro-insurance product** means any term insurance contract with/without return of premium, any endowment insurance contract or health insurance contract, with/without an accident benefit rider, either on individual/group basis, as per terms stated in Schedule-II appended to the regulations [Regulation 2(e) of the Insurance Regulatory and Development Authority (Micro-insurance) Regulations, 2005].

11. Services provided by specified bodies

Entry No.	**Description of services**
30	Services by the **Employees' State Insurance Corporation** to persons governed under the Employees' State Insurance Act, 1948.
31	Services provided by the **Employees Provident Fund Organisation** to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.

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31A	**Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.**
31B	Services by **National Pension System (NPS) Trust** to its members against consideration in the form of administrative fee.

12. General insurance business services

Entry No.	Description of services
35	Services of **general insurance business** provided under following schemes – (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna[45]; (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance; (h) Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture; (i) Jan Arogya Bima Policy; (j) Pradhan Mantri Fasal Bima Yojana (PMFBY); (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; (o) Coconut Palm Insurance Scheme; (p) Pradhan Mantri Suraksha Bima Yojna;

[45] *earlier known as Integrated Rural Development Programme*

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	(q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999. (r) Bangla Shasya Bima
36A	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40[46]. "Retrocession" means a re-insurance transaction whereby a part of assumed reinsured risk is further ceded to another Indian Insurer or a CBR (Cross Border Re-insurer). It has been clarified[47] that the term "reinsurance" includes "retrocession" services.
36B	***Services of insurance provided by the Motor Vehicle Accident Fund, constituted under section 164B of the Motor Vehicles Act, 1988, against contributions made by insurers out of the premiums collected for third party insurance of motor vehicles.***

13. Pension schemes

Entry No.	**Description of services**
37	Services by way of collection of contribution under the Atal Pension Yojana.
38	Services by way of collection of contribution under any pension scheme of the State Governments.

14. Business facilitator/correspondent

Entry 39: Services by the following persons in respective capacities –

(a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;

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[46] *Entry 40 is discussed subsequently under heading 15. 'Services provided to Government'.*

[47] *Circular No. 228/22/2024 GST dated 15.07.2024*

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(b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or

(c) business facilitator or a business correspondent to an insurance company in a rural area.



ANALYSIS

It is still a big challenge for India to make the financial services accessible in rural areas. In many rural areas, either there are no banks or number of banks is insufficient. In order to counter this problem and ensure greater financial inclusion, the Reserve Bank of India (RBI) introduced the Business Correspondents and Business Facilitator Model through guidelines in 2006 allowing banks to employ two categories of intermediaries – known as Business facilitators (BFs) and Business correspondents (BCs).

BCs/BFs help villagers to open bank accounts and provide other banking services to them. They act as an intermediary between the bank and its customers. Banks, in turn, pay commission/ fee to the BCs/BFs.

According to the RBI guidelines, while the BCs are permitted to carry out transactions on behalf of the bank as agents, the BFs can refer clients, pursue the clients' proposal and facilitate the bank to carry out its transactions, but cannot transact on behalf of the bank[48].

Similarly, insurance companies engage the BCs/BFs to provide the insurance services in remote areas.

Entry 39 exempts the services provided by BF/BC to a banking company with respect to accounts in its rural area branch and services provided by any person as an intermediary to a BF/BC with respect to said services are exempt from GST.

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[48] *BFs provide a wide range of services including identification of borrowers and fitment of activities, collection and preliminary processing of loan applications, processing and submission of applications to banks, follow-up for recovery, etc. BCs, in addition to these activities, also undertake disbursal of small value credit, recovery of principal / collection of interest, collection of small value deposits, sale of micro insurance/ mutual fund products/ pension products/ other third party products, receipt and delivery of small value remittances/ other payment instruments, etc.*

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Further, the services provided by BF/BC to an insurance company in a rural area are also exempt.

It is important to note that for the purpose of availing exemption from GST under this Entry, services provided by a BF/BC to a banking company in their respective individual capacities should be with respect to accounts in a branch located in the **rural area** of the banking company.

Wherever the services provided by BF/BC to banking company and services provided by intermediary of BF/BC to BF/BC do not fall within the scope of this entry, GST is payable on such services.

However, the banking company is the person liable to pay GST under reverse charge in respect of commission/fees charged for the taxable services provided by BF to a banking company. Similarly, GST on taxable services provided by an agent of BC to BC is payable under reverse charge by the BC.

Further, as seen above, as per RBI's guidelines, banks may pay reasonable commission/fee to the BC. The agreement of banks with the BC specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank. On the other hand, banks (and not BCs) are permitted to collect reasonable service charges from the customers for such service in a transparent manner.

The arrangements of banks with the BCs specify the requirement that the transactions are accounted for and reflected in the bank's books by end of the day or the next working day, and all agreements/contracts with the customer shall clearly specify that the bank is responsible to the customer for acts of omission and commission of the BF/BC.
Hence, banking company is the service provider to the ultimate customer in the BF model/BC model. The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via BF/BC[49].

Other relevant definitions under this entry are as follows:

- **Insurance company:** means a company carrying on life insurance business or general insurance business.
- ***Insurer :*** ***"Insurer" has the same meaning as assigned to it in sub-section (9) of section 2 of the Insurance Act, 1938.***

[49] *Circular No. 86/05/2019 GST dated 01.01.2018*

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As per Section 2(9) of the Insurance Act, 1938, "Insurer" means—

(a) an Indian Insurance Company, or

(b) a statutory body established by an Act of Parliament to carry on insurance business, or

(c) an insurance co-operative society, or

(d) a foreign company engaged in re-insurance business through a branch established in India.

Explanation — For the purposes of this sub-clause, the expression "foreign company" shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd's established under the Lloyd's Act, 1871 (United Kingdom) or any of its Members

- **Intermediary** means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account [Section 2(13) of the IGST Act, 2017].

- **Rural area:** means the area comprised in a village as defined in land revenue records, excluding the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government.

- Exemption Notification defines BF/BC as an intermediary appointed under the BF model or BC model by a banking company or an insurance company under the guidelines issued by the RBI.

15. Services provided to Government

Entry No.	Description of services
3	**Pure services provided TO Government:** ❑ Pure services (excluding works contract service or other composite supplies involving supply of any goods)

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	❑ provided to the Central Government, State Government or Union territory or local authority ❑ by way of any activity: ✓ in relation to any function entrusted to a Panchayat under article 243G of the Constitution or ✓ in relation to any function entrusted to a Municipality under article 243W of the Constitution.
3A	**Composite supply of goods and services TO Government:** ❑ Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply ❑ provided to the Central Government, State Government or Union territory or local authority ❑ by way of any activity: ✓ in relation to any function entrusted to a Panchayat under article 243G of the Constitution or ✓ in relation to any function entrusted to a Municipality under article 243W of the Constitution.
3B	Services provided to a Governmental Authority by way of — (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation.
11A	Service provided **by Fair Price Shops** to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin. 
40	Services provided to the Central Government, State Government, Union territory **under any insurance scheme** for which total premium is paid by the Central Government, State Government, Union territory.

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72	Services provided to the Central Government, State Government, Union territory administration **under any training programme** for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration. It is clarified[50] that free coaching services provided by coaching institutions and NGOs under the central scheme of "Scholarships for students with Disabilities" where 75% or more of the expenditure[51] is borne by the Government to coaching institutions by way of grant in aid is covered under this entry and hence is exempt from GST.



ANALYSIS

Entry 3 exempts the **supply of 'pure services'** to Government. Supply of **'pure services'** means supply of services without involving any supply of goods.

Further, **'composite supply of goods and services'*** to Government is exempted vide **Entry 3A**.

**in which value of supply of goods constitutes not more than 25% of value of such composite supply.*

Let us understand the concept of supply of 'pure services' and 'composite supply of goods and services' to Government by following examples:



(37) Supply of manpower for cleanliness of roads, public places, architect services, consulting engineer services, advisory services, and like services provided by business entities not involving any supply of goods would be treated as supply of pure services.

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[50] *vide Circular No. 164/20/2021 GST dated 06.10.2021*

[51] *This circular was issued prior to amendment in Entry 72 when the exemption was available only when **total expenditure** under the training programme was borne by the Central Government, State Government, Union territory administration.*
*However, as seen earlier in this chapter, Entry 72 has subsequently been amended and now exemption is available even when **75% or more of the total expenditure** under the training programme is borne by the Central Government, State Government, Union territory administration.*
Hence, the words "total expenditure" have been substituted with "75% or more of the total expenditure" in the above discussion pertaining to circular.

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(38) A local authority awards the work of maintenance of street-lights in a Municipal area to an agency which involves apart from maintenance, replacement of defunct lights and other spares. In this case, the scope of the service involves maintenance work and supply of goods, i.e. composite supply of goods and services.

It is clarified that **if such services are procured by Indian Army or any other Government Ministry/Department which does not perform any functions listed in the 11th and 12th Schedule, in the manner as a local authority does for the general public, the same are not eligible for exemption under Entries 3 and 3A[52].**

Clarification in respect of applicability of GST on facility management services provided to Municipal Corporation of Delhi (MCD) Headquarters.

Issue

MCD is receiving the services such as housekeeping, civil maintenance, furniture maintenance and horticulture, from facility management agency, for the upkeep of their office. The issue which arose for consideration was whether such services received by them are exempt from GST in terms of Sr. No.3A of the Notification No. 12/2017-CT(R) dated 28.06.2017.

Clarification

The services of facility management such as housekeeping, civil maintenance, furniture maintenance and horticulture agency for the upkeep of office of MCD are not supplied in relation to performing any functions entrusted to a Municipality under Article 243W of the Constitution of India. Such services are not covered under the scope of entry at Sr. No. 3A.

Thus, it has been clarified that GST is applicable on the services provided by facility management agency to MCD, Delhi HQ for upkeep of its head quarter building at applicable rates as these services are not covered under the scope of entry at Sr. No. 3A.

[Circular No. 245/02/2025-GST dated 28.01.2025]

[52] *Circular No. 177/09/2022 GST dated 03.08.2022*

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16. Leasing services

Entry No.	Description of services
41	Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of 30 years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 20% or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area. **Upfront amount paid in instalments** Aforesaid exemption is admissible irrespective of whether such upfront amount is payable/paid in one/more instalments, provided the amount is determined upfront[53]. **Location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease** Upfront amount is exempt from GST. Allowing choice of location of plot is integral part of supply of long-term lease of plot and therefore, location charge is nothing, but part of consideration charged for long term lease of plot. Being charged upfront along with the upfront amount for the lease, the same is exempt. Accordingly, it is clarified that location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for exemption under Entry 41[54]. Explanation - For the purpose of this exemption, the Central Government, State Government or Union territory shall have 20% or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.

[53] *As clarified vide Circular No. 101/20/2019 GST dated 30.04.2019*
[54] *As clarified vide Circular No. 177/09/2022 GST dated 03.08.2022*

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	Conditions: 1. The leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area. 2. State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard. 3. In case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee/ buyer/ owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty. 4. The lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease/ sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.

17. Legal services

Entry 45: Services provided by-

(a) an arbitral tribunal to –

(i) any person other than a business entity; or

(ii) a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017;

(iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

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(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-

(i) an advocate or partnership firm of advocates providing legal services;

(ii) any person other than a business entity; or

(iii) a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017;

(iv) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

(c) a senior advocate by way of legal services to-

(i) any person other than a business entity; or

(ii) a business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.

(iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.

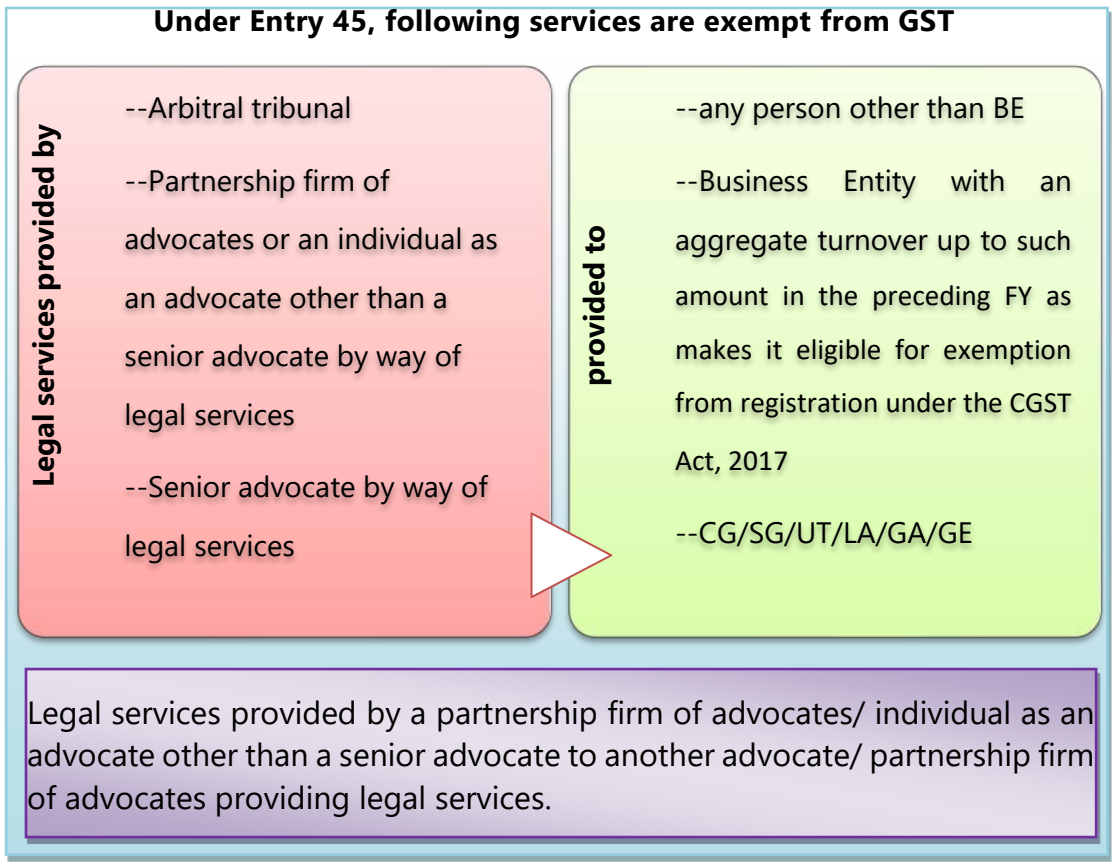


ANALYSIS

Relevant definitions are as under:

- **Legal service:** means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.
- **Advocate:** means an advocate entered in any roll under the provisions of the Advocates Act, 1961 [Section 2(1)(a) of the Advocates Act, 1961].
- **Arbitral tribunal:** means a sole arbitrator or a panel of arbitrators [Section 2(d) of the Arbitration and Conciliation Act, 1996].
- **Senior advocate:** An advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability standing at the Bar or special knowledge or experience in law he is deserving of such distinction. Senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interest of the legal profession, prescribe.

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Thus, legal services provided to a business entity with an aggregate turnover exceeding such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017 are liable to GST. Further, tax is payable by the business entity on such services under reverse charge.



(39) Pyarelal & Co. has obtained registration under GST in the preceding financial year as its aggregate turnover exceeded the threshold exemption limit. In the current FY, it sought legal consultancy services for its business from Nyay Advocates – a partnership firm of advocates. The legal services so received by Pyarelal & Co. are not exempt because its aggregate turnover exceeds the threshold exemption limit of registration in the preceding financial year. Further, the tax on the said legal services is payable by Pyarelal & Co. under reverse charge.

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Which of the following services are liable to GST?

(a) Services provided by business correspondent to a banking company with respect to accounts in its urban area branch.	(b) Legal services provided by senior advocate to an unregistered business entity.	(c) Services provided by a banking company to Basic Saving Bank A/c under PM Jan Dhan Yojana.	(d) Services by way of collection of contribution under Atal Pension Yojana.

18. Sponsorship of sports events

Entry 53: Services by way of sponsorship of sporting events organised -

(a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;

(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;

(c) by the Central Civil Services Cultural and Sports Board;

(d) as part of national games, by the Indian Olympic Association; or

(e) under the Panchayat Yuva Kreeda Aur Khel Abhiyaan Scheme.

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19. Skill Development services

Entry No.	Description of services
69	Any services provided by – (a) the National Skill Development Corporation set up by the Government of India; (b) the National Council for Vocational Education and Training; (c) an Awarding Body recognized by the National Council for Vocational Education and Training; (d) an Assessment Agency recognized by the National Council for Vocational Education and Training; (e) a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training, ***(f) a training partner approved by the National Skill Development Corporation,*** in relation to- (i) the National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (iii) any National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.
70	Services of **assessing bodies empanelled centrally** by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.
71	Services provided by training providers (Project implementation agencies) under **Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY)** implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Education and Training.

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20. Performance by an artist

Entry 78: Services by an artist by way of a performance in folk or classical art forms of-

(a) music, or

(b) dance, or

(c) theatre,

if the consideration charged for such performance is not more than **₹ 1,50,000** are exempt from GST.

The activities by a performing artist in folk or classical art forms of music, dance, or theatre are exempt if **consideration** does not exceed ₹ 1,50,000. However, if consideration from such activities exceeds ₹ 1,50,000, entire consideration is subject to GST.

Further, all other activities by an artist in **other art forms** e.g. western music or dance, modern theatres, performance of actors in films or television serials would be taxable. Similarly, activities of artists in **still art forms** e.g. painting, sculpture making etc. are **taxable.**

However, the exemption shall not apply to service provided by such artist as a brand ambassador.

'Brand ambassador' means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.

ILLUSTRATION 3

Determine the GST payable, if any, in each of the following independent cases, assuming that the rate of GST is 18% and that the service providers are registered:

(a) Bollywood dance performance by a film actor in a film and consideration charged is ₹ 1,45,000.

(b) Carnatic music performance by a classical singer to promote a brand of readymade garments and consideration charged is ₹ 1,30,000.

(c) Carnatic music performance by a classical singer in a music concert and consideration charged is ₹ 1,55,000.

(d) Kathak dance performance by a classical dancer in a cultural programme and consideration charged is ₹ 1,45,000.

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ANSWER

(a) Bollywood Dance performance by a film actor in a film is not exempt from GST even though the consideration charged is less than threshold limit of ₹ 1,50,000. The reason for the same is that the dance performance by an artist is exempt only if it is a performance in folk or classical art forms of dance.

(b) Carnatic music performance by a classical singer to promote a brand of readymade garments is not exempt from GST even though, the consideration charged is less than threshold limit of ₹ 1,50,000 and it is a performance in classical art forms of music. The reason for the same is that the said exemption is not applicable to service provided by such artist as a brand ambassador.

(c) Carnatic music performance by a classical singer in a music concert is not exempt from GST even though it is a performance in classical art forms of music. The reason for the same is the consideration charged for the service exceeds ₹ 1,50,000. Consequently, entire consideration charged is subject to GST as follows:

= ₹ 1,55,000 × 18% = ₹ 27,900

(d) Kathak dance performance by a classical dancer in a cultural programme is exempt from GST as it is a performance in classical art forms of dance and consideration charged does not exceed ₹ 1,50,000 [i.e. ₹ 1,45,000].

21. Right to admission to various events

Entry No.	Description of services
79	Services by way of admission to a **museum, national park, wildlife sanctuary, tiger reserve or zoo****. ****Zoo** means an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public and includes a circus and rescue centres but does not include an establishment of a licensed dealer in captive animals. [Section 2(39) of the Wild Life (Protection) Act, 1972].
79A	Services by way of admission to a **protected monument** so declared under the Ancient Monuments and Archaeological Sites

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	& Remains Act 1958 or any of the State Acts, for the time being in force.
81	Services by way of right to admission to- (a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event🕘; (c) recognised sporting event; (d) planetarium, where the consideration for right to admission to the events or places as referred to in items (a), (b), (c) or (d) above is not more than ₹ 500 per person. 🕘 **Recognised sporting event** means any sporting event,- (i) organised by a **recognised sports body**●● where the participating team or individual represent any district, state, zone or country; (ii) organized (A) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State or zone; (B) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat; (C) by Central Civil Services Cultural and Sports Board; (D) as part of national games, by Indian Olympic Association; or (E) under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme. ●● **Recognised sports body** means – (i) the Indian Olympic Association; (ii) Sports Authority of India;

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	(iii) a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations; (iv) national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government; (v) the International Olympic Association or a federation recognised by the International Olympic Association; or (vi) a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India.

22. Services by an unincorporated body or a non- profit entity

Entry No.	Description of services
77	Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution – (a) as a trade union (b) for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or (c) up to an amount of ₹ 7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.
77A	Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,- (i) activities relating to the welfare of industrial or agricultural labour or farmers; or (ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, to its own members against consideration in the form of membership fee upto an amount of ₹ 1000/- per member per year.

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ANALYSIS

Co-operative Housing Society



Co-operative Housing Societies are entities registered under the co-operative laws of the respective States. A Co-operative Housing Society is a collective body of persons, who stay in a residential society and as a collective body, they supply certain services to its members, like collecting statutory dues from its members and remitting to statutory authorities, maintenance of the building, security etc.

A Co-operative Housing Society is akin to a club, which is composed of its members. Service provided by a Housing Society [Resident Welfare Association (RWA)] to its members is treated as service provided by one person to another. The activities of the housing society/RWA would attract the levy of GST and the housing society would be required to register if its aggregate turnover exceeds the threshold limit and comply with the GST Law, unless specifically exempted.

GST exemption on services provided by a Co-operative Housing Society

If the aggregate turnover of housing society/RWA providing services to its members is above the applicable threshold limit for registration[55], it needs to take registration under GST in terms of section 22 *[Refer Chapter-9: Registration in Module 2 of this Study Material for detailed discussion on registration]*.

However, taking registration does not mean that the housing society has to compulsorily charge GST in the monthly maintenance bills raised on its members. If the services provided by it are exempt under an exemption notification, then it is not required to charge GST on the said services, even if it is registered under GST.

For instance, in view of entry 77(c) above, supply of service by a RWA (unincorporated body or a non- profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST.

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[55] *Threshold limit is ₹ 10 lakh for specified Special Category States, namely, Manipur, Mizoram, Nagaland and Tripura and ₹ 20 lakh for all other States.*

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So, there can be case where a society is registered under GST, but the monthly contribution received from all the members is less than ₹ 7,500/- per member (and the amount is for the purpose of sourcing of goods and services from a third person for the common use of its members). In such a case, no GST is to be charged by the housing society on the monthly bill raised by the society.



(40) RWA of Chulbul Housing Society, registered under GST, collected the maintenance charges of ₹ 6,000 per month per member. In this case, no GST is to be charged by the RWA.

However, in above case, if the monthly contribution exceeds ₹ 7,500/- per member, entire contribution is taxable.



(41) If, in above example, other things remaining the same, the RWA of Chulbul Housing Society collected the maintenance charges of ₹ 9,000 per month per member, GST @18% shall be payable on the entire amount of ₹ 9,000 and not on [₹ 9,000 - ₹ 7,500] = ₹ 1,500.

There can also be a case where the aggregate turnover of the society/RWA is less than the applicable threshold limit for registration and the monthly contribution of all the individual members towards maintenance is less than ₹ 7,500/- (such services being exempt). Further, the society is providing no other taxable service to its members or outsiders. In this case, the society (essentially exclusively providing wholly exempt services) need not take registration under GST.



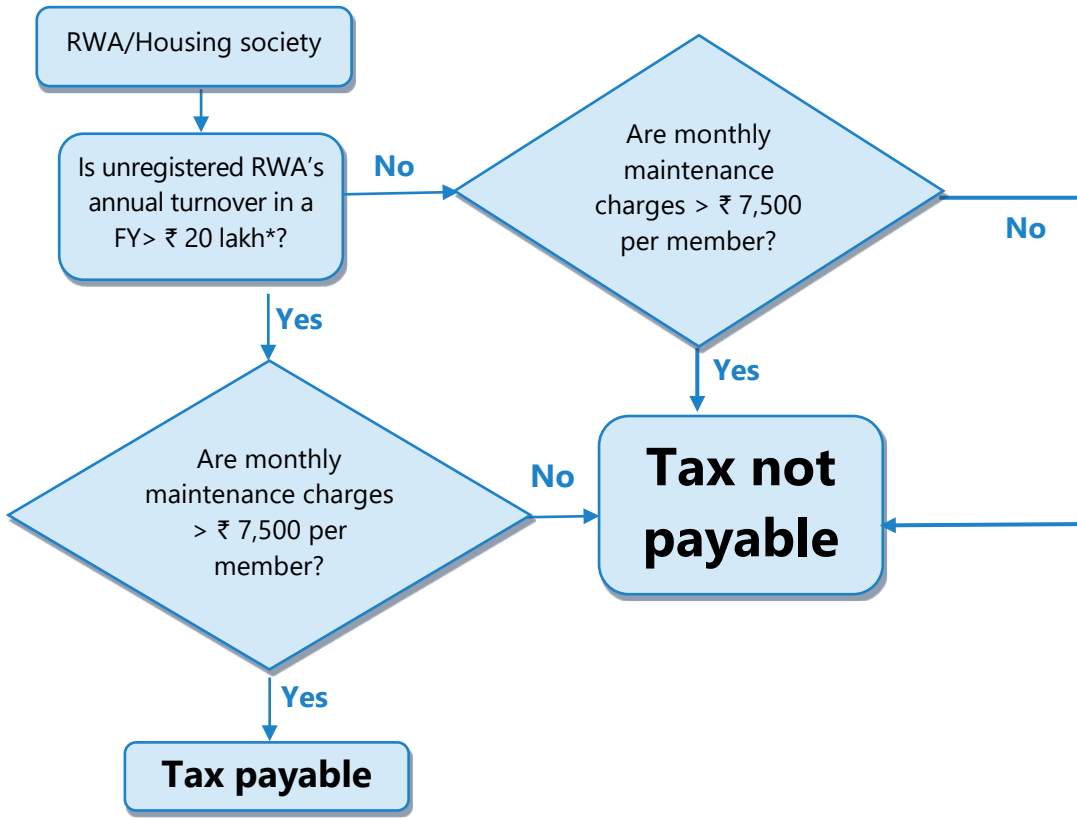
(42) The turnover of RWA of Bulbul Housing Society located in New Delhi in a financial year is ₹ 15 lakh. It has collected the maintenance charges of ₹ 6,000 per month per member. RWA is not providing any other taxable service to its members. In this case, RWA is not required to take registration under GST since its aggregate turnover is less than the applicable threshold limit of ₹ 20 lakh.

However, an RWA is not required to obtain registration even though the amount of maintenance charges exceeds ₹ 7500 per month per member but aggregate turnover of the RWA in a financial year does not exceed the threshold limit for registration.

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(43) In the above example, other things remaining the same, if the maintenance charges collected by the RWA are ₹ 8,000 per month per member, RWA is still not required to take registration under GST since its aggregate turnover is less than the applicable threshold limit of ₹ 20 lakh.

The above discussion has been summarized as under:



** ₹ 10 lakh in case of Special Category States of Manipur, Mizoram, Nagaland and Tripura*

Thus, RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than ₹ 7500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services or goods or both is also more than ₹ 20 lakh.

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In other words,

Annual turnover of RWA	Monthly maintenance charge	Whether exempt?
More than ₹ 20 lakh*	More than ₹ 7500/-	No
	₹ 7500/- or less	Yes
₹ 20 lakh or less	More than ₹ 7500/-	Yes
	₹ 7500/- or less	Yes

** ₹ 10 lakh in case of Special Category States of Manipur, Mizoram, Nagaland and Tripura*

There may also be cases where a person owns 2 or more flats in the housing society/residential complex. The question arises whether the ceiling of ₹ 7500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person.

As per general business sense, a person who owns 2 or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. Consequently, the ceiling of ₹ 7500/- per month per member shall be applied separately for each residential apartment owned by him.



(44) Gareeb Chand owns two residential apartments in a residential complex and pays ₹ 15,000/- per month as maintenance charges towards maintenance of these two apartments to the RWA (₹ 7,500/- per month in respect of each residential apartment). In this case, the exemption from GST shall be available with respect to maintenance charges paid for each apartment.

It is important to note that RWA is entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services, used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for

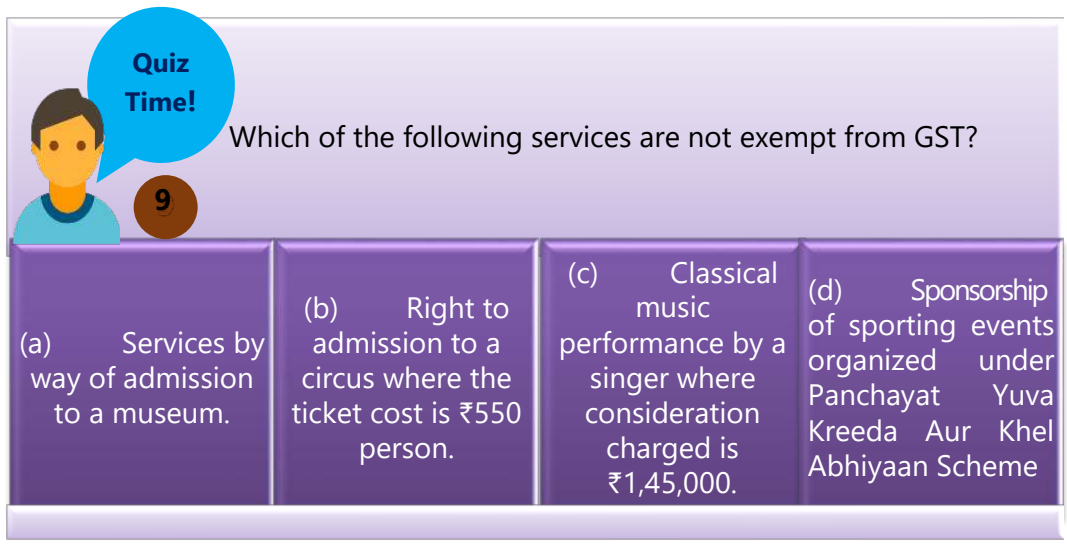
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such supplies is more than ₹ 7,500 per month per member. *[Refer Chapter-8: Input Tax Credit in Module 2 of this Study Material for detailed discussion on ITC provisions].*



(45) RWA of Tintin Housing Society, registered under GST, has collected the maintenance charges of ₹ 9,000 per month per member from 1,000 members of the society in the month of May. For paying the GST of ₹ 16,20,000 [payable @ 18% on the amount of ₹ 90,00,000], RWA can utilise the ITC of GST of ₹ 1,00,000 paid by it on purchase of swings for garden, ITC of ₹ 20,000 on electric cables and ITC of ₹ 15,000 on plumbing services, which were made/availed during the month of May.

✪ Statutory dues such as property tax, electricity charges etc. forming part of the monthly maintenance bill raised by the society on its members would be excluded while computing the aforesaid monthly limit of ₹ 7,500[56].



[56] *Discussion under this entry in forgoing paras is primarily based on Circular No. 109/28/2019 GST dated 22.07.2019, CBIC GST Flyer 'GST on Co-Operative Housing Societies' and CBIC FAQs on levy of GST on Supply of Services to Co-operative Society.*

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23. Other exempt services

Entry No.	Description of services
2	Services by way of **transfer of a going concern**, as a whole or an independent part thereof. **Transfer of a going concern** means transfer of a running business which is capable of being carried on by the purchaser as an independent business, but shall not cover mere or predominant transfer of an activity comprising a service. Transfer of business for a lump sum consideration commonly referred to as slump sale is covered under this entry. Such sale of business as a whole will comprise comprehensive sale of immovable property, goods and transfer of unexecuted orders, employees, goodwill etc. Since the transfer in title is not merely a transfer in title of either the immovable property or goods or even both it may amount to service and has thus been exempted.  **(46)** Royal Hotel Group is in the business of running a chain of restaurants. It intends to sell its business as a going concern. It would not be required to pay GST on such sale of its business.
12	Services by way of **renting of residential dwelling** for use as residence except where the residential dwelling is rented to a registered person. Explanation ***1***— For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, – (i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and (ii) such renting is on his own account and not that of the proprietorship concern. Explanation 2.- Nothing contained in this entry shall apply to- (a) accommodation services for students in student residences; (b) accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.

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	Thus, renting of residential dwelling either by a registered person or an unregistered person for use as residence to UNREGISTERED PERSON is exempt from GST. Renting of residential dwelling for use as residence to a registered person (other than proprietor covered in explanation above) as well as renting of residential dwelling for commercial use to registered or unregistered person is liable to GST. Further, tax on renting of residential dwelling to a registered person is payable by the registered person under reverse charge[57] whether such residential dwelling is being used for commercial purposes or residential purposes.
12A	Supply of accommodation services having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a minimum continuous period of ninety days.
19C	Satellite launch services
22	Services by way of **giving on hire** – (a) to a **State Transport Undertaking (STU)**, a motor vehicle meant to carry more than 12 passengers**; or **State Transport Undertaking:** means any undertaking providing road transport service, where such undertaking is carried on by- i. the Central Government or a State Government; ii. any Road Transport Corporation established under section 3 of the Road Transport Corporations Act, 1950. iii. any municipality or any corporation or company owned or controlled by the Central Government or one or more State Governments, or by the Central Government and one or more State Governments.

[57] *Provisions relating to reverse charge mechanism are contained in Notification No. 13/2017 CT (R) dated 28.06.2017 which has been discussed in detail in Chapter 3 – Charge of GST in this Module of Study Material.*

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Explanation - For the purposes of this clause, **road transport service** means a service of motor vehicles carrying passengers or goods or both by road for hire or reward [Section 2(42) of the Motor Vehicles Act, 1988].

Generally, such STUs/ Corporations are established with a view to providing public transport facility to the commuters. If transport undertakings hire the buses on lease basis from private persons on payment of consideration, the services by way of supply of motor vehicles to such STU are exempt from payment of tax. However, supplies of motor vehicles to Government Departments other than the STUs are taxable[58].

(aa) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;

EOV means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to such road vehicle.

The expression **"giving on hire"** in this entry includes renting of vehicles. Accordingly, where the said vehicles are rented or given on hire to STUs or Local Authorities, said services are eligible for above exemption irrespective of whether such vehicles are run on routes, timings as decided by the STUs or Local Authorities and under effective control of STUs or Local Authorities which determines the rules of operation or plying of vehicles[59].

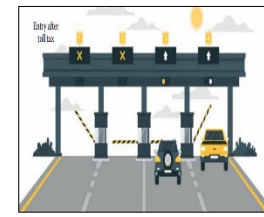
(b) to a goods transport agency, a means of transportation of goods.



(47) Nishant owns a truck which he has rented to Sindhu and Bansal Transport Agency - a GTA. Services by way of giving on hire a means of transportation of goods [truck in the given case] to a GTA [Sindhu and Bansal Transport Agency], are exempt from tax. However, if Nishant had rented a vehicle designed to carry passengers to such GTA, said activity is not exempt under this entry.

[58] *As clarified vide question 26 of CBIC FAQs on Government Services*
[59] *Circular No. 164/20/2021 GST dated 06.10.2021*

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	(c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.
23	Service by way of access to a road or a bridge on payment of toll charges. With regard to said entry, following issues have been clarified: (i) Ministry of Road Transport and Highways (MORTH) permitted the overloaded vehicles to ply on the national highways after payment of higher toll charges. It has been clarified[60] that overloading charges at toll plazas would get the same treatment as given to toll charges.  (ii) MORTH[61] has directed to collect additional amount from the users of the road to the extent of two times of the fees applicable to that category of vehicle which is not having a valid functional Fastag. Essentially, the additional amount collected from the users of the road not having a functional Fastag, is in the nature of toll charges and should be treated as additional toll charges. Therefore, it is clarified[62] that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges.
25	Transmission/distribution of electricity by an electricity transmission / distribution utility. However, in this regard CBIC has clarified that the other services provided by DISCOMS 

[60] *vide Circular No. 164/20/2021 GST dated 06.10.2021*
[61] *vide circular dated 16.02.2021*
[62] *vide Circular No. 177/09/2022 GST dated 03.08.2022*

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	(distribution companies) to consumer against charges are liable to GST such as,- i. Application fee for releasing connection of electricity; ii. Rental Charges against metering equipment; iii. Testing fee for meters/transformers, capacitors etc.; iv. Labour charges from customers for shifting of meters or shifting of service lines; v. charges for duplicate bill[63].
25A	Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission ***or*** distribution of electricity provided by electricity transmission ***or*** distribution utilities to their consumers.
44	Services provided by an incubatee up to a total turnover of ₹ 50 lakh in a financial year subject to the following conditions, namely:- (a) the total turnover had not exceeded ₹ 50 lakh during the preceding financial year; and (b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee. **Incubatee:** means an entrepreneur located within the premises of a Technology Business Incubator (TBI)/ Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India (NSTEDB) and who has entered into an agreement with the TBI/STEP to enable himself to develop and produce hi-tech and innovative products.
44A	Research and development services against consideration received in the form of grants supplied by – (a) a Government Entity; or

[63] *Circular No. 34/8/2018 GST dated 01.03.2018*

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	(b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961. The condition to be fulfilled in this case is that the research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 is so notified at the time of supply of the research and development service.
48	Taxable services, provided or to be provided, by a TBI/STEP recognised by NSTEDB or bio- incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India (BIRAC).
49	Services by way of **collecting or providing news** by an independent journalist, Press Trust of India or United News of India.
50	Services of **public libraries** by way of lending of books, publications or any other knowledge-enhancing content or material.
52	Services by an organiser to any person in respect of a **business exhibition held outside India**.
57	Services by way of **pre-conditioning, pre- cooling, ripening, waxing, retail packing, labelling** of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
58	Services provided by the **National Centre for Cold Chain Development** under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of **cold chain knowledge dissemination**.
59	Services by a **foreign diplomatic mission** located in India.
61A	Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States

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65A	Services by way of **providing information under the RTI Act** (Right to Information Act, 2005).
68	Services provided to a recognised sports body by- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body; (b) another recognised sports body. However, services by individuals such as selectors, commentators, curators, technical experts are taxable. The service of a player to a franchisee which is not a recognized sports body is also taxable. *The term **'recognised sports body'** has been defined earlier in this chapter.*
76	Services by way of **public conveniences** such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.

Note: For the purpose of this exemption notification, a "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.



Which of the following services are exempt from GST?

(a) Services to a foreign diplomatic mission located in India.	(b) Services by an organiser to any person in respect of a business exhibition held in India.	(c) Services by way of transfer of a going concern.	(d) Services provided by RBI.

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GST on payment of honorarium to the Guest Anchors

Circular No. 177/09/2022 GST dated 03.08.2022 clarifies the applicability of GST on honorarium paid to Guest Anchors. Sansad TV and other TV channels invite guest anchors to participate in their shows and pay remuneration to them in the form of honorarium.

It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. **Services provided by the guest anchors in lieu of honorarium attract GST liability.**

However, guest anchors whose aggregate turnover in a financial year does not exceed ₹ 20 lakh (₹ 10 lakh in case of specified Special Category States) shall not be liable to take registration and pay GST.

5. POWER NOT TO RECOVER GOODS AND SERVICES TAX NOT LEVIED OR SHORT-LEVIED AS A RESULT OF GENERAL PRACTICE.

STATUTORY PROVISIONS

Section 11A	***Power not to recover Goods and Services Tax not levied or short-levied as a result of general practice.***		
	Particulars		
	Notwithstanding anything contained in this Act, if the Government is satisfied that-		
	(a)	***a practice was, or is, generally prevalent regarding levy of central tax (including non-levy thereof) on any supply of goods or services or both; and***	
	(b)	***such supplies were, or are, liable to,-***	
		(i)	***central tax, in cases where according to the said practice, central tax was not, or is not being, levied, or***

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		(ii)	a higher amount of central tax than what was, or is being, levied, in accordance with the said practice,
	the Government may, on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the central tax payable on such supplies, or, as the case may be, the central tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the central tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice.		



ANALYSIS

Regularization of non-levy/short levy of GST on account of generally followed practice

The Government is empowered to issue a retrospective exemption from GST under specific circumstances. If the Government is satisfied that there was, or is, a generally followed practice where GST was not levied or levied at a lower rate on certain goods or services—despite such supplies being actually liable to GST or a higher rate of GST—then, on the recommendation of the GST Council, the Government may issue a notification in the Official Gazette.

This notification can state that the GST which was not paid or short-paid due to the prevalent practice shall not be required to be paid.

This provision aims to provide relief to taxpayers who have followed industry practice in good faith, based on commonly accepted practices, even if those practices were not legally accurate.

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Similar provisions granting power to exempt IGST have been provided under section 6A of the IGST Act.

Students may note that some of the entries granting exemption from GST are similar to the negative list entry/entry granting exemption under the erstwhile service tax law.

Therefore, clarifications pertaining to said negative list entry/exemption provided under the erstwhile service tax law, wherever it seems relevant under the GST law, have been incorporated at relevant places.

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LET US RECAPITULATE

1. Power to exempt from tax [Section 11 of the CGST Act/ section 6 of IGST Act]

Power to exempt from tax

by way of issuance of

Notification

- exempt generally
- either absolutely or subject to such conditions as may be specified,
- goods and/or services of any specified description.

Special order

exempt from payment of tax under circumstances of an exceptional nature to be stated in such order, in public interest.

2. *Power not to recover GST not levied or short-levied as a result of general practice. [Section 11A of the CGST Act/ Section 6A of IGST Act]*

If the Government is satisfied that

A generally prevalent practice existed regarding non-levy/short-levy of tax on any supplies of goods/services.

and

These supplies were actually liable to tax or higher rate of tax, but the tax was not levied or short levied

The Government may issue a notification stating that the full/differential amount of tax that would otherwise be payable shall not be recovered for such supplies.

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3. List of services exempt from GST

Services	Exempt Services
Services related to charitable and religious activities	**Charitable activities** BY an **entity registered under section 12AA or 12AB** of Income-tax Act.
	Services by a person by way of- (a) conduct of any religious ceremony; (b) renting of precincts of a religious place meant for general public, owned/managed by institutions/entities/trusts, registered under section 12AA/12AB/10(23C)(v) of the Income tax Act or body/authority covered under section 10(23BBA) of the said Act, except where- (i) charges for **renting of rooms ≥ ₹ 1,000** per day; (ii) charges for **renting of premises**, community halls, kalyanmandapam, open area, etc. are **≥ ₹ 10,000** per day; (iii) charges for **renting of shops/**spaces for business/commerce are **≥ ₹ 10,000** per month.
	Services by a specified organisation [KMVN/Haj Committee] **in respect of a religious pilgrimage** [Haj and Kailash Mansarovar Yatra].
	Training/coaching in (a) recreational activities relating to arts/culture, by an individual or (b) sports by **charitable entities** registered under section 12AA or 12AB of the Income-tax Act.
Agriculture related services	Loading, unloading, packing, storage or warehousing of rice.
	Warehousing of minor forest produce.

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	Services by way of storage/ warehousing of cereals, pulses, fruits & vegetables.
	Artificial insemination of livestock (other than horses).
	Carrying out an **intermediate production process as job work** in relation to cultivation of plants & rearing of animals [except horses], for food, fibre, fuel, raw material or other similar products or agricultural produce.
	Services relating to cultivation of plants & rearing of animals [except horses], for food, fibre, fuel, raw material or other similar products or agricultural produce by way of – (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of **farm labour**; (c) **processes carried out at an agricultural farm** including tending, pruning, etc. and such like operations **which do not alter the essential characteristics of agricultural produce** but make it only marketable for the primary market; (d) **renting or leasing of agro machinery or vacant land** with/without a structure incidental to its use; (e) **loading, unloading, packing, storage or warehousing** of agricultural produce; (f) **agricultural extension services**; (g) services by any **Agricultural Produce Marketing Committee** or Board or services provided by a commission agent for sale/purchase of agricultural produce.
Education services	Services provided **BY an educational institution** (EI): • to its students, faculty and staff; • by way of conduct of entrance examination against consideration in form of entrance fee

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	Services provided **TO an EI**, by way of,- (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government (CG), State Government (SG) or Union Territory (UT); (iii) security/cleaning/ housekeeping services performed in such **EI;**	These exemptions are only applicable to an institution providing services by way of pre-school education & education up to higher secondary school or equivalent.
	(iv) services relating to admission to, or conduct of examination by, such **EI;**	
	(v) supply of online educational journals or periodicals. This exemption is **only applicable to an institution** providing services by way of education as part of a curriculum for obtaining qualification recognised by any law for time being in force.	
	Services of affiliation provided by a Central or State Educational Board or Council or any other similar body, by whatever name called, to a school established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity.	
Health care services	• **Health care services** BY a clinical establishment/ authorized medical practitioner/ para-medics. However, nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges	

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	exceeding ₹ 5000 per day to a person receiving health care services. • **Transportation of a patient in an ambulance** BY any person other than specified above.
	Service BY a veterinary clinic in relation to **Health care of animals/birds**
Services provided by Government	Services by Governmental Authority (GA) by way of **any activity in relation to any function entrusted to a Municipality /Panchayat** under article **243W/ 243G** of Constitution.
	Services by the CG/SG/UT/Local Authority (LA) excluding following services— (a) services by **Department of Posts** and the Ministry of Railways (Indian Railways); (b) services in relation to an **aircraft/a vessel,** inside/outside precincts of a port/airport; (c) **transport of goods/passengers**; or (d) any service, other than 'specified services' above, **provided to business entities**. **(a) to (c) hereinafter referred as 'specified services'**
	Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams).
	Services provided by CG/SG/UT/LA **to a business entity (BE) with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption** from registration under the CGST Act, 2017. This exemption is not applicable to **specified services,** and **renting of immovable property service.**
	Services provided by CG/SG/UT/LA **to another** CG/SG/UT/LA. This exemption is not applicable to **specified services.**
	Services provided by CG/SG/UT/LA** **where consideration for such services does not exceed ₹ 5,000**. This exemption is not applicable to **specified services.**

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	In case of **continuous supply of service*, the exemption shall apply only where the consideration charged for such service does not exceed **₹ 5,000 in a FY.**
	Supply of service by a Government Entity (GE) to CG/SG/UT/LA/any person specified by CG/SG/UT/LA against consideration received from CG/SG/UT/LA, in the form of grants.
	Services by an old age home run by CG/SG/an entity registered under section 12AA or 12AB of Income-tax Act to its residents (aged ≥60 years) against consideration upto ₹ 25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.
	Services provided by Ministry of Railways (Indian Railways) to individuals by way of – (a) sale of platform tickets (b) facility of retiring rooms/waiting rooms; (c) cloak room services; (d) battery operated car services
	Services provided by one zone/division under Ministry of Railways (Indian Railways) to another zone(s)/division(s) under Ministry of Railways (Indian Railways).
	Services supplied by CG/SG/UT to their undertakings or PSUs by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.
	Services provided by CG/SG/UT/LA by way of- (a) registration required under any law for the time being in force; (b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.

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	Services provided by CG/SG/UT/LA **by way of issuance of passport, visa, driving license, birth certificate or death certificate**.
	Services provided by CG/SG/UT/LA **by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable** to CG/SG/UT/LA under such contract.
	Services provided by CG/SG/UT/LA by way of **assignment of right to use natural resources to an individual farmer for cultivation of plants & rearing of all life forms of animals** [except horses], for food, fibre, fuel, raw material or other similar products.
	Services provided by CG/SG/UT by way of **deputing officers after office hours or on holidays for inspection or container stuffing** or such other duties in relation to import export cargo on payment of Merchant Overtime charges.
	Services supplied by a SG to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of SG on the mineral dispatched by the mining lease holders subject to specified conditions.
	Services provided by rehabilitation professionals recognised under the RCI Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by CG/SG/UT/an entity registered under section 12AA or 12AB of the Income-tax Act, 1961.
Construction services	**Pure labour contracts** of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the **Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana**.

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	Services supplied by **Electricity Distribution Utilities** by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer/agriculturalist for agricultural use.
	Pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a **single residential unit otherwise than as a part of a residential complex**.
Services of transport of passengers (with/ without accompanied belongings)	Such services provided by – (a) air in economy class, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; (b) **non-air conditioned contract carriage** other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) **stage carriage other than air- conditioned stage carriage**. However, nothing contained in items (b) and (c) above shall apply to services supplied through an ECO, and notified under section 9(5) of the CGST Act.
	Such services provided to CG by air, embarking from or terminating at a Regional Connectivity Scheme **(RCS) airport**, against consideration in the form of viability gap funding. This exemption shall apply only till expiry of a period of **3 years** from date of commencement of operations of the RCS airport as notified by the Ministry of Civil Aviation.
	Such services provided by— (a) railways in a class other than first class/an air-conditioned coach; (b) metro, monorail or tramway; (c) inland waterways;

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	(d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and (e) metered cabs or auto rickshaws (including e-rickshaws). However, nothing contained in item (e) above shall apply to services supplied through an ECO, and notified under section 9(5) of the CGST Act.
Goods transportation services	Services by way of transportation of goods- (a) by road except the services of— (i) a goods transportation agency (GTA); (ii) a courier agency; (b) by inland waterways.
	Exempt transportation of goods by **rail/ vessel/ by GTA in a goods carriage** • Agricultural produce • milk, salt and food grain including flours, pulses and rice • organic manure • newspaper or magazines registered with the Registrar of Newspapers • Defence/ military equipments • relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap
	Services provided **by a GTA to an unregistered person**, including an unregistered casual taxable person, except following recipients, namely: - (a) a factory registered under Factories Act, (b) society registered under Societies Act, (c) Co-operative society, (d) body corporate and (e) partnership firm including AOP; (f) registered casual taxable person.

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	Services provided **by a GTA,** by way of transport of goods in a goods carriage, to, - (a) a Department or Establishment of the CG/SG/UT; or (b) local authority; or (c) Governmental agencies, which has taken registration only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.
Banking and financial	Services by way of— (a) **extending deposits, loans or advances** in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) inter se **sale or purchase of foreign currency** amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.
	Services provided by a **banking company to Basic Saving Bank Deposit (BSBD) account holders** under Pradhan Mantri Jan Dhan Yojana (PMJDY).
	Services by an acquiring bank, to any person in relation to settlement of an amount upto ₹ 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service.
	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees.
Services of Life insurance business	Such services by way of annuity under the **National Pension System** by Pension Fund Regulatory and Development Authority of India (PFRDAI) under PFRDA Act, 2013.
	Such services by the **Army, Naval and Air Force Group Insurance Funds** to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of CG.

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	Services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.
	Such services by the **Naval Group Insurance Fund** to the personnel of Coast Guard under the Group Insurance Schemes of CG.
	Such services under following schemes- (a) Janashree Bima Yojana; (b) Aam Aadmi Bima Yojana; (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority (IRDA), having maximum amount of cover of **₹ 2,00,000**; (d) Varishtha Pension BimaYojana; (e) Pradhan Mantri Jeevan Jyoti BimaYojana; (f) Pradhan Mantri Jan DhanYogana; (g) Pradhan Mantri Vaya Vandan Yojana.
General insurance business	Such services under following schemes – (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna[64]; (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance; (h) Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture;

(A)

[64] *earlier known as Integrated Rural Development Programme*

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	(i) Jan Arogya Bima Policy; (j) Pradhan Mantri Fasal Bima Yojana (PMFBY); (B) (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; (o) Coconut Palm Insurance Scheme; (p) Pradhan Mantri Suraksha BimaYojna; (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; (r) Bangla Shasya Bima.
	Services provided to CG/SG/UT **under any insurance scheme** for which total premium is paid by CG/SG/UT. (C)
	Services by way of reinsurance of the insurance schemes specified in (A) or (B) or (C) above.
	Services of insurance provided by the Motor Vehicle Accident Fund against contributions made by insurers out of the premiums collected for third party insurance of motor vehicles.
Services provided by specified bodies	Services by the **Employees' State Insurance (ESI) Corporation** to persons governed under the ESI Act, 1948.
	Services provided by the **EPFO** to the persons governed under the Employees Provident Funds (EPF) & Miscellaneous Provisions Act, 1952.
	Services by **CMPFO** to persons governed by Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.
	Services by **NPS Trust** to its members against consideration in the form of administrative fee.

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Pension schemes	Services by way of collection of contribution under: • Atal Pension Yojana • any pension scheme of SG
Business facilitator/correspondent	Services by the following persons in respective capacities – (a) business facilitator/business correspondent to a Banking Co. with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator/business correspondent to an insurance company in rural area.
Services provided to Government	Following services provided to the CG/SG/UT/LA by way of any activity in relation to any function entrusted to a Panchayat/Municipality under articles 243G/243W of the Constitution: ❑ Pure services ❑ Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply.
	Services provided to a Governmental Authority by way of— (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation.
	Service provided **by Fair Price Shops** to CG/SG/UT by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System (PDS) against commission/ margin.
	Services provided to CG/SG/UT **under any insurance scheme** for which total premium is paid by CG/SG/UT.

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<table>
<tr><td></td><td colspan="2">Services provided to CG/SG/UT administration under any training programme for which 75% or more of the total expenditure is borne by CG/SG/UT administration.</td></tr>
<tr><td>Leasing services</td><td colspan="2">Upfront amount payable in respect of service by way of granting of long term lease of 30 years, or more of industrial plots/plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 20% or more ownership of CGS/SG/UT to the industrial units/developers in any industrial/financial business area, subject to specified conditions.</td></tr>
<tr><td rowspan="4">Legal services</td><td>Service provided by</td><td>To</td></tr>
<tr><td rowspan="2">❑ Arbitral tribunal
❑ Partnership firm of advocates or an individual as an advocate other than a senior advocate by way of legal services
❑ Senior advocate by way of legal services</td><td>any person other than BE</td></tr>
<tr><td>BE with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act</td></tr>
<tr><td>CG/SG/UT/LA/GA/GE</td></tr>
<tr><td colspan="2">Legal services provided by a partnership firm of advocates/ individual as an advocate other than a senior advocate to another advocate/ partnership firm of advocates providing legal services</td></tr>
<tr><td>Sponsorship of sports events</td><td colspan="2">Sponsorship of sporting events organised -
(a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All</td></tr>
</table>

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	India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat; (c) by the Central Civil Services Cultural and Sports Board; (d) as part of national games, by the Indian Olympic Association; or (e) under Panchayat Yuva Kreeda Aur Khel Abhiyaan Scheme.
Skill Development services	Any services provided by – (a) the National Skill Development Corporation (NSDC) set up by the GoI; (b) the National Council for Vocational Education and Training (NCVET); (c) an Awarding Body recognized by the NCVET; (d) an Assessment Agency recognized by the NCVET; (e) a Training Body accredited with an Awarding Body that is recognized by NCVET, ***(f) a training partner approved by NSDC,*** in relation to- (i) the National Skill Development Programme or any other scheme implemented by the NSDC; or (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (iii) any National Skill Qualification Framework aligned qualification or skill in respect of which NCVET has approved a qualification package.
	Services of **assessing bodies empanelled centrally** by DGT, Ministry of Skill Development and Entrepreneurship by way of assessments under the SDI Scheme.
	Services provided by training providers (Project implementation agencies) under **DDUGKY** implemented by Ministry of Rural Development, GoI by way of offering skill or vocational training courses certified by the National Council for Vocational Education and Training (NCVET).

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Performance by an artist	Services by an artist by way of a performance in folk or classical art forms of music/ dance/ theatre, if the consideration charged for such performance is not more than **₹ 1,50,000.** This exemption shall not apply to service provided by such artists as a brand ambassador.
Right to admission to various events	Services by way of admission to: (i) museum, national park, wildlife sanctuary, tiger reserve or zoo (ii) protected monument declared under the Ancient Monuments and Archaeological Sites & Remains Act 1958/any of the State Acts, for the time being in force. (iii) following events/places where the consideration for right to admission is not more than ₹ 500 per person: (a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event; (c) recognised sporting event; (d) planetarium.
Services by an unincorporated body or a non- profit entity registered under any law for the time being in force	Services by **unincorporated body/ non- profit entity to its own members** as reimbursement/share of contribution: (i) As a **trade union** (ii) for providing **exempt activity** (iii) **up to an amount of ₹ 7,500 per month per member for sourcing of goods/services** from a third person for the common use of its members in a housing society/residential complex Services provided by such entity/body engaged in- (i) activities relating to the welfare of industrial/agricultural labour or farmers; or (ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,

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	to its own members against membership fee upto **₹ 1000/- per member per year**.
Other exempt services	**Transfer of a going concern**, as a whole or an independent part thereof.
	Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person. Explanation 1 — For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, – (i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and (ii) such renting is on his own account and not that of the proprietorship concern. Explanation 2.- Nothing contained in this entry shall apply to- (a) accommodation services for students in student residences; (b) accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.
	Supply of accommodation services having value of supply less than or equal to ₹ 20,000 per person per month provided that the accommodation service is supplied for a minimum continuous period of 90 days.
	Satellite launch services
	Services by way of giving on hire – (a) to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers; (aa) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers; or (b) to a GTA, a means of transportation of goods.

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	(c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.
	Service by way of access to a road or a bridge on payment of **toll charges**.
	Transmission/distribution of electricity by an electricity transmission/ distribution utility.
	Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission ***or*** distribution of electricity provided by electricity transmission ***or*** distribution utilities to their consumers.
	Services provided by an incubatee up to a total turnover of ₹ 50 lakh in a FY provided:- (a) total turnover had not exceeded ₹ 50 lakh during the preceding FY; and (b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubate.
	Research and development services against consideration received in the form of grants supplied by – (a) a Government Entity; or (b) a research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961. The condition to be fulfilled in this case is that the research association, university, college or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 is so notified at the time of supply of the research and development service.

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	Taxable services, provided or to be provided, by a Technology Business Incubator/ Science and Technology Entrepreneurship Par (TBI/STEP) recognised by NSTEDB or bio- incubators recognised by BIRAC.
	Services by way of **collecting or providing news** by an independent journalist, PTI or United News of India.
	Services of **public libraries** by way of lending of books, publications or any other knowledge-enhancing content or material.
	Services by an organiser to any person in respect of a **business exhibition** held outside India.
	Services by way of **pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling** of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
	Services provided by the **National Centre for Cold Chain Development** under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of **cold chain knowledge dissemination**.
	Services by a **foreign diplomatic mission** located in India.
	Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States
	Services by way of **providing information under the RTI Act.**
	Services provided to a recognised sports body (RSB) by- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a RSB; (b) another RSB.
	Services by way of **public conveniences** such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.

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TEST YOUR KNOWLEDGE

1. *Exempt supply means supply of any goods or services or both which attracts nil rate of tax and which may be wholly exempt from tax, but excludes non-taxable supply. Discuss the validity of the statement.*

2. *Services provided by an entity registered under section 12AB of the Income-tax Act, 1961 are exempt from GST if such services are provided by way of charitable activities. Elaborate the term 'charitable activities'.*

3. *Examine which of the following independent services are exempt from GST:*

   (a) Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors.

   (b) An RWA in a housing society, registered under GST, collects the maintenance charges of ₹ 6,500 per month per member.

4. *An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether any GST is payable on the activities undertaken by him.*

5. *RXL Pvt. Ltd. manufactures a beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert as a part of her services as a brand ambassador of the company. The proceeds of the concert worth ₹ 1,20,000 will be donated to a charitable organization by Ms. Ahana.*

   Examine whether Ms. Ahana Kapoor will be required to pay any GST for classical dance performance given in the said concert.

6. *Examine whether GST is exempted on the following independent supplies of services:*

   (i) Service provided by a private transport operator to Scholar Boys Higher Secondary School by way of transportation of students to and from the school.

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(ii) *Services provided by way of vehicle parking to general public in a shopping mall.*

7. *A State Transport Undertaking has hired motor vehicles meant to carry 8 - 10 passengers from Fast Cab Renting, a motor vehicle renting company. Give your comments as to whether any GST is payable in this case.*

8. *Indiana Engineering College, an educational institution, has conducted an entrance test examination for various courses run by it (for obtaining qualification(s) recognised by law for the time being in force) and charged entrance fees from the applicants. Determine whether Indiana Engineering College is liable to pay GST on the same.*

9. *Babloo Transporters, a Goods Transport Agency, transported relief materials in a goods carriage meant for victims of Kerala floods, a natural disaster, by road from Delhi to Ernakulam, for a company. Babloo Transporters is of the view that it is not liable to pay GST on the said services provided as said services are exempt. You are required to advice it on the said issue.*

10. *Keyan Enterprises, an event organizer, provided services to Breathing Wall Ltd. by way of organizing business exhibition in New Delhi as part of Make in India initiative. Keyan Enterprises claims that it is not required to pay GST as the services provided by way of organizing business exhibition are exempt from GST. Examine the technical veracity of the claim of Keyan Enterprises, in the given case.*

11. *ST Ltd. has given on hire 5 trucks to Titu Transporters of Delhi (a goods transport agency) for transporting goods in Central and West Delhi. The hiring charges for the trucks are ₹ 7,500 per truck per day. Examine whether GST is payable in the given case.*



ANSWERS

1. The statement is not fully valid in law. Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply [Section 2(47)].

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2. The term 'charitable activities' mean activities relating to-

(i) public health by way of-

(A) care or counseling of

(I) terminally ill persons or persons with severe physical or mental disability;

(II) persons afflicted with HIV or AIDS;

(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion, spirituality or yoga;

(iii) advancement of educational programmes/skill development relating to,-

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests & wildlife.

3. **(a)** Services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable. Thus, said services are exempt from GST.

(b) Supply of service by a RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST. Hence, in the given case, services provided by the RWA are exempt from GST since the maintenance charges collected per month per member do not exceed ₹ 7500.

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4. Services provided to a recognized sports body by an individual, *inter alia,* as a referee in a sporting event organized by a recognized sports body is exempt from GST.

Since in the first case, the football match is organized by Sports Authority of India, which is a recognized sports body, services provided by the individual as a referee in such football match will be exempt.

However, when he acts as a referee in a charity football match organized by a local sports club, he would not be entitled to afore-mentioned exemption as a local sports club is not a recognized sports body and thus, GST will be payable in this case.

5. Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, are exempt from GST, if the consideration charged for such performance is not more than ₹ 1,50,000. However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization by Ms. Ahana will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

6. **(i)** Yes. Services provided TO an educational institution by way of transportation of students are exempted from GST.

(ii) No. Services provided by way of vehicle parking to general public are not exempted from GST. Therefore, GST is payable on the same.

7. Services by way of giving on hire, *inter alia,* to a State Transport Undertaking, a motor vehicle meant to carry more than 12 passengers is exempt from GST.

Since the motor vehicles given on hire by Fast Cab Renting to the State Transport Undertaking are meant to carry 8-10 passengers, the same would not be eligible for exemption and would thus, be liable to GST.

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8. Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee are exempt from GST.

Since in the given case, services provided by Indiana Engineering College -an educational institution - are by way of conduct of entrance examination against entrance fee, the same is exempt and thus, GST is not payable in this case.

9. Services provided by a goods transport agency, by way of transport in a goods carriage of relief materials meant for victims of, *inter alia,* natural or man-made disasters, calamities, are exempt from GST. Therefore, services provided by Babloo Transporters will be exempt from GST.

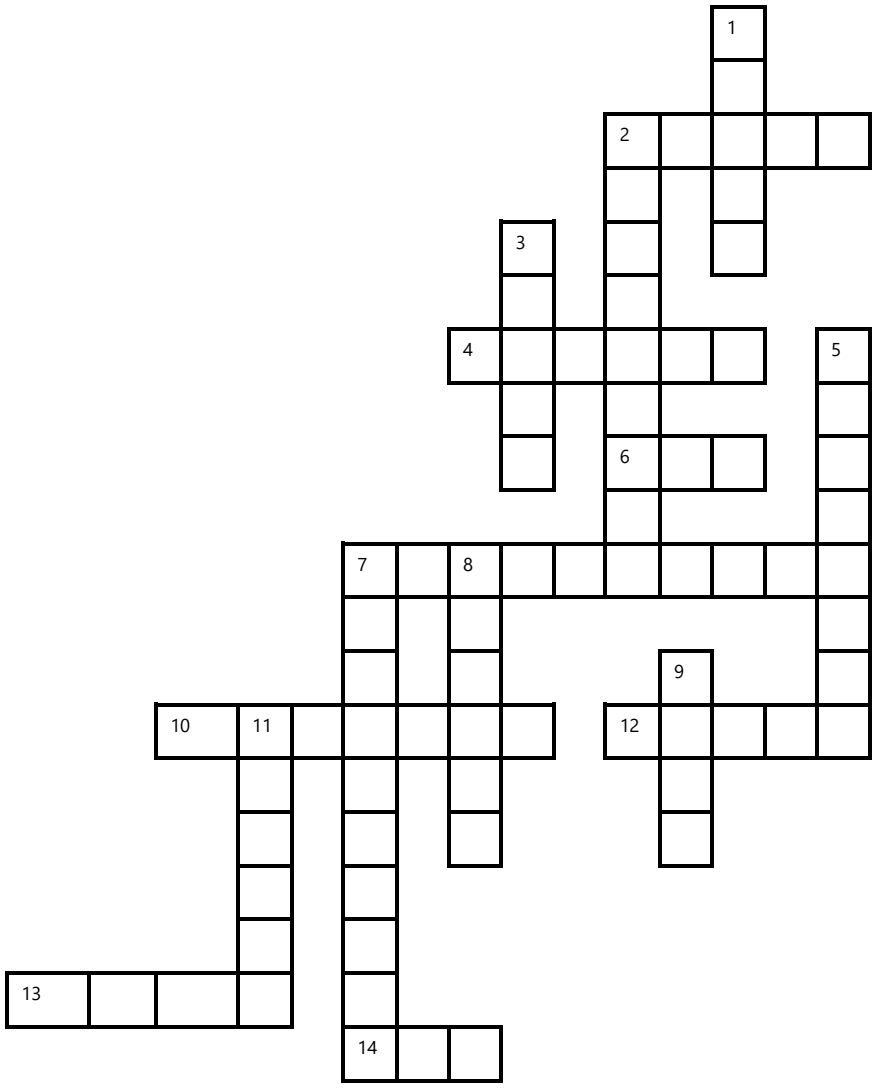
10. No, the claim made by Keyan Enterprises that it is not required to pay GST is not correct. Services provided by an organiser to any person in respect of a business exhibition are exempt from GST only when such business exhibition is held outside India. However, since in the given case, the exhibition is being organized in India, the services of organization of event by Keyan Enterprises will not be exempt from GST.

11. GST is not payable in case of hiring of trucks to Titu Transporters since services by way of giving on hire, *inter alia*, to a goods transport agency, a means of transportation of goods are exempt.

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CROSSWORD



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ACROSS

2. Services by business facilitator to an insurance company in a _____area is exempt from GST.

4. Services by way of pure labour construction contracts of original works pertaining to a _____ residential unit otherwise than as a part of a residential complex are exempt from GST.

6. Explanation inserted within ____ year, for the purpose of clarifying the scope or applicability of any notification/order, to have retrospective effect.

7. Any _____ collected by bank over and above interest on loan, advance or deposit are not exempt from GST.

10. Services of a _____agency by way of transportation of goods by is liable to GST.

12. Services by the Department of _____ by way of post card, inland letter, book post and ordinary post are exempt from GST.

13. Services provided by a clinical establishment by way of providing room with room charges upto _____thousand rupees per day to a person receiving health care services are exempt from GST.

14. Services by way of giving on hire to a local authority, an _____ meant to carry more than 12 passengers is exempt from GST. (acronym)

DOWNWARDS

1. Transport of passengers by railways in _____ class is liable to GST.

2. Services by a person by way of conduct of any _____ ceremony are exempt from GST.

3. Services by way of transfer of a _____ concern is exempt from GST.

5. Transport of passengers by air, in _____ class, from Assam to Manipur is liable to GST.

7. Services by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 by way of _____ activities are exempt from GST.

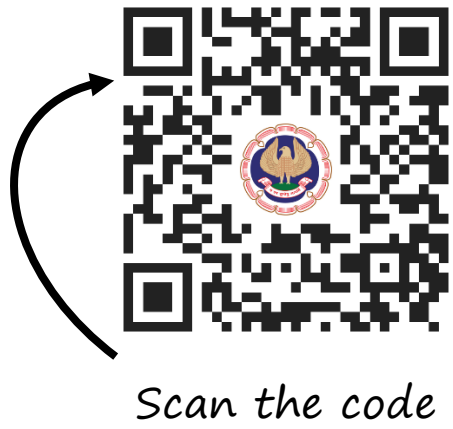
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8. Services by way of admission to a _____ is exempt from GST.

9. _____ is a recognized systems of medicines in India.

11. Supply of _____ educational journals or periodicals to a to higher secondary school is not exempt from GST.

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



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AMENDMENTS MADE VIDE THE FINANCE ACT, 2025

The Finance Act, 2025 has come into force from 29.03.2025. However, most of the amendments made under the CGST Act and the IGST Act vide the Finance Act, 2025 would become effective only from a date to be notified by the Central Government in the Official Gazette. Such a notification has not been issued till 30.04.2025. Therefore, the applicability or otherwise of such amendment for May 2026, September 2026 and/or, January 2027 examinations shall be informed by the ICAI by way of an announcement.

In the table given below, the existing provisions of section 2(69) of the CGST Act, 2017 is compared with the provisions as amended by the Finance Act, 2025.

Once the announcement for applicability of such amendments for examination(s) is made by the ICAI, students should read the amended provisions given hereunder in place of the related provisions discussed in the chapter.

Section No.	Existing provisions	Provisions as amended by the Finance Act, 2025	Remarks
2 (69)	**Local authority:** means - (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution. (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution.	**Local authority:** means — (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution. (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution. (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State	The sub-clause (c) of clause (69) of section 2 is being proposed to be amended so as to substitute the term "municipal or local fund" with the terms "municipal fund or local fund" and to insert an Explanation

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	(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund. (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006. (e) a Regional Council or a District Council constituted under the Sixth Schedule	Government with the control or management of a municipal ***fund*** or local fund. **Explanation.—*For the purposes of this sub-clause-*** ***(i) "local fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Panchayat area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called*** ***(ii) "municipal fund" means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Metropolitan area or Municipal area and vested by law with the powers to levy, collect and appropriate any tax,***	after the said sub-clause, to provide the definitions of the terms "local fund" and "municipal fund" used in the definition of "local authority" under the said clause so as to clarify the scope of the said terms.

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	to the Constitution. (f) a Development Board constituted under article 371 and article 371J of the Constitution. (g) a Regional Council constituted under article 371A of the Constitution	***duty, toll, cess or fee, by whatever name called.*** (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006. (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution. (f) a Development Board constituted under article 371 and article 371J of the Constitution. (g) a Regional Council constituted under article 371A of the Constitution	

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CHAPTER 6

TIME OF SUPPLY



The section numbers referred to in the Chapter pertain to the CGST Act, 2017, unless otherwise specified. Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

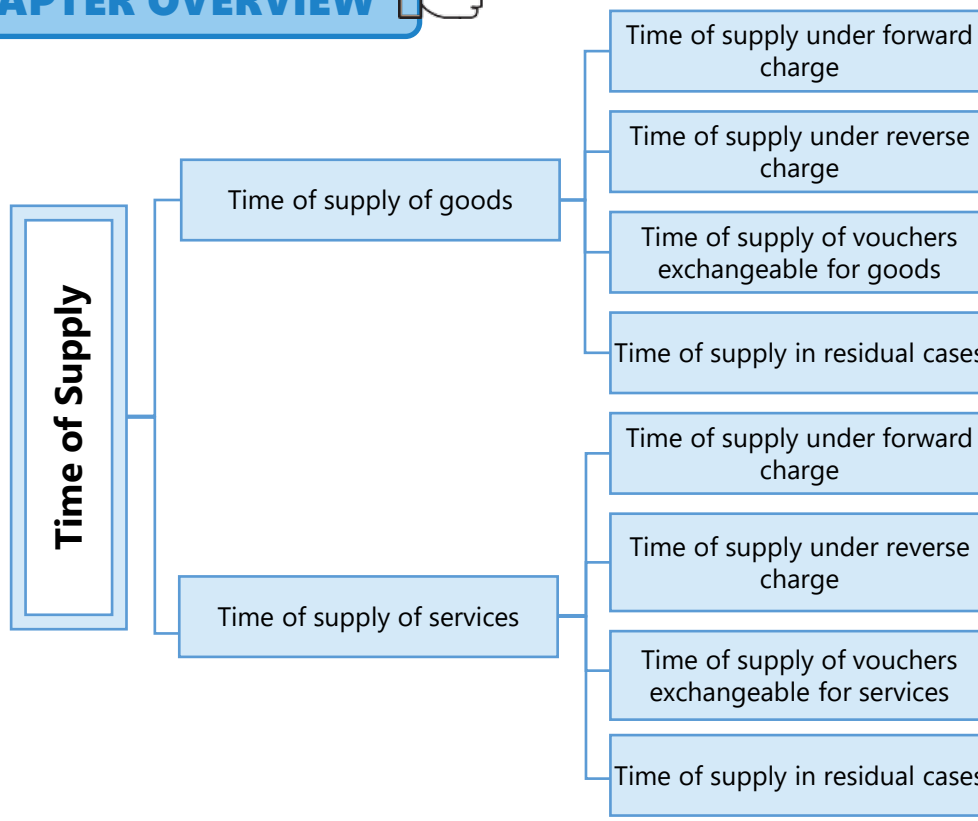
LEARNING OUTCOMES

After studying this Chapter, you will be able to identify the point in time when the liability to pay GST arises -

- on supply of goods or services where GST is payable under forward charge
- on supply of goods or services where GST is payable under reverse charge
- on supply of vouchers exchangeable for goods and services
- on supply of goods and services in residual cases
- in case of enhancement of value of supply on account of interest, late fee/penalty paid for delay in payment of consideration
- apply the concepts relating to time of supply of goods and/or services in problem solving

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CHAPTER OVERVIEW



1. INTRODUCTION

GST is payable on supply of goods or services. A supply consists of elements that can be separated in time, like purchase order / agreement, dispatch (of goods), delivery (of goods) or provision or performance of service, entry in the records, payment, and entry of the payment in the records or deposit in the bank.

Point in time when the liability to pay tax arises

So, the question that arises is - at what point of time in the aforesaid transaction, the GST becomes payable? Does it become payable when an agreement to supply goods or services is made, or when the goods are shipped or the services are provided, or when the invoice is issued or when payment is made? What if the goods are shipped over a period of time? What

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if the service is provided over a period of time? Provisions relating to 'time of supply' provide answers to all such and other questions that arise with respect to the time when the liability to pay CGST and SGST/UTGST (intra-State supply) or IGST (inter-State supply) arises. In other words, time of supply indicates the point in time when the liability to pay tax arises. It is important to note here that though the liability to pay tax arises at the time of supply, the same can be paid to the Government by the due dates prescribed with reference to the said 'time of supply'. For instance, if time of supply of a given supply is 25th May, the tax leviable thereon would be payable latest by 20th June, which is the due date prescribed in the CGST Act for suppliers filing GST return on monthly basis.[1]

The CGST Act provides separate provisions for time of supply for goods and services vide sections 12 and 13 respectively. Section 14 provides for the method of determining the time of supply in case there is a change in the rate of tax on supply of goods or services.[2] Sections 12 and 13 employ the provisions of section 31 relating to issue of tax invoice as a reference point. Therefore, it will be useful to read this Chapter in conjunction with the provisions relating to tax invoice discussed in detail in *Chapter 10: Tax Invoice, Credit and Debit Notes in Module 2 of this Study Material*.

Events like issue of invoices, receipt of payment, provision of service, receipt of services as recorded in books of account need to be analysed to determine the time of supply when the tax on supply is payable under forward charge. When the tax on supply is payable under reverse charge, events like date of receipt of goods or services, date of making payment, date of issue of invoice etc. need to be analysed to determine the time of supply. The provisions relating to time of supply essentially fix the tax collection event to the earliest possible time.

In the subsequent pages of this Chapter, sections 12 and 13 are extracted, followed by their analysis, to understand how to determine the time of supply of goods and services respectively. When studying the statutory provisions, the definitions (extracted first) must also be referred to simultaneously, so as to understand the precise meaning of the terms used.

---

[1] *Provisions relating to due date for payment of tax have been discussed in Chapter 13: Payment of Tax in Module 2 of this Study Material.*

[2] *Provisions of section 14 relating to determination of time of supply in case of change in rate of tax in respect of supply of goods or services will be discussed at the Final level.*

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Provisions of time of supply under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

2. RELEVANT DEFINITIONS

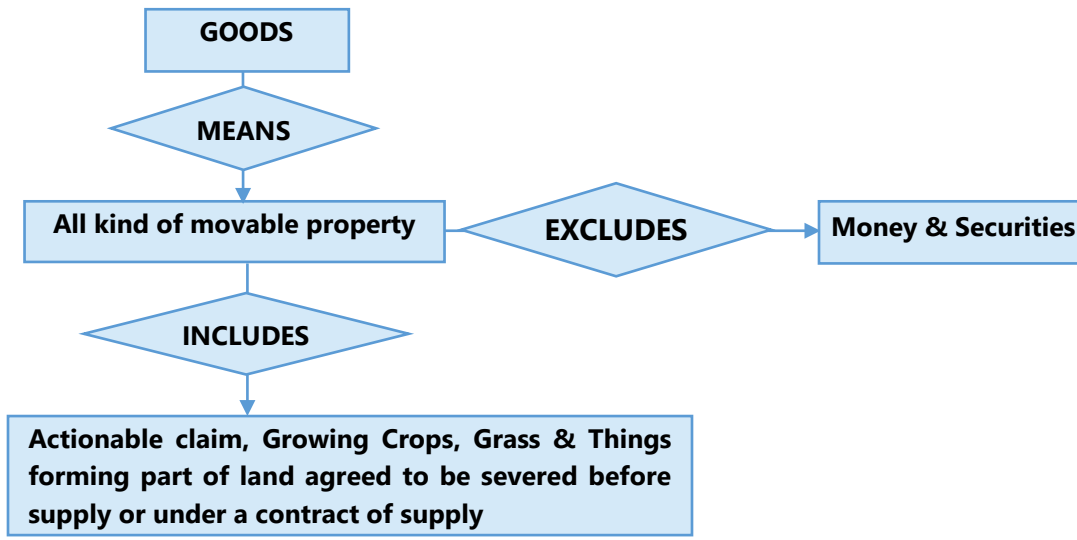
- **Associated enterprises** shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961 [Section 2(12)].

  Broadly, an associated enterprise in relation to another enterprise, means an enterprise which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

- **Document** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 [Section 2(41)].

- **Invoice** or **tax invoice** means the tax invoice referred to in section 31 [Section 2(66)].

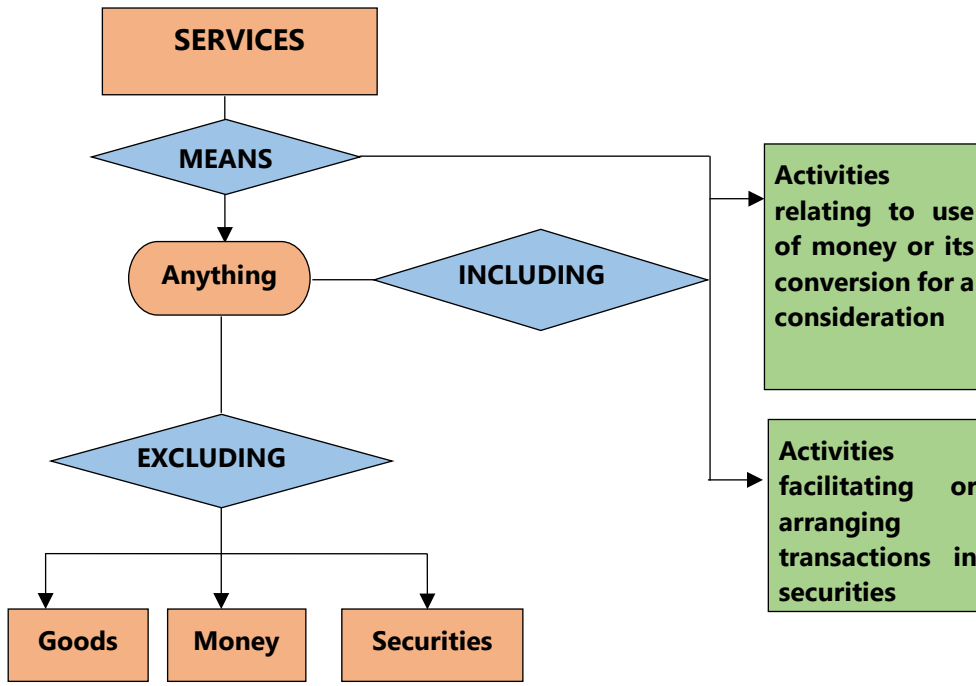
- **Goods** means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply [Section 2(52)].



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- **Prescribed** means prescribed by rules made under this Act on the recommendations of the Council [Section 2(87)].
- **Reverse charge** means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub- section (4) of section 5 of the Integrated Goods and Services Tax Act [Section 2(98)].
- **Services** means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

  Explanation.—For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities [Section 2(102)].



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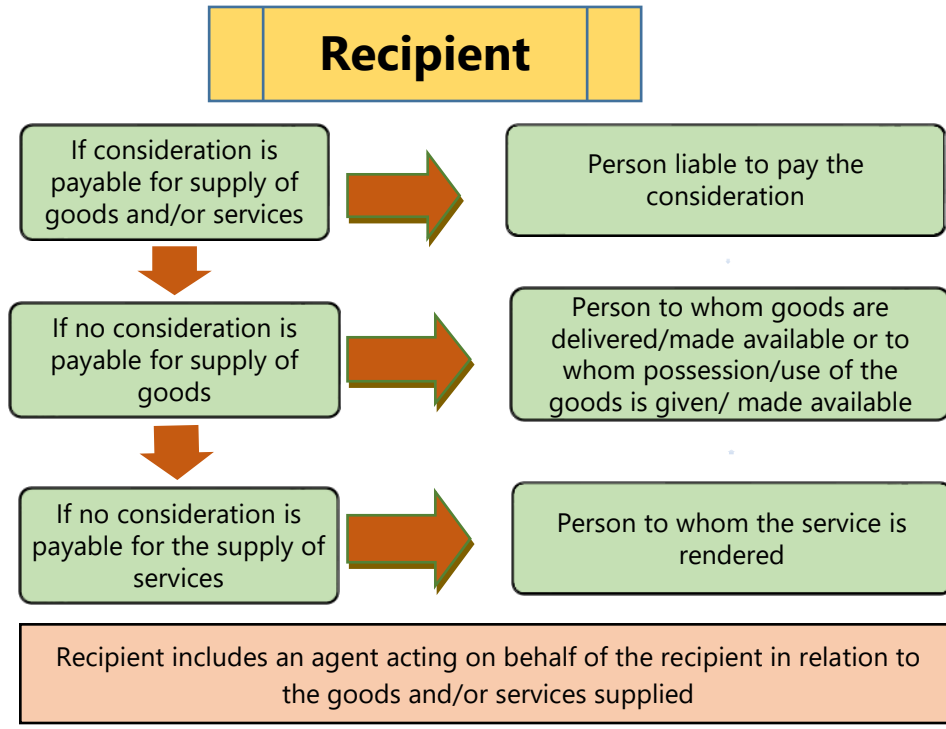
❑ **Recipient** of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

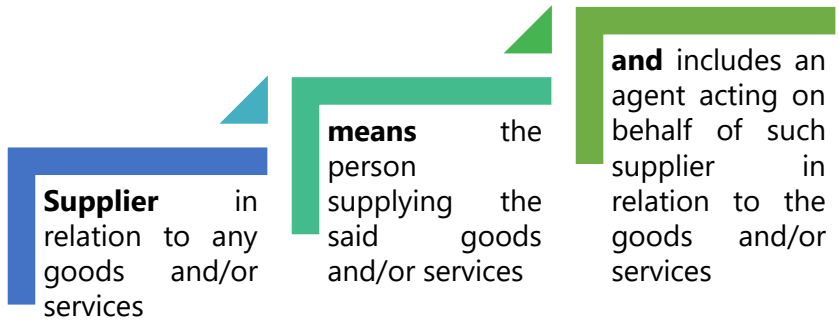
and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].



❑ **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

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However, a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims. [Section 2(105)]



- **Voucher** means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument [Section 2(118)].

3. TIME OF SUPPLY OF GOODS [SECTION 12]

STATUTORY PROVISIONS

Section 12	*Time of supply of goods*	
Sub-section	*Clause*	*Particulars*
(1)		*The liability to pay tax on goods shall arise at the time of supply as determined in terms of the provisions of this section.*

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(2)	*The time of supply of goods shall be the earlier of the following dates, namely:-*	
	(a)	*the date of issue of invoice by the supplier or the last date on which he is required, under section 31, to issue the invoice with respect to the supply; or*
	(b)	*the date on which the supplier receives the payment with respect to the supply*[3]*:*
	Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.	
	Explanation 1. For the purposes of clauses (a) and (b), the "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.	
	Explanation 2. For the purpose of clause (b), "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.	
(3)	*In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:*	
	(a)	*the date of the receipt of the goods, or*
	(b)	*the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier, or*
	(c)	*the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:*

[3] *Practically, in case of goods, the date of receipt of payment by the supplier is no longer a criterion for determination of time of supply for payment of tax. Refer the 'Analysis' of section 12 given in the ensuing pages for detailed discussion in this regard.*

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	Provided that where it is not possible to determine the time of supply under clause (a), (b), or (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.	
(4)	*In case of supply of vouchers by a supplier, the time of supply shall be*	
	(a)	*the date of issue of voucher, if the supply is identifiable at that point; or*
	(b)	*the date of redemption of voucher, in all other cases*[4]*.*
(5)	*Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—*	
	(a)	*in a case where a periodical return has to be filed, be the date on which such return is to be filed; or*
	(b)	*in any other case, be the date on which the tax is paid.*
(6)	*The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.*	
Section 31 (Relevant Extract)	***Tax invoice (to the extent relevant to the time of supply of goods)***	
(1)	*A registered person supplying taxable goods shall, before or at the time of,—*	
	(a)	*removal of goods for supply to the recipient, where the supply involves movement of goods; or*
	(b)	*delivery of goods or making available thereof to the recipient, in any other case,*

[4] *It may be noted that the Finance Act, 2025 has proposed to omit the provisions relating to time of supply of vouchers. Provisions of the Finance Act, 2025 have not become effective as on the date of printing of this Study Material. Once the said amendment comes into effect, students will no longer be required to study the provisions relating to the time of supply of vouchers.*

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	issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:
	Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.
(4)	*In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.*
(7)	*Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.*



✪ ***Section 12 must be read with section 31, which prescribes in detail the date on which tax invoice for a supply of goods must be issued in various situations.***



ANALYSIS

Section 12 provides for the determination of time of supply in the following situations:

- ➔ Supply of goods under forward charge;
- ➔ Supply of goods under reverse charge;
- ➔ Supply of vouchers that can be used to pay for goods;
- ➔ Residual cases;
- ➔ Addition to value of supply of goods by way of interest or late fee or penalty for delayed payment.

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We consider below how the time of supply is determined in each of these situations.

(i) Time of supply of goods under forward charge [Section 12(2) read with section 31]

As per section 12(2), the time of supply of goods that are taxable under forward charge, is the earlier of the following two dates:

- Date of issue of invoice by the supplier or the last date on which the invoice ought to have been issued in terms of section 31, to the extent the invoice covers the supply of goods; or
- Date of receipt of payment by the supplier, to the extent the payment covers the supply of goods.

Tax not payable at the time of receipt of advance for supply of goods – Special procedure for payment of tax in case of supply of goods

Notification No. 66/2017 CT dated 15.11.2017[5] specifies that a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) should pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

In simple words, all taxpayers under forward charge (except composition suppliers and registered persons making supply of specified actionable claims) are not required to pay GST at the time of receipt of advance in relation to supply of goods. The entire GST shall become payable only when the invoice for the supply of such goods is issued or ought to have been issued. **Thus, time of supply of goods for the purpose of payment of tax is the date of issue of invoice or the last date when the invoice ought to have been issued under section 31.**

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[5] *Notification No. 66/2017 CT dated 15.11.2017 has been issued by the Central Government, on the recommendation of the GST Council in exercise of the powers conferred by section 148. Section 148 provides that the Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons. Provisions of section 148 will be discussed at the Final level.*

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(1) A Ltd. enters into an agreement with B Ltd. to supply 100 kg of raw material. However, A Ltd. supplies only 80 kg of raw material and issues the invoice for the same. Here, the supply would be deemed to have been made in respect of 80 kg of raw material, i.e. to the extent covered by the invoice. Therefore, the provisions relating to time of supply will only be applicable to supply of 80 kg of raw material and not for entire 100 kg of raw material.



✪ ***The relief of not paying GST at the time of receipt of advance is available only in case of supply of goods and not for supply of services.***

Meaning of "Date of receipt of payment"

"Date of receipt of payment" in the above situation refers to the date on which the payment is recorded in the books of account of the entity (supplier of goods) that receives the payment, or the date on which the payment is credited to the entity's bank account, whichever is earlier.

Significance of "to the extent the invoice or payment covers the supply of goods"

Suppose a part of the consideration is paid in advance or invoice is issued for part payment, in such cases the time of supply will not cover the full supply. The supply shall be deemed to have been made only to the extent it is covered by the invoice or the part advance payment.

However, it may be noted that in case of goods (except for composition supplier and registered persons making supply of specified actionable claims), tax is payable only on the basis of issuance of invoice/last date for the purpose of issuance of invoice even if any advance or part payment has been received before the issuance of invoice/last date for the purpose of issuance of invoice.

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Time limit for issuance of invoice for supply of goods under section 31

Section 12(2) refers to the last date on which a supplier is required to issue the invoice under section 31. Following are the relevant provisions of section 31 in this regard.

- As per section 31(1), the invoice needs to be issued either **before** or **at the time** of removal of goods (where supply involves movement of goods) or delivery of goods/ making goods available to recipient (in any other case).
- In case of continuous supply of goods, the invoice should be issued **before** or **at the time** of issuance of periodical statement/receipt of periodical payment [Section 31(4)].

  Continuous supply of goods is a supply of goods provided or agreed to be provided continuously or on recurring basis, under a contract, and for which the supplier issues an invoices to the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify [Section 2(32)]. *The said term has been discussed in Chapter 10: Tax Invoice; Credit and Debit Notes in Module 2 of this Study Material.*
- In case of goods sent or taken on approval for sale or return, invoice should be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier [Section 31(7)].



(2) Sphinx Pvt. Ltd. enters into a contract for supply of 100 office chairs @ ₹ 15,000 with Joy Sales on 21st August. Chairs are removed from the warehouse of Sphinx Pvt. Ltd. on 5th September along with the invoice issued on same date. Joy Sales has paid 30% of the total contract value on 21st August; balance 70% is paid after delivery of chairs on 10th September. Since the invoice is issued on the date of removal of goods, it is issued within the prescribed time limit and hence, time of supply for payment of tax on entire contract value of ₹ 15,00,000 is the date of issue of invoice, i.e. 5th September. No GST will be payable at the time of receipt of advance of ₹ 4,50,000 received on 21st August.

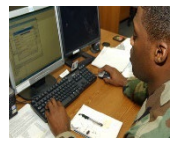
The provisions relating to time of supply of goods as contained in section 12 in case of forward charge read with *Notification No. 66/2017 CT dated 15.11.2017*, have been depicted by way of a diagram given in the next page.

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TIME OF SUPPLY OF GOODS UNDER FORWARD CHARGE AS PER SECTION 12



Date of issue of invoice / Last date of issue of invoice under section 31



Date on which the payment is recorded in the books of account of the supplier – *presently irrelevant for the purpose of payment of tax*



Date on which the payment is credited to the supplier's bank account - *presently irrelevant for purpose of payment of tax*

Whichever is earlier

SPECIAL PROCEDURE[6] FOR PAYMENT OF TAX IN CASE OF GOODS

GST to be paid at the time of supply → **As specified in section 12(2)(a)**



Date of issue of invoice / Last date of issue of invoice under section 31

Effectively, in case of goods, no GST is payable at the time of receipt of advance for supply of goods.

[6] *under section148 of the CGST Act*

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ILLUSTRATION 1

A machine has to be supplied at site. It is done by sourcing various components from vendors and assembling the machine at site. The details of the various events are:

17th September	*Purchase order with advance of ₹ 50,000 is received for machine worth ₹ 12 lakh and entry duly made in the seller's books of account*
20th October	*The machine is assembled, tested at site, and accepted by buyer*
23rd October	*Invoice raised*
4th November	*Balance payment of ₹ 11,50,000 received*

Determine the time of supply(ies) in the above scenario for the purpose of payment of tax.

ANSWER

As per *Notification No. 66/2017 CT dated 15.11.2017,* a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

Therefore, the time of supply for the purpose of payment of tax for the entire amount of ₹ 12,00,000 is 20th October which is the date on which the goods were made available to the recipient as per section 31(1)(b), and the invoice should have been issued by this date [Section 12(2)(a)].

ILLUSTRATION 2

Gas is supplied by a pipeline to the recipient. The supply is to be made for a period of one year. Monthly payments are to be made by the recipient as per the contract. The details of the payment made are:

July 5, August 5, September 5	*Payments of ₹ 2 lakh made in each month*

Determine the time of supply for the purpose of payment of tax.

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ANSWER

As per *Notification No. 66/2017 CT dated 15.11.2017,* a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31. As per section 31(4), in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice is issued before or at the time of each such statement is issued or, as the case may be, each such payment is received. Therefore, invoices should be issued for ₹ 2 lakh each on or before July 5, August 5 and September 5, when monthly payments of ₹ 2 lakh are received.

Thus, assuming that the invoice is issued on July 5, August 5 and September 5, the time of supply for the purpose of payment of tax will be July 5, August 5 and September 5 respectively for goods valued at ₹ 2 lakh each.



Bajrang Pvt. Ltd. agreed to supply goods to Bhagirathi Pvt. Ltd. for ₹ 1,50,000 on 23rd June. Next day, it removed the goods from its factory and issued the invoice on 25th June. Payment for the goods is made by Bhagirathi Pvt. Ltd. on 15th July.

The time of supply of goods is _____.

(a) 23rd June	(b) 24th June	(c) 25th June	(d) 15th July



Hanuman Pvt. Ltd. agreed to supply toys to Ganga Pvt. Ltd. for ₹ 1,50,000 on 23rd June and received an advance of ₹ 1,00,000 on the same day. Next day, it removed the toys from its factory and issued the invoice on 25th June. Balance payment of ₹ 50,000 was made by Ganga Pvt. Ltd. on 15th July.

The time of supply of the advance of ₹ 1,00,000 and balance payment of ₹ 50,000 shall be_____ and _____.

(a) 23rd June; 15th July	(b) 24th June ; 24th June	(c) 25th June; 25th June	(d) 15th July; 15th July

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Excess payment upto ₹ 1000: Option of taking invoice date as time of supply

In terms of the proviso to sub-section (2) of section 12, for a payment of up to ₹ 1,000 received in excess of the value of the goods invoiced, the supplier can choose to take the date of invoice issued with respect to such excess amount as the time of supply of goods for such excess value.

Since, GST on supply of goods is payable only on the basis of issuance of invoice[7], this provision is practically irrelevant for supply of goods.

If neither the date of invoice nor the date of payment is available, the time of supply is determined in terms of the residual provisions under sub-section (5) of section 12 [discussed under point (iv)].

(ii) Time of supply of goods under reverse charge [Section 12(3)]

The time of supply of goods on which GST is payable on reverse charge basis under sub-sections (3) and (4) of section 9 of CGST Act is determined in terms of section 12(3)(a), (b) and (c), as follows:

The time of supply for such goods will be the earliest of the following dates:

- Date on which the goods are received, or
- Date on which payment is recorded in the books of account of the recipient, or the date on which the same is debited in his bank account, whichever is earlier, or
- Date immediately following 30 days from the date of issue of invoice (or document by some other name in lieu of invoice) by the supplier.

If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of goods in the books of account of the recipient of supply.



The relief of not paying GST at the time of receipt of advance in case of supply of goods, is available only when the tax is payable under forward charge. In case of reverse charge, GST is payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment).

[7] as per *Notification No. 66/2017 CT dated 15.11.2017*

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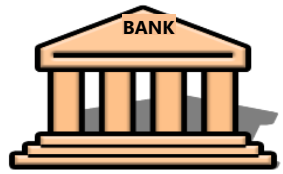
The provisions relating to time of supply of goods in case of reverse charge are depicted by way of a diagram given at next page.



→ Date on which goods are received



→ Date on which the payment is recorded in the books of account of the recipient of goods



→ Date on which the payment is debited in the bank account of the recipient of goods



→ 31st day from the issue of invoice by the supplier

Whichever is earlier

If it is not possible to determine the time of supply through above parameters,
THEN
TIME OF SUPPLY WILL BE



→ Date on which goods are recorded in the books of account of the recipient of supply

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ILLUSTRATION 3

Determine the time of supply from the given information.

May 4	*Supplier invoices goods taxable on reverse charge basis to Bridge & Co. (30 days from the date of issuance of invoice elapse on June 3)*
May 12	*Bridge & Co receives the goods*
May 30	*Bridge & Co makes the payment*

ANSWER

Here, May 12 will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)]. (Here, date of invoice is relevant only for calculating thirty days from that date.)

ILLUSTRATION 4

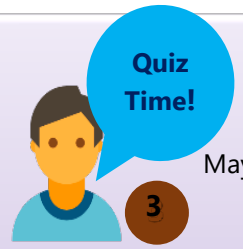
Determine the time of supply from the given information.

May 4	*Supplier invoices goods taxable on reverse charge basis to Pillar & Co. (30 days from the date of issuance of invoice elapse on June 3)*
June 12	*Pillar & Co receives the goods, which were held up in transit*
July 3	*Payment made for the goods*

ANSWER

Here, June 4, 31st day from the date of supplier's invoice, will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)].

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Determine the time of supply of goods with the help of the information provided below:

May 11	Supplier – Dhriti Enterprises – issues invoice for the goods taxable on reverse charge basis to Parminder Constructions Ltd.
May 12	Parminder Constructions Ltd. receives the goods
May 30	Parminder Constructions Ltd. issues a cheque and records payment in its books of accounts
May 31	Payment is debited from the bank account of Parminder Constructions Ltd.
June 1	Payment is credited in bank account of Dhriti Enterprises
June 2	Payment is recorded in the books of Dhriti Enterprises

(a) May 12 | (b) May 30 | (c) June 11 | (d) June 1

(iii) Time of supply of vouchers exchangeable for goods [Section 12(4)][8]

As commonly understood, vouchers are instruments that can be exchanged as payment for goods or services of the designated value. As per the definition, vouchers are instruments, that certain persons (potential suppliers) are obliged to accept as consideration, part or full, against supply of goods and/or services. The instrument or its related documentation sets out the terms and conditions of use, the goods and/or services covered, and the identity of the potential suppliers of such goods and/or services.

As per section 12(4), the time of supply of vouchers exchangeable for goods is-

- Date of issue of the voucher, if the supply that it covers is identifiable at that point, or
- Date of redemption of the voucher in other cases.

[8] *It may be noted that the Finance Act, 2025 has proposed to omit the provisions relating to time of supply of vouchers. Provisions of the Finance Act, 2025 have not become effective as on the date of printing of this Study Material. Once the said amendment comes into effect, students will no longer be required to study the provisions relating to the time of supply of vouchers.*

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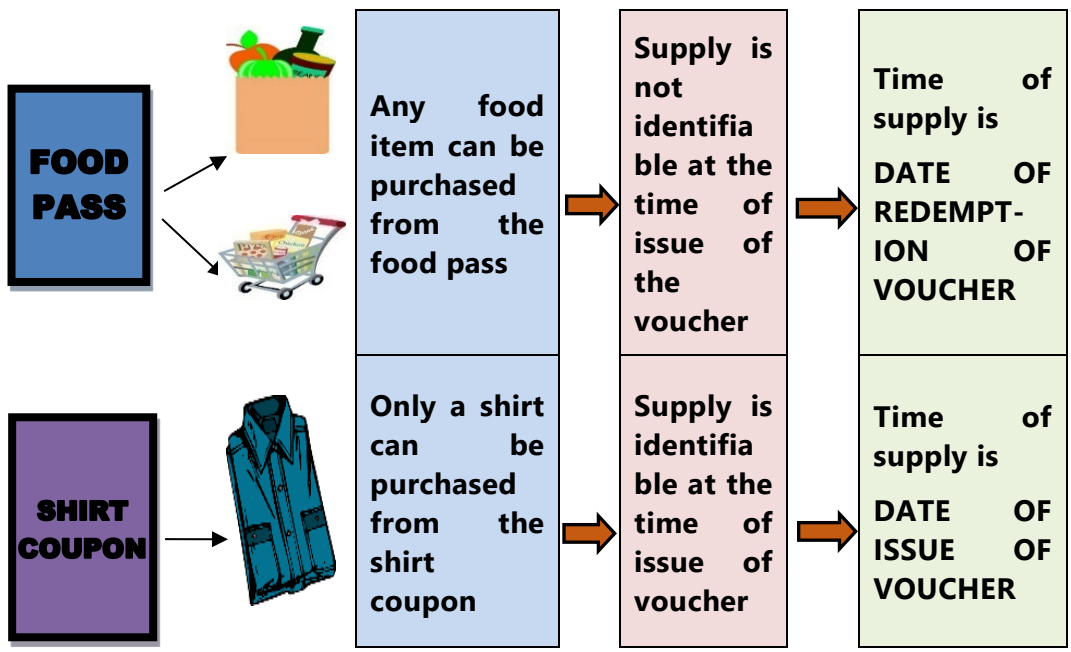
The provisions relating to time of supply of vouchers exchangeable for goods are depicted by way of diagram given below.

(3) Acme sales Limited sells food coupons to a company. The company gives these coupons to its employees as part of the agreed perquisites. The coupons can be redeemed for purchase of any item of food /provisions in the outlets that are part of the program.

As the supply against which the coupon will be redeemed is not known on the date of the sale of the coupon, the time of supply of the coupon will be the date on which the employee redeems it against food / provision items of his choice.

(4) With each purchase of a large pizza during the Christmas week from Perfect Pizza, one can buy a voucher for ₹ 20 which will be redeemable till 5th Jan for a small pizza. As the supply against which the voucher will be redeemed is known on the date of issue of the vouchers, the time of supply is the date of issue of the voucher.

TIME OF SUPPLY OF VOUCHERS EXCHANGEABLE FOR GOODS



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(iv) Time of supply of goods in residual cases [Section 12(5)]

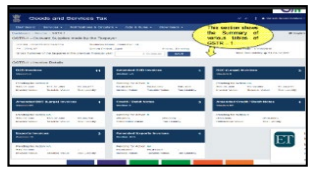
If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 12, in the following manner:

- Due date for filing of the periodical return, or
- In any other case, date on which GST is paid.

The provisions relating to time of supply of goods in residual cases are depicted by way of diagram given at next page.

TIME OF SUPPLY OF GOODS IN RESIDUAL CASES

Where a periodical return is to be filed



→ **DATE ON WHICH RETURN IS REQUIRED TO BE FILED**

OTHER CASES

→ **DATE ON WHICH GST IS PAID**

(v) Time of supply in case of enhancement in value on account of interest/late fee etc. for delayed payment of consideration [Section 12(6)]

Commercially, most of the contracts of supplies stipulate payment of interest/late fee/penalty etc. in case of payment of consideration beyond the agreed time period. Such interest/late fee/penalty etc. is includible in value of taxable supply *[This concept has been discussed in detail in Chapter 7 - Value of Supply in this Module of the Study Material]*. So, the point to consider here is that when the liability to pay GST would arise in such cases of addition in value.

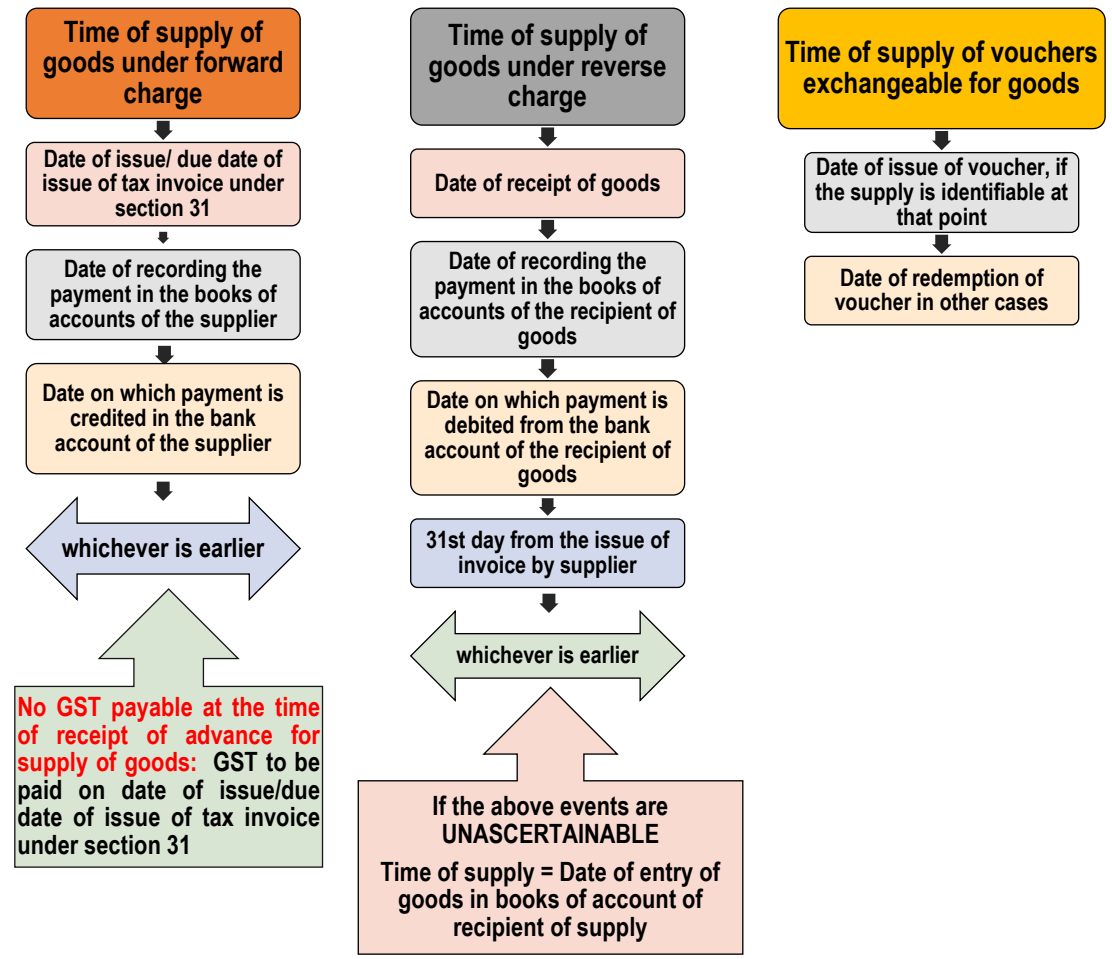
Section 12(6) prescribes that time of supply in case of addition in value on account of interest/ late fee/penalty for delayed payment of consideration for goods is the date on which the supplier receives such addition in value.

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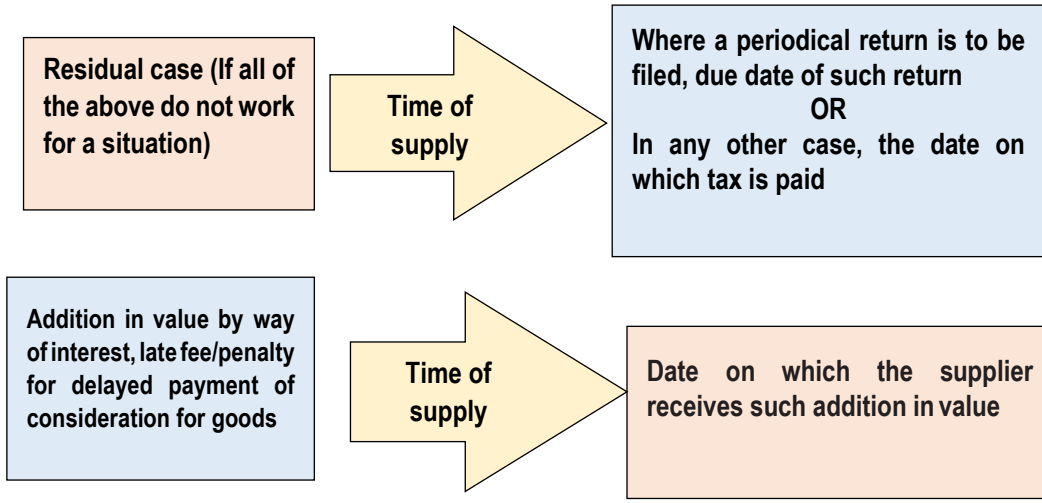
(5) Radha Traders sold goods to Shyam Sales on 6th June with a condition that interest @ 2% per month will be charged if Shyam Sales failed to make payment within 15 days of the delivery of the goods. Goods were delivered alongwith the invoice, on 6th June. Shyam Sales paid the consideration for the goods on 6th July along with applicable interest.

Time of supply for the goods sold is the date of issue of invoice i.e., 6th June and the time of supply for addition in value by way of interest is the date when such addition in value is received by Radha Traders i.e., 6th July.

The provisions relating to time of supply of goods as contained in section 12 are summarised in the diagram given below:



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4. TIME OF SUPPLY OF SERVICES [SECTION 13]

STATUTORY PROVISIONS

Section 13	*Time of supply of services*	
Sub-section	*Clause*	*Particulars*
(1)	*The liability to pay tax on services shall arise at the time of supply, as determined in terms of the provisions of this section.*	
(2)	*The time of supply of services shall be the earliest of the following dates, namely:-*	
	(a)	*the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under section 31 or the date of receipt of payment, whichever is earlier; or*
	(b)	*the date of provision of service, if the invoice is not issued within the period prescribed under section 31 or the date of receipt of payment, whichever is earlier; or*
	(c)	*the date on which the recipient shows the receipt of services*

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		in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:
	Provided that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.	
	Explanation - For the purposes of clauses (a) and (b) -	
	(i)	*the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.*
	(ii)	*"the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.*
(3)	In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:—	
	(a)	*the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or*
	(b)	the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof ***by the supplier, in cases where invoice is required to be issued by the supplier, or***
	(c)	***the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient.***
	Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) ***or clause (c),*** the time of supply shall be the date of entry in the books of account of the recipient of supply:	

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	Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.	
(4)	*In case of supply of vouchers by a supplier, the time of supply shall be-*	
	(a)	*the date of issue of voucher, if the supply is identifiable at that point; or*
	(b)	*the date of redemption of voucher, in all other cases*[9]*;*
(5)	*Where it is not possible to determine the time of supply of services under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall-*	
	(a)	*in a case where a periodical return has to be filed, be the date on which such return is to be filed; or*
	(b)	*in any other case, be the date on which the tax is paid.*
(6)	*The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.*	
Section 31	***Tax invoice (to the extent relevant to time of supply of services)***	
(2)	*A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:*	
	Provided that the Government may, on the recommendations of the Council, by notification,—	

[9] *It may be noted that the Finance Act, 2025 has omitted the provisions relating to time of supply of vouchers. Provisions of the Finance Act, 2025 have not become effective as on the date of printing of this Study Material. Once the said amendment comes into effect, students will no longer be required to study the provisions relating to the time of supply of vouchers.*

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	(a)	*specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;*
	(b)	*subject to the condition mentioned therein, specify the categories of services in respect of which—*
	(i)	*any other document issued in relation to the supply shall be deemed to be a tax invoice; or*
	(ii)	*tax invoice may not be issued.*
(3)	***(f)***	***a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall within the period as may be prescribed issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both***
(5)	*Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—*	
	(a)	*where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;*
	(b)	*where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;*
	(c)	*where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.*
(6)	*In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.*	

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Chapter VI: Tax Invoice, Credit and Debit Notes of CGST Rules	
Rule 47	**Time limit for issuing tax invoice**
	The invoice referred to in rule 46, in case of taxable supply of services, shall be issued within a period of thirty days from the date of supply of service:
	Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be forty-five days from the date of supply of service:
	Provided further that an insurer or a banking company or a financial institution, including a non-banking financial company, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.
Rule 47A	***Notwithstanding anything contained in rule 47, where an invoice referred to in rule 46 is required to be issued under clause (f) of sub-section (3) of section 31 by a registered person, who is liable to pay tax under sub-section (3) or sub-section (4) of section 9, he shall issue the said invoice within a period of thirty days from the date of receipt of the said supply of goods or services, or both, as the case may be.***



Section 13 must be read with section 31 and rule 47 and 47A, which prescribe in detail the date on which tax invoice for a supply of service must be issued in various situations.

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ANALYSIS

Section 13 provides for the determination of the time of supply in the following situations:

- Supply of service taxable under forward charge,
- Supply of service taxable under reverse charge,
- Supply of vouchers that can be used to pay for services,
- Residual cases,
- Addition to value of supply of services by way of interest or late fee or penalty for delayed payment.

Below, we shall consider these in detail:

(i) Time of supply of service under forward charge [Section 13(2) read with section 31 and rule 47 of CGST Rules]

For supply of service on which the supplier is liable to pay tax, the time of supply will be the earlier of the dates arrived at by methods (A) and (B), as follows:

(A) Date of issue of invoice or date of receipt of payment (to the extent the invoice or payment covers the supply of services), whichever is earlier, if the invoice is issued within the time prescribed under section 31;

(B) Date of provision of service or date of receipt of payment (to the extent the payment covers the supply of services), whichever is earlier, if the invoice is not issued within the time prescribed under section 31,

If the above two methods [(A) and (B)] are not applicable, the time of supply will be the date on which the recipient of service shows receipt of the service in his books of account.

Meaning of "date of receipt of payment"

"Date of receipt of payment" in the above situation refers to the date on which the payment is recorded in the books of account of the supplier that receives the payment, or the date on which the payment is credited to the supplier's bank account, whichever is earlier.

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Significance of "to the extent the invoice or payment covers the supply of services"

Suppose a part of the consideration is paid in advance or invoice is issued for part payment, the time of supply will not cover the full supply. The supply shall be deemed to have been made to the extent it is covered by the invoice or the part payment and time of supply shall be determined accordingly.

The provisions relating to time of supply of services in case of forward charge can be depicted by way of a diagram given earlier in this chapter.

Time limit for issuance of invoice for supply of services under section 31

The criteria to determine the time of supply of services depend upon whether the invoice is issued within the time prescribed under section 31. Following are the relevant provisions in this regard:

- As per section 31(2) read with rule 47 of CGST Rules, the tax invoice needs to be issued either before the provision of service or within 30 days (45 days in case of insurance companies/ banking companies/ financial institutions including NBFCs) from the date of supply of service.
- In case of insurance companies/ banking companies/ financial institutions including NBFCs/ telecom companies/ notified supplier of services making taxable supplies between distinct persons as specified in section 25[10], invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which the supply was made [Second proviso to rule 47].
- In case of continuous supply of services, the invoice should be issued either:
  - (i) on/ before the due date of payment - where the due date of payment is ascertainable from the contract or

[10] *Concept of distinct persons has been discussed in Chapter 2: Supply under GST in this Module of the Study Material.*

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(ii) before/ at the time when the supplier of service receives the payment - where the due date of payment is not known

(iii) on/ before the date of completion of the milestone event - where the payment is linked to completion of an event [Section 31(5)].

Continuous supply of services are provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding 3 months with periodic payment obligations and includes supply of such services as the Government may notify [Section 2(33)]. *The said term has been discussed in Chapter 10: Tax Invoice; Credit and Debit Notes in Module 2 of this Study Material.*

- In case of cessation of supply of services before completion of supply, the invoice should be issued at the time when the supply ceases to the extent of the supply made before such cessation. [Section 31(6)].



(6) Mohit Khanna & Sons is a firm of management consultants. The firm enters into a contract with Spark Pvt. Ltd. on 1st September for providing consultancy services. Provision of service gets completed on 15th September. Invoice for the service is issued on 20th September and payment is received on 10th October. Since invoice is issued within 30 days from the date of supply of service, time of supply is the date of issue of invoice, i.e. 20th September being earlier than the date of receipt of payment.



(7) If in the above example, invoice is issued on 25th October, the time of supply will be the date of provision of service, i.e. 15th September being earlier than the date of receipt of payment. This would be so as the invoice is not issued within 30 days from the date of supply of service.

ILLUSTRATION 5

Determine the time of supply from the following particulars:

6th May	*Booking of convention hall, sum agreed ₹ 15000, advance of ₹ 3000 received*
15th September	*Function held in convention hall*
27th October	*Tax invoice issued for ₹ 15000, indicating balance of ₹ 12000 payable*
3rd November	*Balance payment of ₹ 12000 received*

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ANSWER

As per section 31(2) read with rule 47 of CGST Rules, the tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13(2)(b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier.

Therefore, the time of supply of service to the extent of ₹ 3,000 is 6th May as the date of payment of ₹ 3000 is earlier than the date of provision of service. The time of supply of service to the extent of the balance ₹ 12,000 is 15th September which is the date of provision of service.

ILLUSTRATION 6

Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in its books of account.

ANSWER

The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13(2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of the supplier is also not available.

Therefore, the time of supply will be determined vide clause (c) of section 13(2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.

Thus, time of supply will be 4th April, the date on which the Apartment Owners' Association records the receipt of service in its books of account.

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Determine time of supply of services and date of receipt of payment with the help of the information provided below:

May 4 Supplier – Dhriti Enterprises – provides services taxable under forward charge to Parminder Constructions Ltd.

May 12 Dhriti Enterprises issues invoice for the service

May 30 Parminder Constructions Ltd. issues a cheque and records payment in its books of accounts

May 31 Payment is debited from bank account of Parminder Constructions Ltd.

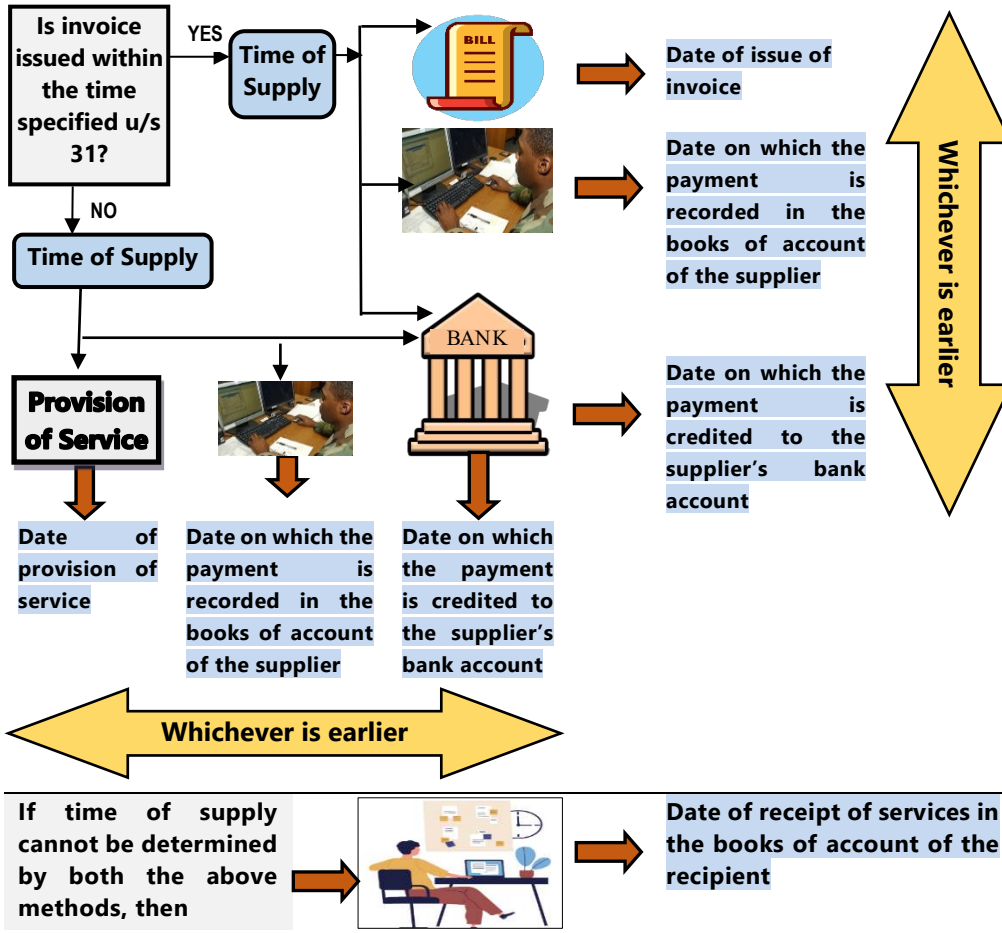
June 1 Payment is credited in the bank account of Dhriti Enterprises

June 2 Payment is recorded in the books of Dhriti Enterprises

(a) May 12; June 1	(b) May 30; May 30	(c) May 4; June 2	(d) May 31; June 2

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TIME OF SUPPLY OF SERVICES UNDER FORWARD CHARGE



Excess payment upto ₹ 1000: Option of taking invoice date as time of supply

In terms of the proviso to sub-section (2) of section 13, for a payment of up to ₹ 1,000 received in excess of the invoice value, the supplier can choose to take the date of invoice issued with respect to such excess amount as the time of supply of services in relation to this excess value.

This provision facilitates the supplier to defer payment of tax on small amounts typically received by him in excess of the invoice amount.

(8) A telephone company receives ₹ 5000 against an invoice of ₹ 4800. The excess amount of ₹ 200 can be adjusted against next invoice. The company has the option to take date of next invoice as the time of supply of service in relation to the amount of ₹ 200 received in excess against earlier invoice of ₹ 4800.

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(ii) Time of supply of services under reverse charge [Section 13(3)]

The time of supply of service on which GST is payable on reverse charge basis (except on services received from associated enterprises located outside India) under sub-sections (3) and (4) of section 9 is determined in terms of section 13(3)(a), (b) ***and (c)*** as follows:

The time of supply for such service will be the earlier of the following:

- Date of payment, or
- Date immediately following 60 days from date of issue of invoice (or any other document in lieu of invoice) by the supplier, ***in cases where invoice is required to be issued by the supplier***
- ***Date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient***

If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of the service in the books of account of the recipient of supply.

Meaning of "Date of payment"

"Date of payment" in the above situation refers to the date on which the payment is recorded in the books of account of the recipient of service, or the date on which the payment is debited from the recipient's bank account, whichever is earlier.

Time limit for issuance of invoice by recipient for supply of services in case of reverse charge mechanism [Section 31(3)(f) read with rule 47A]

Where an invoice referred to in rule 46 is required to be issued under section 31(3)(f) by a registered person, who is liable to pay tax under section 9(3)/(4), he shall issue the said invoice within a period of 30 days from the date of receipt of the said supply of goods and/or services, as the case may be.

Thus, invoice to be issued within a period of 30 days from the date of receipt of the said supply of goods and/or services, as the case may be.

Import of services between associated enterprises

In the case of service received from an associated enterprise located outside India, the time of supply will be the date of payment for the service, or the date of entry of the service in the books of account of the recipient, whichever is earlier.

The provisions relating to time of supply of services in case of reverse charge can be depicted by way of a diagram given on next page:

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TIME OF SUPPLY OF SERVICES UNDER REVERSE CHARGE



Date on which the payment is recorded in the books of account or of the recipient



Date on which the payment is debited in bank account of recipient.





61st day from issue of invoice *by the supplier, in cases where invoice is required to be issued by the supplier*



Date of issue of invoice by the recipient, in cases where invoice is required to be issued by the recipient i.e. within 30 days of receipt of services.

Whichever is earlier

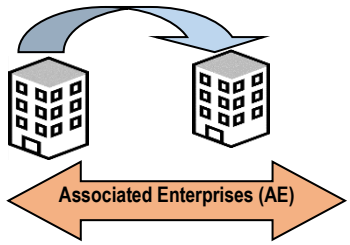
If it is not possible to determine the time of supply through above parameters, THEN TIME OF SUPPLY WILL BE



Date of entry of service in the books of account of the recipient of supply

TIME OF SUPPLY IN CASE OF IMPORT OF SERVICES FROM ASSOCIATED ENTERPRISES

Supply of services from AE located outside India







Date of payment for the service



Date of entry of service in books of account of recipient

Whichever is earlier

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ILLUSTRATION 7

Determine the time of supply from the given information. (Assume that service being supplied is taxable under reverse charge)

May 4	*The supplier of service issues invoice for service provided. There is a dispute about amount payable, and payment is delayed.*
August 21	*Payment made to the supplier of service*

ANSWER

Here, July 4 will be the time of supply, being the earlier of the two stipulated dates namely, date of payment and the date immediately following 60 days from the date of issue of invoice.

ILLUSTRATION 8

Determine the time of supply from the given information.

May 4	*A German company issues email informing its associated enterprise, ABC Ltd. of the cost of technical services provided to it, which was recorded in ABC Ltd.'s books on May 1*
July 2	*ABC Ltd transfers the amount to the account of the German company*

ANSWER

Here, May 1 will be the time of supply, being the earlier of the two stipulated dates namely, date of entry in the books of account of the recipient of supply or the date of payment, in terms of second proviso to section 13(3).

(iii) Time of supply of vouchers exchangeable for services [Section 13(4)] [11]

The term voucher has already been explained under the Heading "Time of Supply of Goods". The time of supply of vouchers that are exchangeable for services is stipulated as:-

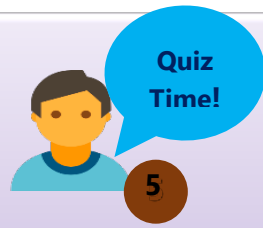
- the date of issue of the voucher - if the supply is identifiable at that point, or
- the date of redemption of the voucher - in other cases.

[11] *It may be noted that the Finance Act, 2025 has proposed to omit the provisions relating to time of supply of vouchers. Provisions of the Finance Act, 2025 have not become effective as on the date of printing of this Study Material. Once the said amendment comes into effect, students will no longer be required to study the provisions relating to the time of supply of vouchers.*

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(9) Best Hospitality Services enters into agreement with Drive Marketing Ltd by which Drive Marketing Ltd. markets Best Hospitality Services' hotel rooms and sells coupons / vouchers redeemable for a discount against stay in the hotel.

As the supply against which the voucher will be redeemed is identifiable, the time of supply of the voucher will be its date of issue.



Style Saloon Ltd. provides vouchers worth ₹ 1,000 valid for a period of 6 months to the customers who availed the services exceeding ₹ 10,000 in any month. The customers can redeem such vouchers for the hair styling services taken from Style Saloon Ltd. Mr. Dwarka availed services worth ₹ 12,000 on 3rd June from the saloon and is issued a voucher of ₹ 1,000 on 5th June. He redeems the voucher on 4th September for hair styling services from Style Saloon Ltd. The time of supply of voucher issued to Mr. Dwarka is _____.

(a) 3rd June	(b) 5th June	(c) 4th September	(d) 5th December

(iv) Residual case [Section 13(5)]

If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 13, in the following manner:

- Date on which periodical return for the period is required to be filed, or
- In any other case, date on which GST is paid.

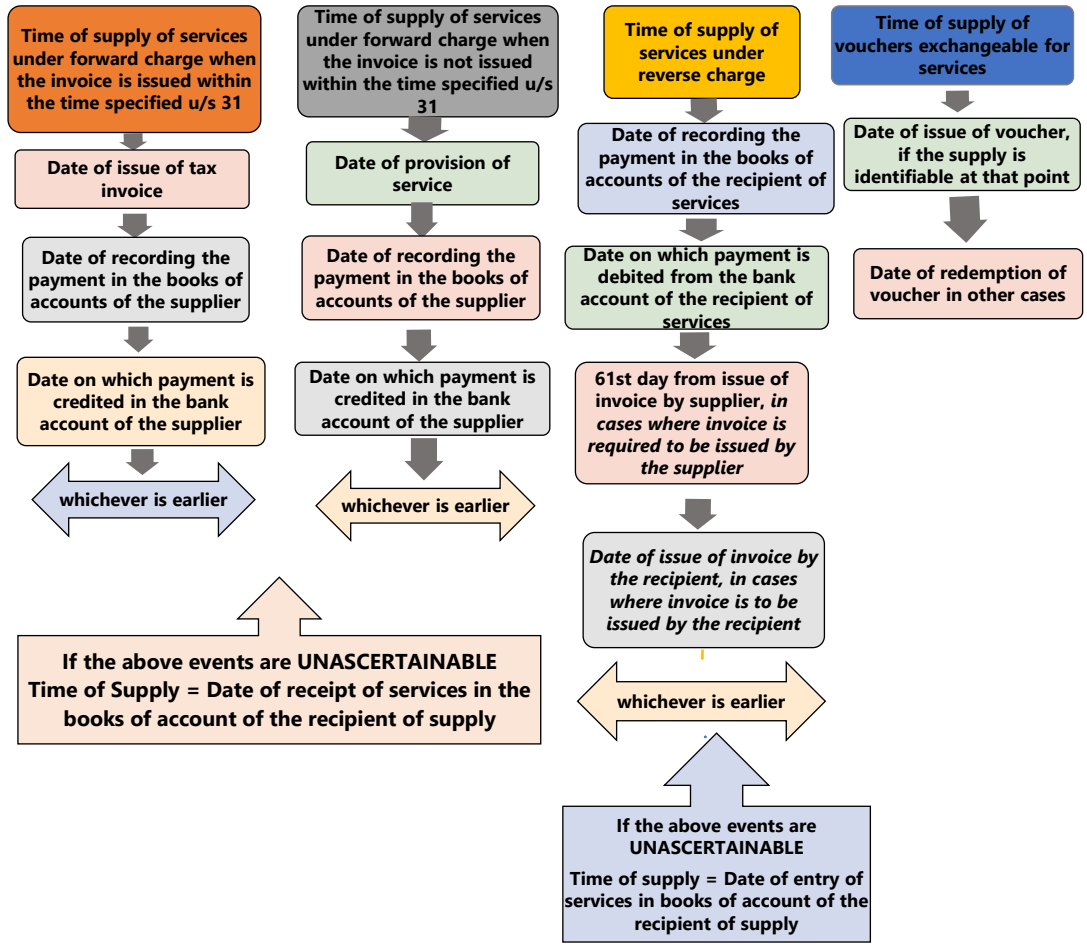
(v) Enhancement of value on account of interest/late fee etc. for delayed payment of consideration [Section 13(6)]

The provisions for time of supply in case of addition in value by way of interest, late fee/penalty for delayed payment of consideration are the same for goods and services.

Section 13(6) prescribes that time of supply in case of addition in value by way of interest/ late fee/penalty for delayed payment of consideration for a service is the date on which the supplier receives such addition in value.

The provisions relating to time of supply of services as contained in section 13 are summarised in the diagram given on the next page

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Where a periodical return is to be filed, due date of such return

OR

In any other case, the date on which the tax is paid

Addition in value by way of interest, late fee/penalty for delayed payment of consideration for services → **Time of supply** → **Date on which the supplier receives such addition in value**

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LET US RECAPITULATE

The provisions relating to time of supply of goods and services can be better understood if the same are studied simultaneously appreciating the similarities and differences between the two. Therefore, such provisions have been summarised by way of a comparison table to help students remember and retain the provisions in a better and effective manner:

TIME OF SUPPLY WHERE TAX IS PAYABLE UNDER FORWARD CHARGE

Time of supply of goods [Section 12(2)]	Time of supply of services [Section 13(2)]
Earliest of the following: **(a)** Date of **issue of invoice** by the supplier or **the last date on which he is required under section 31, to issue the invoice** with respect to the supply **(b)** Date on which the supplier **receives the payment** (entering the payment in books of account or crediting of payment in bank account, whichever is earlier) with respect to the supply **No GST at the time of receipt of advance for supply of goods:** In case of supply of goods by a registered person under forward charge (excluding composition supplier and registered persons making supply of specified actionable claims), GST is to be paid on the outward supply of goods on the date of issue of invoice or the last date on which invoice ought	**(a) Invoice issued within the time period prescribed under section 31** **Earliest of the following:** → Date of **issue of invoice** by the supplier → Date of **receipt of payment** (entering the payment in books of account or crediting of payment in bank account, whichever is earlier) **(b) Invoice not issued within the time period prescribed under section 31** **Earliest of the following:** → Date of **provision of service** → Date of **receipt of payment** (entering the payment in books of account or

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to have been issued in terms of section 31 *[Notification No. 66/2017 CT dated 15.11.2017]*.	crediting of payment in bank account, whichever is earlier) **(c) When the above events are unascertainable** → Date on which the **recipient shows the receipt of services** in his books of account

TIME LIMIT FOR RAISING INVOICES

Supply of goods [Section 31(1)]	Supply of services [Section 31(2)]
Before or at the time of,- **(a) removal of goods** for supply to the recipient, where the supply involves movement of goods, or **(b) delivery of goods or making available thereof to the recipient**, in any other case.	**Before or after the provision of service** but within 30 days [45 days in case of insurance companies/banking and financial institutions including NBFCs] from the date of supply of services

TIME OF SUPPLY WHERE TAX IS PAYABLE UNDER REVERSE CHARGE

Time of supply of goods [Section 12(3)]	Time of supply of services [Section 13(3)]
Earliest of the following: **(a)** Date of **receipt of goods**, or **(b)** Date of **payment** as entered in the books of account of the recipient or the date on which the payment is debited from his bank account, whichever is earlier, or	**Earliest of the following:** **(a)** Date of **payment** as entered in the books of account of the recipient or the date on which the payment is debited from his bank account, whichever is earlier, or

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(c) 31st day from the date of issue of invoice by the supplier	**(b) 61st day from the date of issue of invoice *by the supplier, in cases where invoice is required to be issued by the supplier*** ***(c) Date of issue of invoice by the recipient, in cases where invoice is required to be issued by the recipient. [Invoice is to be issued within 30 days from the date of receipt of services.]***
Where the above events are not ascertainable, the time of supply shall be the date of entry in the books of account of the recipient of supply	
-	**Import of service from associated enterprise** Date of entry in the books of account of the recipient or the date of payment, whichever is earlier

TIME OF SUPPLY OF VOUCHERS EXCHANGEABLE FOR GOODS AND SERVICES[12]

Supply of vouchers exchangeable for goods and services [Sections 12(4) and 13(4)]
(a) Supply of goods or services is identifiable at the time of issue of voucher   → Date of issue of the voucher   **(b)** Other cases   → Date of redemption of the voucher

[12] *It may be noted that the Finance Act, 2025 has proposed to omit the provisions relating to time of supply of vouchers. Provisions of the Finance Act, 2025 have not become effective as on the date of printing of this Study Material. Once the said amendment comes into effect, students will no longer be required to study the provisions relating to the time of supply of vouchers.*

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TIME OF SUPPLY OF GOODS AND SERVICES IN RESIDUAL CASES

Supply of goods and services in residual cases [Sections 12(5) and 13(5)] i.e where it is not possible to determine the time of supply under the other provisions

(a) Where a periodical return is required to be filed

→ Due date of filing such return

(b) Other cases

→ Date of payment of tax

TIME OF SUPPLY FOR ADDITION IN VALUE BY WAY OF INTEREST/ LATE FEE/PENALTY FOR DELAYED PAYMENT OF CONSIDERATION

Addition in value by way of interest, late fee/penalty for delayed payment of consideration

Time of Supply →Date on which the supplier receives such addition in value



The provisions relating to time of supply of goods falling in the residual category are same as that of the time of supply of services falling in the residual category. Also, the provisions relating to time of supply for addition in value by way of interest, late fee/penalty for delayed payment of consideration are same for goods and services.

Furthermore, concepts like option of taking invoice date as time of supply in case of receipt of excess payment upto ₹ 1000, meaning of "Date of receipt of payment", significance of words "to the extent the invoice or payment covers the supply" are also same for goods and services.

Students may make a note of the above points as it will help them in understanding and remembering the provisions in a better manner.

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TEST YOUR KNOWLEDGE

1. *Explain the significance of time of supply under GST law.*

2. *GST is payable on advance received for supply of goods and services taxable under forward charge.*

   Do you agree with the statement? Support your answer with legal provisons.

3. *Determine the time of supply in the following cases assuming that GST is payable under reverse charge:*

S. No.	***Date of receipt of goods***	***Date of payment by the recipient of goods***	***Date of issue of invoice by the supplier of goods***
(i)	*July 1*	*August 10*	*June 29*
(ii)	*July 1*	*June 25*	*June 29*
(iii)	*July 1*	*Part payment made on June 30 and balance amount paid on July 20*	*June 29*
(iv)	*July 5*	*Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30*	*June 1*
(v)	*July 1*	*Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26*	*June 29*
(vi)	*August 1*	*August 10*	*June 29*

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4. *Determine the time of supply in the following cases assuming that GST is payable under reverse charge:*

S. No.	Date of payment by the recipient for supply of services	Date of issue of invoice by the supplier of services
(i)	August 10	June 29
(ii)	August 10	June 1
(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29

5. *Kabira Industries Ltd engaged the services of a transporter for road transport of a consignment on 17th June and made advance payment for the transport on the same date, i.e. 17th June. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July. Invoice was received from the transporter on 22nd July.*

   What is the time of supply of the transporter's service?

6. *Raju Pvt Ltd. receives the order and advance payment on 5th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice.*

   When is the time of supply of service?

7. *Investigation shows that 150 cartons of ceramic capacitors were dispatched on 2nd August but no invoice was raised and the transaction (dispatch of cartons) were not entered in the accounts. There was no evidence of receipt of payment.*

   What is the time of supply of 150 cartons for the purpose of payment of tax?

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8. *An order is placed on Ram & Co. on 18th August for supply of a consignment of customized shoes. Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December. The customer collects the consignment from the premises of Ram & Co. on 7th December and electronically transfers the payment on the same date, which is entered in the accounts on the next day, 8th December.*

   What is the time of supply of the shoes for the purpose of payment of tax?

9. *A firm of advocates issues invoice for services to ABC Ltd. on 17th Feb. The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the firm is billing the company. The dispute drags on and finally payment is made on 3rd November.*

   Identify the time of supply of the legal services.

10. *Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December.*

    What is the method to fix the time of supply of the service?

11. *XYZ & Co., a firm of Chartered Accountants, issued invoice for services rendered to Mr. A on 7th September. Determine the time of supply in the following independent cases:*

    (1) The provision of service was completed on 1st August and payment was received on 28th September.

    (2) The provision of service was completed on 14th August and payment was received on 28th September.

    (3) Mr. A made the payment on 3rd August. However, provision of service was remaining to be completed at that time.

    (4) Mr. A made the payment on 15th September. However, provision of service was remaining to be completed at that time.

12. *M/s Pranav Associates, a partnership firm, provided recovery agent services to Newtron Credits Ltd., a non-banking financial company and a registered supplier, on 15th January. Invoice for the same was issued by supplier on 7th*

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February and the payment was made on 18th April by Newtron Credits Ltd. Bank account of the company was debited on 20th April.

Determine the following:

(i) Person liable to pay GST

(ii) Time of supply of service

13. *Mr. X supplied goods for ₹ 50,000 to its customer Miss Diyana on 1st January on the condition that payment for the same will be made within a week. However, Miss Diyana made payment for the said goods on 2nd February and thus, paid interest amounting to ₹ 2,000.*

What is the time of supply with regard to addition in the value by way of interest in lieu of delayed payment of consideration?

14. *Mansh & Vansh Trading Company, a registered supplier, is liable to pay GST under forward charge. It has furnished the following information:*

(i) Goods were supplied on 3rd October

(ii) Invoice was issued on 5th October

(iii) Payment received on 9th October

Determine the time of supply of goods for the purpose of payment of tax.



ANSWERS

1. GST is payable on supply of goods or services. Time of supply indicates the point in time when the liability to pay tax arises. However, it is important to note that though the liability to pay tax arises at the time of supply, the same has to be paid to the Government by the due date prescribed with reference to the said 'time of supply'. The CGST Act provides separate provisions for time of supply for goods and services vide sections 12 and 13.

2. The statement is not correct. While GST is payable on advance received for supply of services taxable under forward charge, the same is not payable in case of advance received for supply of goods taxable under forward charge.

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As per section 13, the time of supply of services taxable under forward charge is –

- Date of issue of invoice or date of receipt of payment, whichever is earlier, if the same is issued within 30 days from the date of supply of service;

  OR

- Date of provision of service or date of receipt of payment, whichever is earlier, if the invoice is not issued within 30 days from the date of supply of service.

Thus, in case of services, if the supplier receives any payment before the provision of service or before the issuance of invoice for such service, the time of supply gets fixed at that point in time and the liability to pay tax on such payment arises. However, the tax can be paid by the due date prescribed with reference to such time of supply.

As regards time of supply of goods taxable under forward charge is concerned, *Notification No. 66/2017 CT dated 15.11.2017* provides that a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) should pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31. Therefore, in case of goods, tax is not payable on receipt of advance payment.

3.

S. No.	**Date of receipt of goods**	**Date of payment by the recipient of goods**	**Date of issue of invoice by the supplier of goods**	**Date immediately following 30 days from the date of invoice**	**Time of supply of goods [Earlier of (1), (2) & (4)]**
	(1)	**(2)**	**(3)**	**(4)**	**(5)**
(i)	July 1	August 10	June 29	July 30	July 1

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(ii)	July 1	June 25	June 29	July 30	June 25
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29	July 30	June 30 for part payment made and July 1 for balance amount
(iv)	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	July 2	June 28 (i.e., when payment is entered in the books of account of the recipient)
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	July 30	June 26 (i.e., when payment is debited in the recipient's bank account)
(vi)	August 1	August 10	June 29	July 30	July 30 (i.e., 31st day from issuance of invoice)

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4.

S. No.	Date of payment by the recipient for supply of services	Date of issue of invoice by the supplier of services	Date immediately following 60 days from invoice	Time of supply of goods [Earlier of (1) & (3)]
	(1)	(2)	(3)	
(i)	August 10	June 29	August 29	August 10
(ii)	August 10	June 1	August 1	August 1
(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29	August 29	June 30 for part payment and August 29 for balance amount
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	August 1	June 28 (i.e. when payment is entered in the books of account of the recipient)
(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	August 29	June 26 (i.e. when payment is debited in the recipient's bank account)

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5. Time of supply of service taxable under reverse charge is the earlier of the following two dates in terms of section 13(3):

- Date of payment
- 61st day from the date of issue of invoice, in cases where invoice is required to be issued by the supplier
- Date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient.

In this case, the date of payment precedes 61st day from the date of issue of invoice by the supplier of service. Hence, the date of payment, i.e. 17th June, will be treated as the time of supply of service [Section 13(3)(a)].

6. Since the invoice has not been issued within the prescribed time period, time of supply of service will be the earlier of the following two dates in terms of section 13(2)(b):

- Date of provision of service
- Date of receipt of payment

The payment was received on 5th January and the service was provided on 23rd April. Therefore, the date of payment, i.e. 5th January is the time of supply of the service in this case.

7. As per *Notification No. 66/2017 CT dated 15.11.2017,* a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

In this case since the invoice has not been issued, the time of supply for the purpose of payment of tax will be the last date on which the invoice is required to be issued.

The invoice for supply of goods in the present case must be issued on or before the dispatch of goods, i.e. on 2nd August. Therefore, the time of supply for the purpose of payment of tax for the goods will be 2nd August, the date when the invoice should have been issued.

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8. As per *Notification No. 66/2017 CT dated 15.11.2017,* a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

In this case, the invoice is issued before the removal of the goods and is thus, within the time limit prescribed under section 31(1). Therefore, the time of supply for the purpose of payment of tax is the date of issue of invoice, which is 2nd December.

9. Tax on services supply by a firm of advocates by way of legal services to any business entity is payable under reverse charge by such firm of advocates. Time of supply of services that are taxable under reverse charge is earliest of the following two dates in terms of section 13(3):

- Date of payment
- 61st day from the date of issue of invoice, in cases where invoice is required to be issued by the supplier
- Date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient.

The date of payment comes subsequent to the 61st day from the issue of invoice by the supplier of service. Therefore, the 61st day from the date of supplier's invoice has to be taken as the time of supply. This fixes 19th April as the time of supply.

10. The time of supply of services, if the invoice is not issued in time, is the date of payment or the date of provision of service, whichever is earlier [Section 13(2)(b)]. In this case, the service is provided on 5th September but not invoiced within the prescribed time limit. Therefore, 5th September, the date of provision of service, being earlier than the date of payment, will be the time of supply.

11. The time of supply of services is the date of issue of invoice if the same is issued within 30 days from the date of supply of service OR the date of receipt of payment, whichever is earlier [Section 13(2)(a)].

In case the invoice is not issued within 30 days from the date of supply of service, time of supply is the date of provision of service OR the date of receipt of payment, whichever is earlier [Section 13(2)(b)].

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In accordance with the aforesaid provisions, the time of supply in the four independent cases will be:

(1) 1st August since the invoice is not issued within 30 days of supply of service.

(2) 7th September since the invoice is issued within 30 days of supply of service and the payment is received after the issuance of invoice.

(3) 3rd August viz., earlier of date of issuance of invoice (7th September) or date of receipt of payment (3rd August)

(4) 7th September viz., earlier of date of issuance of invoice (7th September) or date of receipt of payment (15th September)

12. (i) Tax on services supplied by a recovery agent to, *inter alia*, a non-banking financial company (NBFC) is payable under reverse charge by such non-banking financial company.

Therefore, in the given case, person liable to pay GST is the NBFC - Newton Credits Ltd.

(ii) As per section 13(3), the time of supply of service on which GST is payable under reverse charge is earlier of the following:-

- Date of payment as entered in the books of account of the recipient (18th April) or the date on which the payment is debited in his bank account (20th April), whichever is earlier;
- Date immediately following 60 days since issue of invoice by the supplier, in cases where invoice is required to be issued by the supplier i.e. 9th April, or

Thus, time of supply of service is 9th April.

13. As per section 12(6), the time of supply with regard to an addition in value on account of interest, late fee or penalty or delayed payment of consideration is the date on which the supplier received such additional consideration.

Thus, time of supply in respect of interest would be the date on which the supplier has received such additional consideration, i.e. 2nd February.

14. As per *Notification No. 66/2017 CT dated 15.11.2017,* a registered person (excluding composition supplier and registered persons making supply of specified actionable claims) has to pay GST on the outward supply of goods

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at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

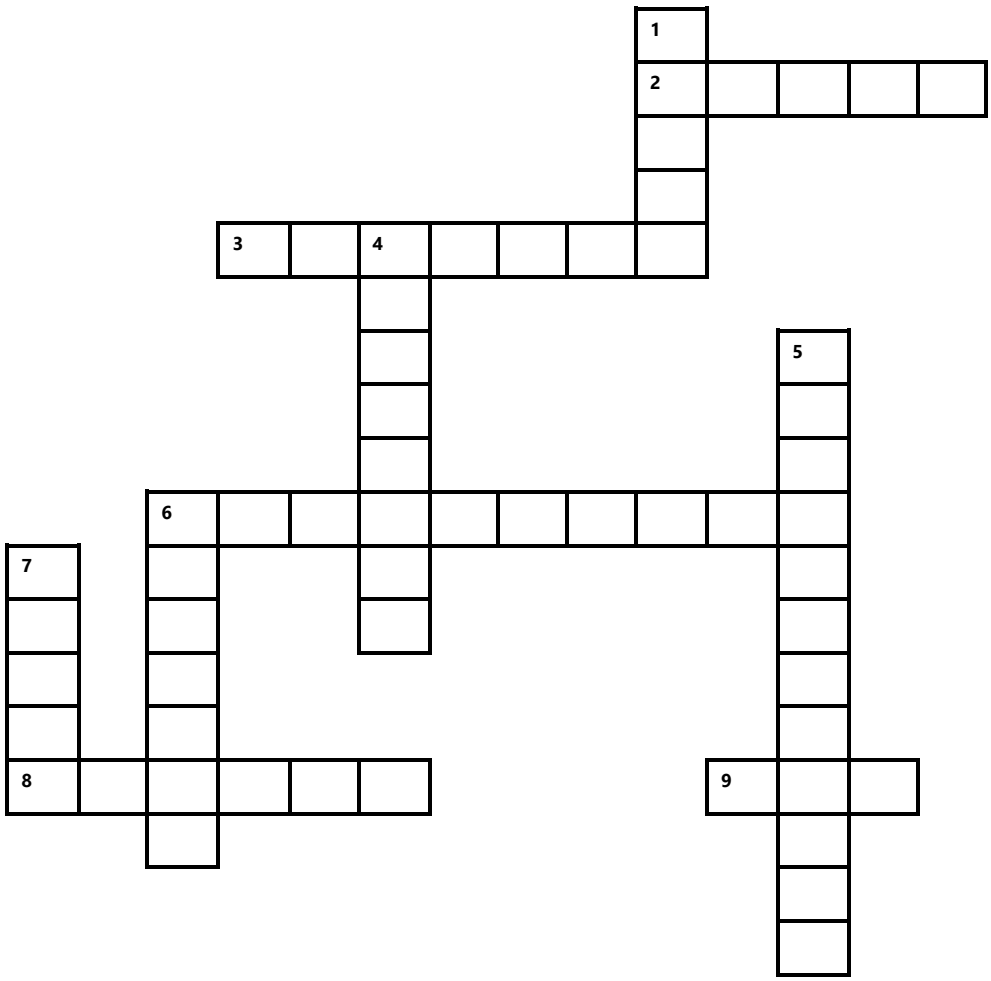
Further, a registered person is required to issue a tax invoice before or at the time of removal of goods for supply to the recipient. Thus, in the given case, the invoice for supply of goods should have been issued on or before the removal of goods i.e., on 3rd October.

However, since the invoice has not been issued within the prescribed time, the time of supply for the purpose of payment of tax will be the last date on which the invoice is required to be issued i.e., 3rd October.

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ACROSS

2. The time of supply for service taxable under reverse charge is earlier of the date of payment, or date immediately following _____ days from date of issue of invoice by the supplier, in cases where invoice is required to be issued by the supplier.

3. No GST is payable at the time of receipt of _____ for supply of goods.

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6. Time of supply of vouchers exchangeable for any food item(s) from a grocery store is date of _____ of the voucher.

8. The time of supply of services is the date of issue of invoice if the same is issued within 30 days from the date of _____ of service or the date of receipt of payment, whichever is earlier.

9. Time of supply indicates the point in time when the liability to _____tax arises.

DOWNWARDS

1. Time of supply of vouchers exchangeable for a pizza at a pizza outlet is date of _____ of the voucher.

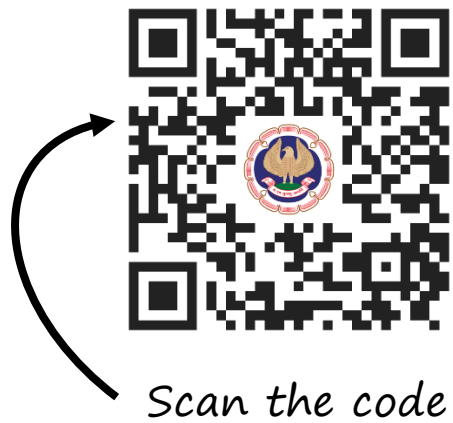
4. Time of supply of _____ exchangeable for services is date of redemption of the voucher if supply is not identifiable at the time of issue of voucher.

5. Time of supply of vouchers exchangeable for services is date of issue of the voucher if supply is _____at the time of issue of voucher.

6. The time of supply of interest on delayed payment of consideration is the date of _____of such addition in value by the supplier.

7. Time of supply of goods supplied under reverse charge in residual cases is the date on which goods are recorded in the _____ of account of the recipient of supply.

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



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AMENDMENTS MADE VIDE THE FINANCE ACT, 2025

The Finance Act, 2025 has come into force from 29.03.2025. However, most of the amendments made under the CGST Act and the IGST Act vide the Finance Act, 2025 would become effective only from a date to be notified by the Central Government in the Official Gazette. Such a notification has not been issued till 30.04.2025. Therefore, the applicability or otherwise of such amendment for May 2026, September 2026 and/or, January 2027 examinations shall be informed by the ICAI by way of an announcement.

In the table given below, the existing provisions of section 12(4) and 13(4) is compared with the provisions as amended by the Finance Act, 2025.

Once the announcement for applicability of such amendments for examination(s) is made by the ICAI, students should read the amended provisions given hereunder in place of the related provisions discussed in the chapter.

Section No.	Existing provisions	Provisions as amended by the Finance Act, 2025	Remarks
12(4)	In case of supply of vouchers by a supplier, the time of supply shall be (a) the date of issue of voucher, if the supply is identifiable at that point; or (b) the date of redemption of voucher, in all other cases.	**Omitted**	Sub-section (4) of section 12 relating to time of supply in respect of vouchers is to be deleted.

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13(4)	In case of supply of vouchers by a supplier, the time of supply shall be- (a) the date of issue of voucher, if the supply is identifiable at that point; or (b) the date of redemption of voucher, in all other cases.	**Omitted**	Sub-section (4) of section 13 relating to time of supply in respect of vouchers is to be deleted.

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CHAPTER 7

VALUE OF SUPPLY



The section numbers referred to in the Chapter pertain to the CGST Act, 2017, unless otherwise specified. Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

LEARNING OUTCOMES

After studying this Chapter, you will be able to-

- comprehend what constitutes the value of a taxable supply of goods / services when the supply is made to an unrelated person and price is the sole consideration for the supply
- identify the various inclusions in/exclusions from the value of supply
- pinpoint the situations when discount will be included /not included in the value of supply
- ascertain who are related persons
- compute the value of taxable supply when price is the sole consideration for the supply and the supplier and recipient are not related

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CHAPTER OVERVIEW

VALUE OF SUPPLY

- Value of supply made to unrelated person with price as the sole consideration
- Inclusions in/exclusions from value of supply
- Discount

1. INTRODUCTION

GST is payable (i) on supply of goods or services or both for a consideration in the course of or furtherance of business; (ii) on certain supplies made without a consideration as specified in Schedule I to the CGST Act.



As GST is an *ad valorem* levy, i.e. it is levied as a percentage of the value of supply of goods or services or both, it becomes important to know how to arrive at the value on which tax is to be paid. Provisions relating to 'value of supply' set out the mechanism to compute such value basis on which CGST and SGST/UTGST (intra-State supply), or IGST (inter-State supply) should be paid.



Section 15 of the CGST Act supplemented with CGST rules given under Chapter IV of the CGST Rules: Determination of Value[1] prescribes the provisions for determining the value of supply of goods and services. There are common provisions for determining the value of the supply of goods and services.

[1] *Chapter IV: Determination of Value of Supply of the CGST Rules will be discussed at the Final level.*

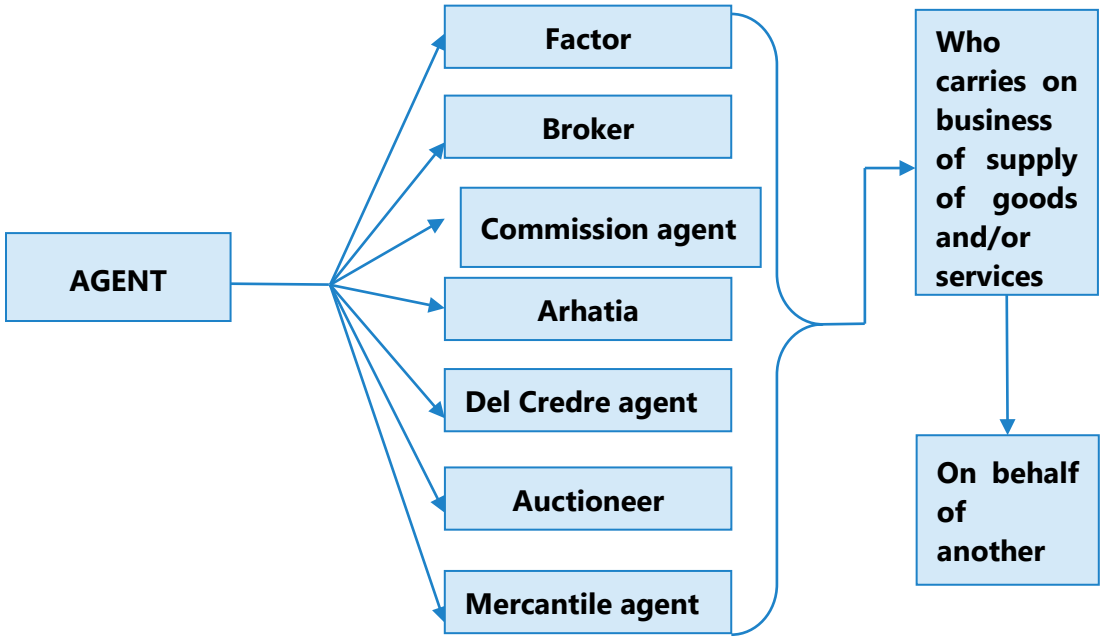
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Sub-section (1) of section 15 provides the mechanism for determining the value of a supply which is made between unrelated persons and when price and only the price is the sole consideration for the supply. When value cannot be determined under section 15(1) as also in certain specific cases, the same is determined using Chapter IV: Determination of Value of Supply of CGST Rules.

Provisions of value of supply under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

2. RELEVANT DEFINITIONS

- **Agent: means** a person, **including** a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].



- **Cess:** shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act [Section 2(22)].

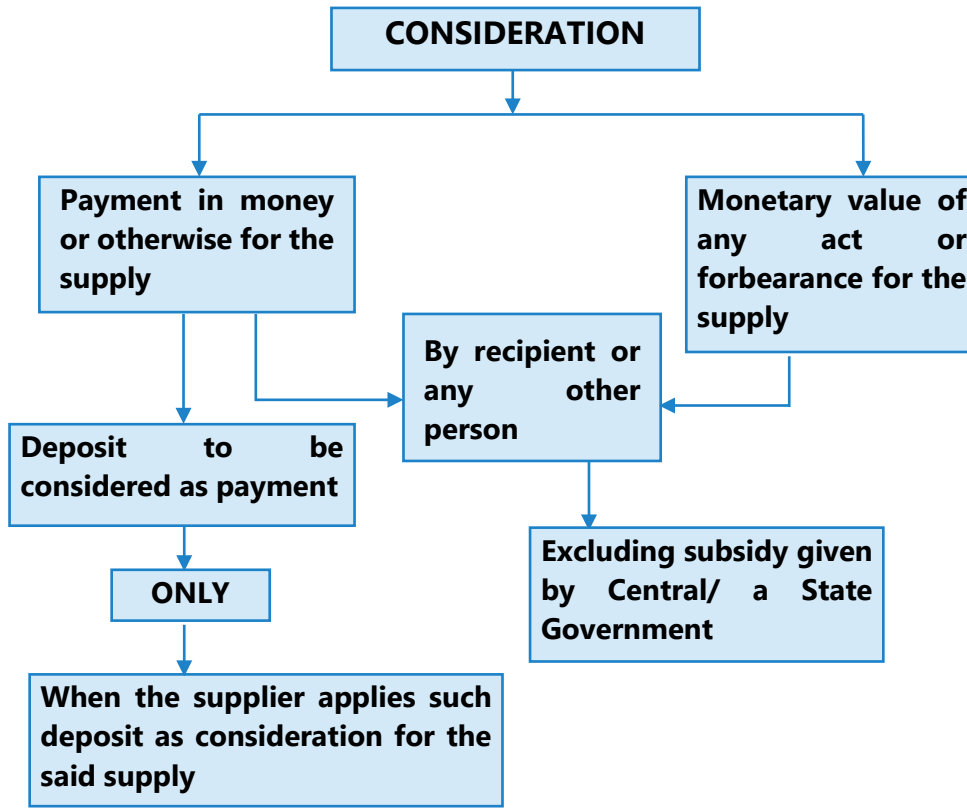
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❑ **Consideration:** in relation to the supply of goods or services or both **includes –**

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply [Section 2(31)].



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- **Person includes**-

  (a) an individual;

  (b) a Hindu Undivided Family;

  (c) a company;

  (d) a firm;

  (e) a Limited Liability Partnership;

  (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

  (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013;

  (h) any body corporate incorporated by or under the laws of a country outside India;

  (i) a co-operative society registered under any law relating to cooperative societies;

  (j) a local authority;

  (k) Central Government or a State Government;

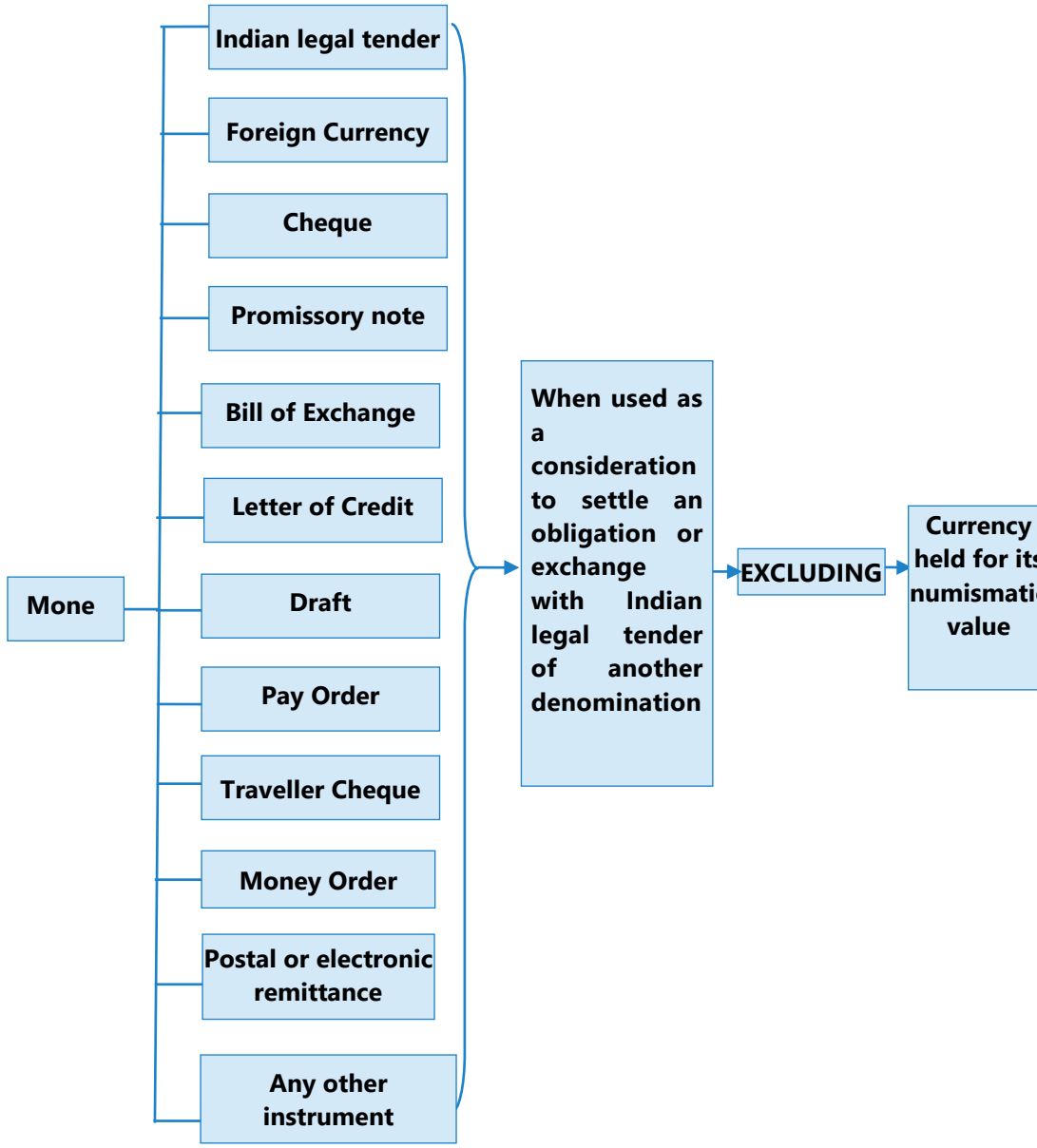
  (l) society as defined under the Societies Registration Act, 1860;

  (m) trust; and

  (n) every artificial juridical person, not falling within any of the above [Section 2(84)].

- **Money: means** the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value [Section 2(75)].

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❑ **Recipient** of supply of goods or services or both, **means—**

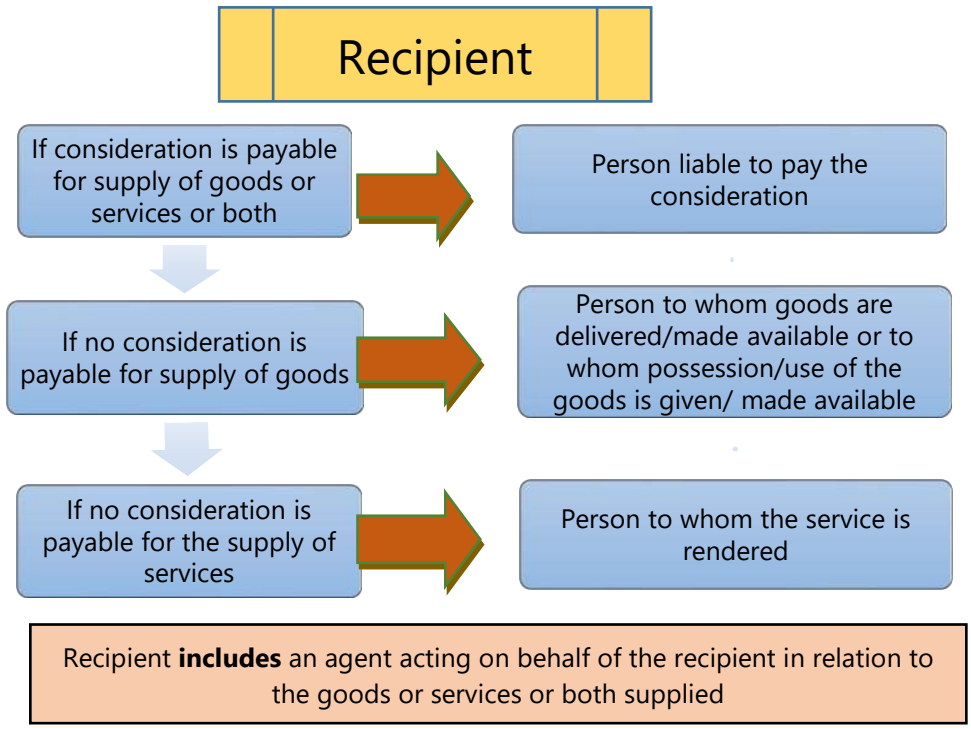
(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

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(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].



❑ **Supplier** in relation to any goods or services or both, shall **mean** the person supplying the said goods or services or both and shall **include** an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

However, a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in

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any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims [Section 2(105)].

3. VALUE OF SUPPLY [SECTION 15]

STATUTORY PROVISIONS

Section 15	Value of taxable supply	
Sub-section	**Clause**	**Particulars**
(1)		*The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.*
(2)		*The value of supply shall* ***include-***
	(a)	*any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;*
	(b)	*any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;*
	(c)	*incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;*

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	(d)		*interest or late fee or penalty for delayed payment of any consideration for any supply; and*
	(e)		*subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.*
	Explanation. —For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.		
(3)	*The value of the supply **shall not include** any discount which is given*		
	(a)		***before or at the time of the supply** if such discount has been duly recorded in the invoice issued in respect of such supply; and*
	(b)		***after the supply** has been effected, if—*
		(i)	*such discount is established in terms of an **agreement entered into at or before** the time of such supply and specifically linked to relevant invoices; and*
		(ii)	*input tax credit as is attributable to the discount on the basis of document issued by the supplier has been **reversed by the recipient** of the supply.*
(4)	*Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.*		
(5)	*Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.*		
Explanation—For the purposes of this Act,—			
(a)	*persons shall be **deemed to be** "**related persons**" if—*		
	(i)		*such persons are officers or directors of one another's businesses;*
	(ii)		*such persons are legally recognised partners in business;*

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	(iii)	*such persons are employer and employee;*
	(iv)	*any person directly or indirectly owns, controls or holds twenty-five per cent or more of the* ***outstanding voting stock or shares*** *of both of them;*
	(v)	*one of them directly or indirectly controls the other;*
	(vi)	*both of them are directly or indirectly controlled by a third person;*
	(vii)	*together they directly or indirectly control a third person; or*
	(viii)	*they are members of the same family;*
(b)	*the term "person" also includes legal persons;*	
(c)	*persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related*	



ANALYSIS

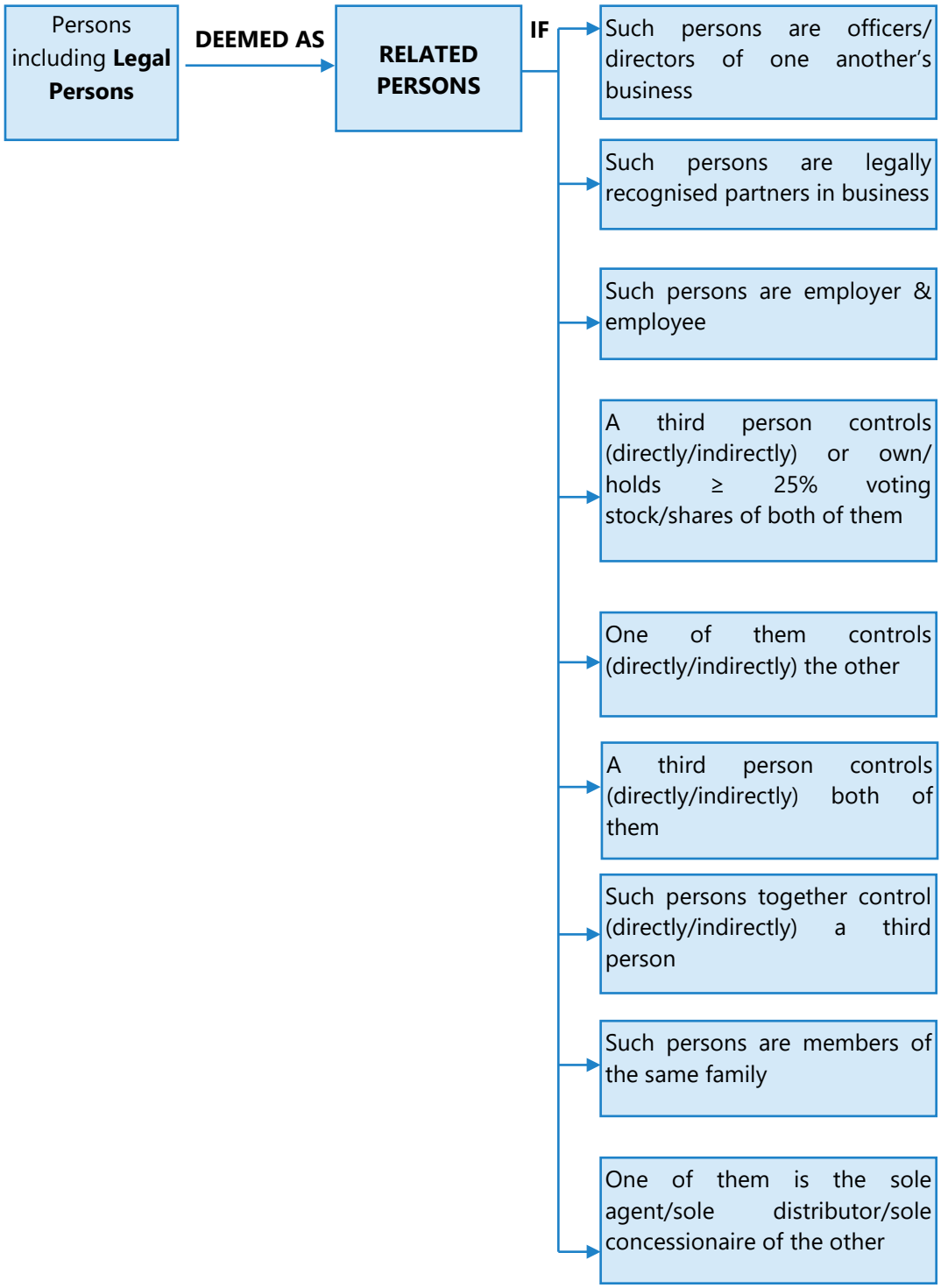
The CGST law has different provisions for determining the value of a supply of goods or services or both in the following situations:

- Supplies made solely for a price in money (monetary consideration), to unrelated persons → Sub-section (1) of section 15;
- Supplies made solely for non-monetary consideration, or for part monetary consideration and part non-monetary consideration, or involving additional consideration, or to related persons, or for specific classes of supply → Sub-sections (4) and (5) of section 15 read with the Chapter IV: Determination of Value of Supply of CGST Rules.

The definition of **'related person'** under the explanation to section 15 covers various situations of control, including sole agent, sole distributor and sole concessionaire. The concept of related person has been presented in a diagram given on next page.

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Related persons [Explanation to section 15]

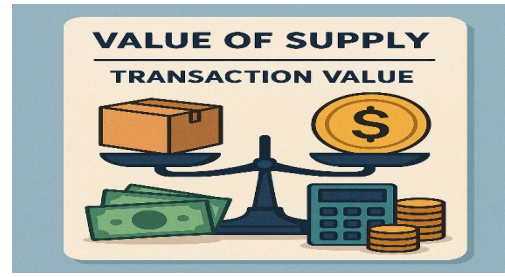


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A. Supplies to unrelated persons where price is the sole consideration

(i) Transaction value [Section 15(1)]

When a transaction of supply of goods or services or both is made



- between two persons (see definition of "person") who are not related to each other (see definition of "related person" in 'Explanation' to section 15), and
- price is the sole consideration (see definition of consideration) for the supply,

the value of supply is the **"transaction value".**



Under section 15(1), the transaction value which is applicable between unrelated persons where price is the sole consideration for the supply is -

the price actually paid or payable for the said supply of goods or services or both.

This is the price for the specific supply that is being valued. It includes the amount already paid at the time the supply is being valued for tax, as well as the amount payable and not yet paid at that time. The word 'payable' refers to price that is agreed to be paid for the goods / services.

(1) Wholesale price for 1 MT of cement sold by X Ltd. in the ordinary course of business: ₹ 7,000. Price of 1 MT of cement sold by X Ltd. to unrelated customer Y: ₹ 6,700.

Value of supply made by X Ltd. to Y is ₹ 6,700 which is the **price actually paid or payable and not the wholesale price.**

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✪ ***The value of taxable supply of goods and services shall ordinarily be the 'transaction value' which is the price paid or payable, when the parties are not related and price is the sole consideration. Section 15 further elaborates various inclusions and exclusions from the ambit of transaction value. For example, the transaction value shall not include discount allowed subject to certain conditions.***

(ii) Inclusions in value [Section 15(2)]

The value of supply **includes** certain elements which are enumerated and discussed below.

- ❑ Taxes, duties, cesses, fees and charges other than CGST, SGST, UTGST, GST Compensation Cess, if charged separately
- ❑ Payments to third parties → Any amount that the supplier is liable to pay in relation to supply but which has been incurred by the recipient of the supply and not already included in the price.
- ❑ Incidental expenses, such as, commission and packing, charged by the supplier to the recipient of a supply
- ❑ Any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of goods /supply of services.
- ❑ Interest or late fee or penalty for delayed payment of consideration
- ❑ Subsidies, directly linked to the price, other than subsidies given by the Central Government or State Governments

The above elements are discussed below.

Taxes other than GST & GST Compensation Cess [Section 15(2)(a)]

Any taxes, duties, cesses, fees and charges levied under any law for the time being in force except the CGST Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier, are includible in the value of supply. In the case of inter-State supply liable to IGST, the value of supply will include taxes other than IGST and the GST Compensation Cess in terms of **third proviso to section 20 of IGST Act. In**

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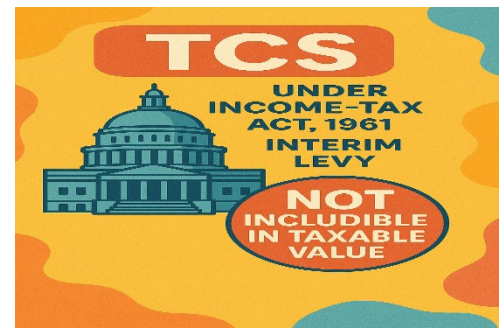
effect, all the taxes, duties etc. which are not subsumed in GST form part of the taxable value for the purpose of levying GST.

For instance, if a supplier of goods pays municipal tax in relation to the goods being supplied and charges the same separately, such tax will form part of the value of supply.

TCS under Income-Tax Act, 1961 not includible in the taxable value for the purpose of GST: The CBIC vide *Circular No. 76/50/2018 GST dated 31.12.2018* (amended vide corrigendum dated 7.03.2019) has clarified that for the purpose of determination of value of supply under GST, **tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.**

Payments made to third parties by the recipient on behalf of the supplier in relation to the supply [Section 15(2)(b)]

A supplier may need to incur various expenses to make a particular supply of goods/services. In the normal course, he would pay these amounts and they would form part of the price that he charges from the customer (recipient of supply). However, even if the customer makes direct payment of some of such liabilities (of the supplier) to the third parties, and the supplier does not include this amount in his bill, it will still form part of the value of the supply.



A point to note here is that amount paid by the recipient to third parties will be added to the value under this clause only when the **supplier is under contractual liability** to make payment to such third parties and the said payment is in relation to such supply.

example

(2) Grand Biz contracts with ABC Co. to conduct a dealers' meet. In furtherance of this, Grand Biz contracts with vendors to deliver goods / services, like water, soft drinks, audio system, projector, catering, flowers etc. at the venue on the stipulated dates at the stipulated prices. Grand Biz is liable to make these payments as contracted.

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The soft drinks supplier wants payment upon delivery; ABC Co. agrees to pay the bill raised by the soft drinks vendor on Grand Biz, on receiving the crates of soft drinks. This amount is not billed by Grand Biz to ABC Co. However, it would be added to the value of supply provided by Grand Biz to ABC Co. for payment of GST.



Yogrishi rents out a commercial building owned by him in Sanskriti Society, Noida, U.P. to Bhaarat for a monthly rent of ₹ 1,00,000. He pays municipal taxof ₹ 20,000 which he has not recovered from Bhaarat. Yogrishi also pays the maintenance charges of ₹ 5,000 (reimbursed to him by Bhaarat) for the month as charged by the Society. The value of supply for the month of January is _____. All the amounts given hereunder are exclusive of GST.

(a) ₹ 1,00,000	(b) ₹ 1,20,000	(c) ₹ 1,25,000	(d) ₹ 1,05,000

Incidental expenses [Section 15(2)(c)]

Incidental expenses, such as commission and packing charged by the supplier or anything else done by the supplier in relation to the supply **at the time of or before delivery of goods or supply of services** must be added to value.



(3) Commission: This may be paid to an agent and recovered from the buyer of the goods / services; this is part of the value of the supply.

(4) Packing, if charged by the supplier to the recipient, is similarly part of the value of the supply.

(5) Inspection or certification charges is another element that will be added to the value, if incurred before/at the time of supply and billed to the recipient of supply.

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(6) Installation and testing charges at the recipient's site will also be added, being an amount charged for something done by the supplier in respect of the supply, at the time of making the supply.

(7) Weighment charges, loading charges, designing charges etc. incurred before/at the time of supply will be added to the value, if billed to the recipient of supply.



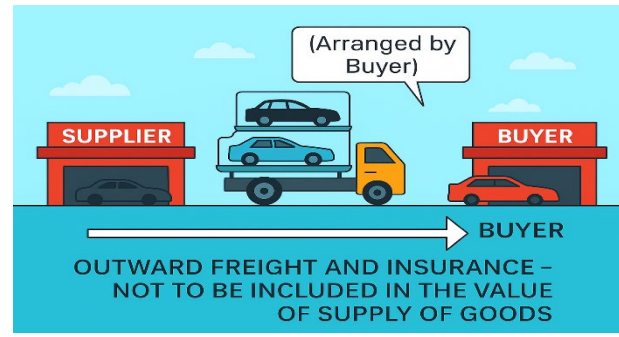


Sapiant Ltd., registered under GST, supplies machinery used for making bottle caps to Chandra Ltd. at a price of ₹ 42,00,000 (excluding all taxes and other expenses). Apart from the price of the machinery, Sapiant Ltd. charges from the customer the associated handling and loading charges of ₹ 10,000 and installation and commissioning charges of ₹ 1,00,000. The value of supply of machinery is _____.

(a) ₹ 42,00,000	(b) ₹ 43,10,000	(c) ₹ 43,00,000	(d) ₹ 42,10,000

Outward freight, transit insurance

Where the supplier agrees to deliver the goods at the buyer's premises and arranges for transport and insurance, the contract of supply becomes a **composite supply**; **the principal supply being the supply of goods.** Therefore, outward freight and transit insurance become part of the value of the composite supply and GST is payable thereon at the same rate as applicable for the relevant goods. However, if the contract for supply is on ex-factory basis where buyer pays the outward freight and insurance, the same will not be included in the value of supply of goods.



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Interest, late fee or penalty for delayed payment [Section 15(2)(d)]

The value for a supply will include not only the base price but also the charges for delay in payment.



(8) A supply priced at ₹ 2,000 is made, with a credit period of 1 month for payment. Thereafter, interest @ 12% p.a. is chargeable. The payment is received after the lapse of two months from the date of supply. The amount of interest @ 12% p.a. (i.e. 1% per month) on ₹ 2,000 for one month after the free credit period of one month, is ₹ 20. Such interest will be added to the value and thus, the value of supply will work out to be ₹ 2,020, assuming the interest to be exclusive of GST.



✪ ***Time of supply for such interest/ late fee/ penalty is the date when such amount is received by the supplier. Further, since such charges are an addition in the value of supply, same rate of tax as applicable on the main supply of goods/ service are applicable on such charges as well.***



Bhoora Ltd., a registered supplier in Surat, Gujarat sold goods to Kaala Ltd. of Delhi on 5th April for ₹ 5,00,000 (excluding GST) with a condition that if Kaala Ltd. failed to make payment within 30 days of the delivery of the goods, interest @ 2% per month on said price of ₹ 5,00,000 will be charged for the period of delay. Goods were delivered and the invoice was issued, on 5th April. Kaala Ltd. paid the consideration for the goods on 20th May along with applicable interest. Kaala Ltd. refused to pay any tax payable on the interest amount. Applicable rate of GST in this case is 18%. The value of supply, in the given case, is _____.

(a) ₹ 5,00,000	(b) ₹ 5,05,000	(c) ₹ 5,04,237	(d) ₹ 5,95,900

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Subsidies linked with price [Section 15(2)(e)]

Subsidy is a sum of money given to keep the price of a service or commodity low. The subsidy is added to the value of supply of the supplier who receives the subsidy. It must be noted that only subsidies directly linked to the price of goods/services are added to the value. Blanket subsidy/donation received are not includible in the value. Note that if the subsidy is given by the State or Central Government, it is not to be added to the value of supply.



example

(9) The selling price of a notebook is ₹ 50. For notebooks sold to students in Government schools, a company receives price linked subsidy of ₹ 30 per notebook from an NGO, so that the students pay only ₹ 20 per notebook. The value of the notebook will be ₹ 50, as this is a non-government subsidy. If the same subsidy is given/granted by the Central Government or State Government, the value of the notebook would be ₹ 20.



Dhara Private Ltd. is engaged in supply of taxable goods. In the current month, it supplied 1,000 units of such goods to Jal & Co. at a unit price of ₹ 250 & 5,000 units to Vayu & Co. at a unit price of ₹ 230. It has received a subsidy of ₹ 1,00,000 from a NGO, Urja, for the current month for the energy conserved by during the month. The value of supply of goods to Jal & Co. and Vayu & Co. is _____and_____ respectively.

(a) ₹ 2,50,000; ₹ 11,50,000	(b) ₹ 2,50,000; ₹ 12,50,000	(c) ₹ 3,50,000; ₹ 11,50,000	(d) ₹ 3,00,000; ₹ 12,00,000

(iii) Exclusion of discounts from value [Section 15(3)]

Discounts are a common phenomenon for businesses. Numerous kinds of discounts are given by the suppliers to their customers, namely, trade

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discounts, cash discounts, quantity/volume/performance discounts etc. Such discounts are reduced from the sale price of the supply. Since the value of a taxable supply is the transaction value, GST is leviable on the value after deducting the discounts.

However, not all discounts offered by the supplier to their customers are allowed as a deduction from the value. Only such discounts which satisfy the conditions prescribed in section 15(3), are allowed as deduction from the value. The **essence** of the conditions prescribed in section 15(3) is that the price as established at the time of supply should form the basis of value. The discounts which do not fulfill the conditions specified in section 15(3) are not deductible from the value, i.e. GST in such a case is levied on the gross value of the supply without considering the discount.

Discounts that are allowed as deduction from the value are as follows:

(a) **Discounts given before or at the time of supply and shown in the tax invoice**– Example for such discount can be discounts that are offered for making the payment at the time of supply itself. Such discounts are thus, recorded in the invoice and thus, GST is charged on the gross value less discount duly recorded in the invoice.

(b) **Post supply discounts-** It is not always commercially feasible to determine all discounts before or at the time of supply or record them in the invoice. For instance, cash discount given for making the payment within a stipulated time. Even though the discount is established before/at the time of supply, the supplier cannot record such discount in the invoice as he does not know if the buyer will make the payment within the stipulated time.



Likewise, in case of quantity/volume/ performance discount also, the supplier is not aware before/at the time of supply as to whether the buyer would purchase the requisite quantity within the stipulated time. Therefore, in this case also, the discount cannot be recorded in the invoice.

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In such cases, initially the GST is paid on the gross value indicated in the invoice without considering the discount. The supplier, however, passes the discount to the buyers subsequently by issuing credit notes.

Post supply discounts, i.e. the discounts that are given after supply is made, are allowed as a deduction from the value of supply if the following two conditions are satisfied:

- ✓ Discount is in terms of an agreement that existed at the time of supply and can be worked out invoice-wise; and
- ✓ Proportionate input tax credit is reversed by the recipient - The buyer would have availed input tax credit (ITC) of GST payable on the gross value specified in the invoice. Thus, when a credit note[2] is issued to him by the supplier for the discount, the buyer will reverse the proportionate credit; consequent to which, the supplier's output tax liability will be reduced by the same amount.

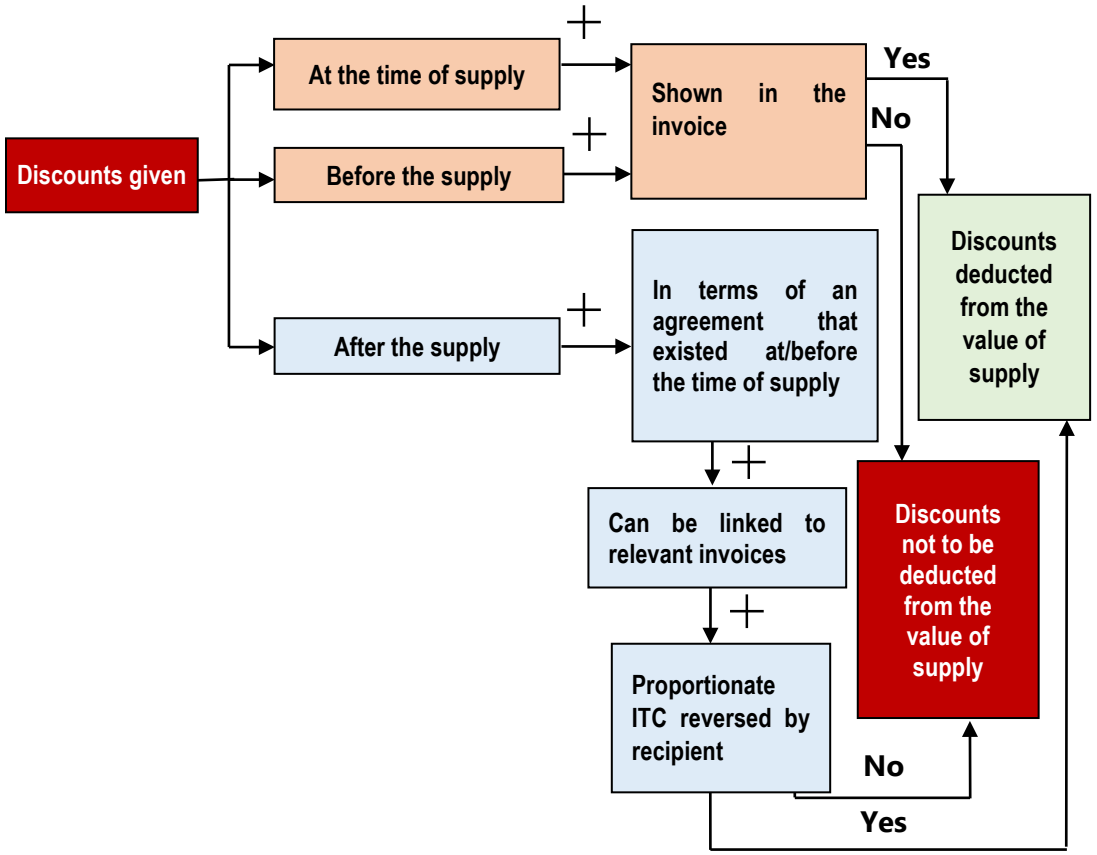
If any of the above conditions are not satisfied, the GST liability of supplier cannot be reduced. The supplier, however, can issue a commercial credit note[3] for the value of discount. In such a scenario, the buyer will not be required to reverse any input tax credit.

The provisions relating to allowability of discount as a deduction from the value have been depicted by way of a diagram given in the next page.

[2] Credit notes governed under GST law are issued under section 34. Provisions of section 34 are discussed in Chapter 10: Tax Invoice; Credit & Debit Notes in Module 2 of this Study Material.

[3] A commercial credit note is not governed under GST law and is issued only for the value of discount/reduction in value of the supply, without any GST.

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Allowability of certain specific types of discounts offered by the suppliers as clarified vide *Circular No. 92/11/2019 GST dated 07.03.2019*

(i) Staggered discounts ('Buy more, Save more' offers): In case of staggered discounts, rate of discount increases with increase in purchase volume. For example – One may get 10 % discount for purchases above ₹ 5,000/-, 20% discount for purchases above ₹ 10,000/- and 30% discount for purchases above ₹ 20,000/-. Such discounts are shown on the invoice itself.

Such discounts are excluded to determine the value of supply.

(ii) Periodic/year ending discounts/volume discounts: These discounts are offered by the suppliers to their stockists, etc. For example- Get additional discount of 1% if you purchase 10,000 pieces in a year, get additional discount of 2% if you purchase 15,000 pieces in a year. Such discounts are established in terms of an agreement entered into at or

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before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as "volume discounts". Such discounts are passed on by the supplier through credit notes.



Such discounts are excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document(s) issued by the supplier.

(iii) Secondary discounts: These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10,000 packets of biscuits to M/s B at ₹ 10/- per packet. Afterwards, M/s A re-values it at ₹ 9/- per packet. Subsequently, M/s A issues credit note to M/s B for ₹ 1/- per packet.

Such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in section 15(3)(b) are not satisfied.

It may be noted that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in section 15(3)(b) are not satisfied. Such credit notes do not include GST, and do not have any impact on value of supply for the purposes of GST.

Examples of discount deductible from value of supply

(10) Royal Biscuit Co. gives a discount of 30% on the list price to its distributors. Thus, for a carton of Spice biscuit, in the tax invoice the list price is mentioned as ₹ 200, on which a discount of 30% is given to arrive at the final price of ₹ 140. The value is ₹ 140, as the discount is allowed at the time of supply and shown in the invoice.

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Post supply discounts



(11) The agreement of Raju Electrical Appliances with its dealers is that purchase of rice cookers over 1000 pieces in the Diwali month will entitle them to discount of 5% per cooker. Therefore, the quantum of discount can be determined only at the end of Diwali month. However, since the agreement relating to discount was in existence at the time of supply, and the discount can be worked out for each invoice, such post supply discount shall be allowed as a deduction from the value of supply of rice cookers.

Raju Electrical Appliances can issue credit note for discount of 5% of the value of goods **along with GST and claim adjustment of excess tax paid**. The dealer **must reverse the proportionate input tax credit** on the relevant stock to bring it in line with the reduced tax.

(12) Pink and Blue Pvt. Ltd. (PBPL) sold goods to Orange Pvt. Ltd. (OPL) on 15th January at ₹ 50,000 (exclusive of taxes and discounts) and charged ₹ 9,000 as IGST @ 18%. The terms of supply stipulated that discount @ 2% will be given to OPL if it makes the payment within one month of the supply. OPL avails the input tax credit of ₹ 9,000 in the month of January and makes the payment for the goods on 10th February. PBPL issues credit note for ₹ 1180 [₹ 1,000 for value of discount and ₹ 180 for proportionate IGST leviable thereon] to OPL on 11th February. After receiving credit note, OPL reverses the input tax credit of ₹ 180 attributable to the discount given by the PBPL. PBPL can reduce its GST liability of the month of February by ₹ 180. OPL would have paid ₹ 57,820 (₹ 50,000 + ₹ 9,000 - ₹ 1,000 - ₹ 180) to PBPL on 10th February.



Examples of discount not deductible from value of supply

(13) In the above example, if the **terms of supply did not provide for discount** @ 2% for payment within one month but PBPL offers such discount to OPL at the time of payment after negotiation, the discount will not be allowed as a deduction from the value. PBPL will issue a **commercial credit note for only the value of discount, i.e. for ₹ 1,000**. OPL will not reverse any input tax credit and PBPL will also not be able to reduce its GST liability for the month of February. In this case, OPL would pay ₹ 58,000 (₹ 50,000 + ₹ 9,000 - ₹ 1,000) to PBPL on 10th February.

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(14) A company announces **turnover discounts** after reviewing dealer performance during the year. The discounts are based on performance slabs and are given as cash-back. As these discounts were not known at the time of supply of the goods, they will not be deducted from value of those goods. Hence, the company will not be able to adjust excess tax paid from its tax liability.

No Claim Bonus permissible as deduction under section 15(3)(a) for the purpose of calculation of value of supply of the insurance services provided by insurance company to insured

The issue which arose for clarification was whether 'No Claim Bonus' (NCB) provided by the insurance company to the insured can be considered as an admissible discount for the purpose of determination of value of supply of insurance service provided by the insurance company to the insured.



The insurance companies make the disclosure of the fact of availability of discount in form of NCB, subject to certain conditions, to the insured in the insurance policy document itself and also provide the details of the NCB in the invoices also. The pre-disclosure of NCB amount in the policy documents and specific mention of the discount in form of NCB in the invoice is in consonance with the conditions laid down for deduction of discount from the value of supply under section 15(3)(a).

Since as per section 15(3)(a), value of supply shall not include any discount which is given before or at the time of supply if such discount has been duly recorded in the invoice issued in respect of such supply, it is, therefore, clarified that NCB is a permissible deduction under said section for the purpose of calculation of value of supply of the insurance services provided by the insurance company to the insured.

Accordingly, where the deduction on account of NCB is provided in the invoice issued by the insurer to the insured, GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of NCB mentioned on the invoice[4].

[4] *Circular No. 186/18/2022 GST dated 27.12.2022*

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Sapiant Ltd., registered under GST, supplies machinery used for making bottle caps to Chandra Ltd. at a price of ₹ 40,00,000 (excluding all taxes and other expenses). A cash discount of 2% on the above price of the machinery is offered at the time of supply since Chandra Ltd. agrees to make the payment within 15 days of the receipt of the machinery at its premises. Sapiant Ltd. receives a price linked subsidy of ₹ 2,00,000 from its holding company Diligent Ltd. The value of supply of machinery is _____.

(a) ₹ 39,20,000	(b) ₹ 42,00,000	(c) ₹ 41,60,000	(d) ₹ 41,20,000

B. Supplies where value cannot be determined u/s 15(1) and notified supplies [Sub-sections (4) and (5) of section 15]

Section 15(4) lays down that where sub-section (1) is not applicable, that is, if the transaction is with a related party, and/or price is not the sole consideration for the supply of goods / services, then the value will be determined in the manner as prescribed, which means as stipulated in the rules for valuation [See the definition of 'prescribed']. Further, section 15(5) lays down that in respect of certain notified supplies also, the value will be determined in the manner as stipulated in the rules for valuation. **As stated earlier, these rules will be discussed at the Final level.**

ILLUSTRATION 1

Black and White Pvt. Ltd. has provided the following particulars relating to goods sold by it to Colourful Pvt. Ltd.

Particulars	*₹*
List price of the goods (exclusive of taxes and discounts)	*50,000*
Tax levied by Municipal Authority on the sale of such goods	*5,000*
Packing charges (not included in price above)	*1,000*

Black and White Pvt. Ltd. received ₹ 2,000 as a price linked subsidy from an NGO on sale of such goods. The price of ₹ 50,000 of the goods is after considering such subsidy. Black and White Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supply made by Black and White Pvt. Ltd.

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ANSWER

Computation of value of taxable supply

Particulars	₹
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)(a)]	5,000
Packing charges [Includible in the value as per section 15(2)(c)]	1,000
Subsidy received from a non-Government body [Since subsidy is received from a non-Government body and directly linked to price, the same is included in the value in terms of section 15(2)(e)]	2,000
Total	58,000
Less: Discount @ 2% on ₹ 50,000 [Since discount is known at the time of supply and recorded in invoice, it is deductible from the value in terms of section 15(3)(a)]	1,000
Value of taxable supply	**57,000**

ILLUSTRATION 2

Samriddhi Advertisers conceptualised and designed the advertising campaign for a new product launched by New Moon Pvt Ltd. for a consideration of ₹ 5,00,000. Samriddhi Advertisers owed ₹ 20,000 to one of its vendors in relation to the advertising service provided by it to New Moon Pvt Ltd. Such liability of Samriddhi Advertisers was discharged by New Moon Pvt Ltd. New Moon Pvt Ltd. delayed the payment of consideration and thus, paid ₹ 15,000 as interest. Assume the rate of GST to be 18%.

Determine the value of taxable supply made by Samriddhi Advertisers.

ANSWER

Computation of value of taxable supply

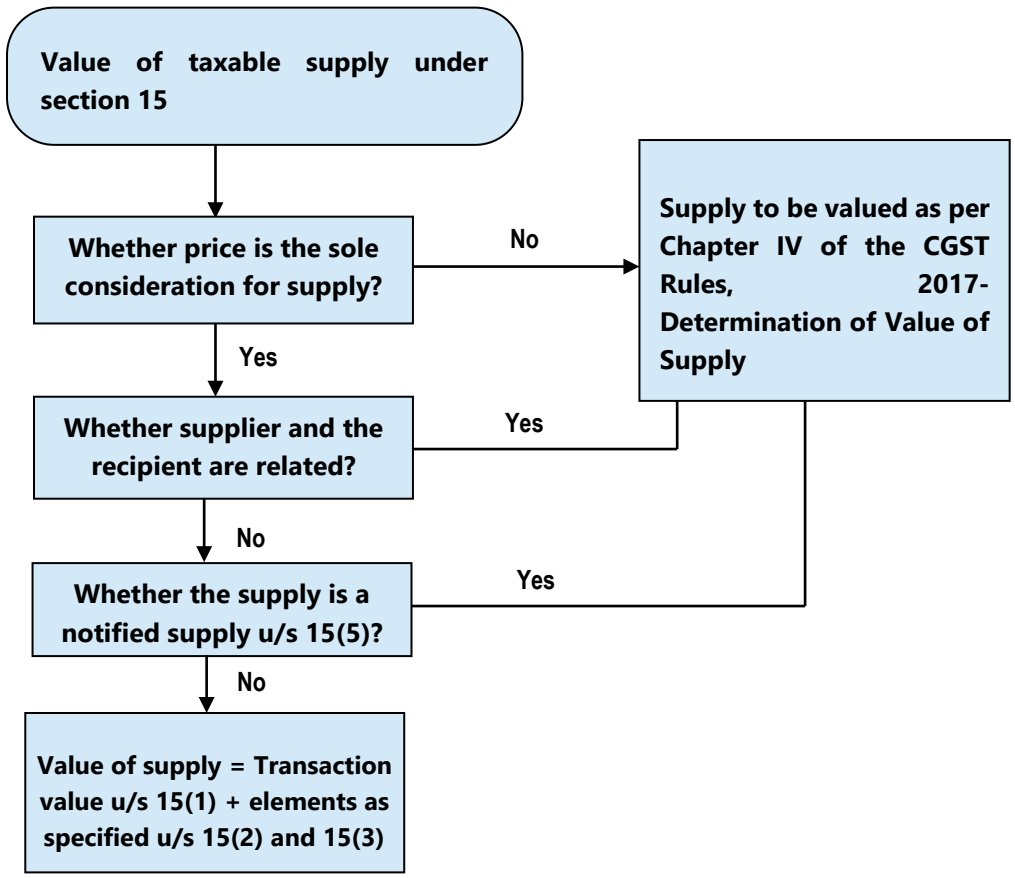
Particulars	₹
Service charges	5,00,000
Payment made by New Moon Pvt. Ltd to vendor of Samriddhi Advertisers [Liability of the supplier being discharged by the recipient, is includible in the value in terms of section 15(2)(b)]	20,000

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Interest for delay in payment of consideration [Includible in the value in terms of section 15(2)(d) [Refer note below] [₹15,000 × (100/118)] (rounded off)	12,712
Value of taxable supply	**5,32,712**

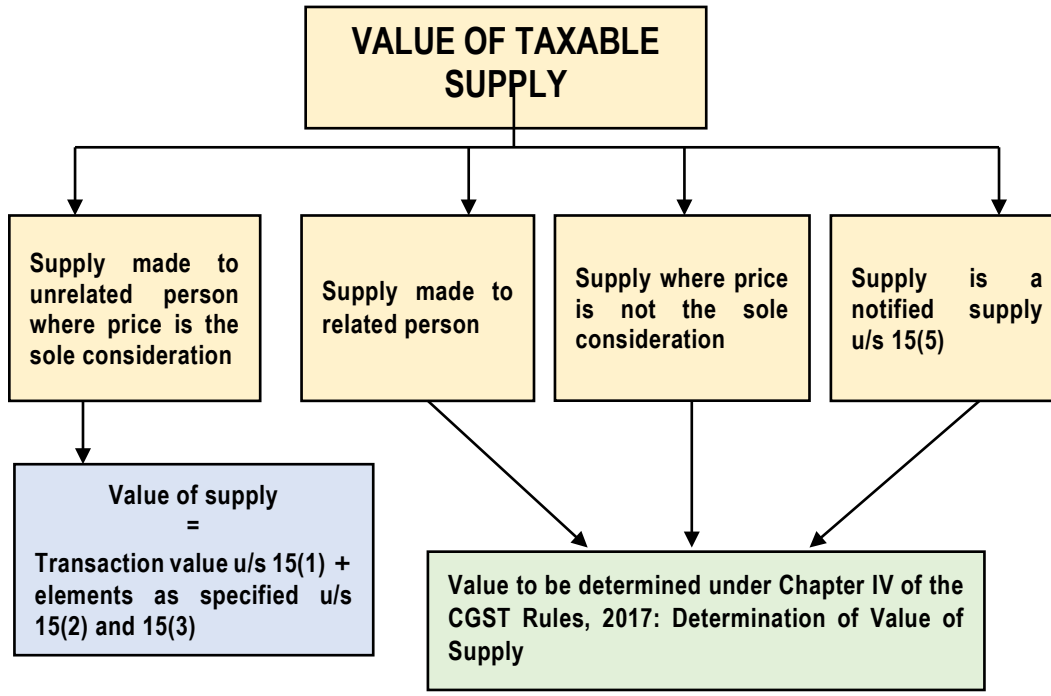
Note: The interest for delay in payment of consideration will be includible in the value of supply but the time of supply of such interest will be the date when such interest is received in terms of section 13(6). Such interest has been assumed to be inclusive of GST and thus, the value has been computed by making back calculations $\left[\frac{\text{Interest}}{100+\text{tax rate}}\times 100\right]$. ***It is also possible to assume the interest to be exclusive of GST.*** *In that case, the value of supply will work out to be ₹ 5,35,000.*

The scheme of valuation as provided under section 15 is depicted by way of a diagram given below:



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LET US RECAPITULATE



Inclusions in value u/s 15(2)

- ⇒ Taxes other than GST, charged separately
- ⇒ Third party payments made by recipient in relation to supply, which supplier was liable to pay and were not included in the price
- ⇒ Incidental expenses including anything done by the supplier in respect of the supply till delivery of goods/ supply of services, if charged to recipient
- ⇒ Subsidies directly linked to price of supply other than the ones given by Central/State Government
- ⇒ Interest/late fee/penalty for delay in payment of consideration

Exclusions from value u/s 15(2)

- ⇒ Discounts given before or at the time of supply and recorded in the invoice
- ⇒ Post supply discount/incentive, if known till supply & linked to invoices and proportionate ITC reversed by the recipient on the basis of document issued by supplier

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TEST YOUR KNOWLEDGE

1. *Are post-supply discounts eligible for deduction from the value of supplies in all situations? Explain.*

2. *'Consideration under GST law includes both monetary and non-monetary considerations.'*

   Discuss the correctness or otherwise of the statement with reference to the definition of term 'consideration' provided under the CGST Act.

3. *Sharp Minds Institute provides coaching for engineering entrance examinations. The monthly fee charged by the Institute from a student is ₹ 10,000. The Institute is known for its commitment to provide education to underprivileged children. It trains 10 students every year for entrance examinations free of cost.*

   The Institute has received ₹ 3,00,000 as coaching fees during a month. Nav Jeevan, an NGO working in the area of education for underprivileged children, has given a subsidy of ₹ 10,000 (in lumpsum) during the month to the Institute as it is serving the cause of underprivileged children.

   Determine the value of supply of education services made by Sharp Minds Institute during the month.

4. *Furniture Wala is a chain of retail showrooms selling both modern and classic furniture. In order to build strong customer association, the showroom provides free delivery of the furniture at the premises of the customers if the distance between the showroom and the customer's premises is upto 20 kms. Where the distance is more than 20 kms, the showroom charges a concessional freight of ₹ 10 for every additional km.*

   Ms. Leena Kapoor purchases a double bed, a dressing table and a centre table for ₹ 2,00,000 from Furniture Wala. Ms. Leena gets free delivery of the furniture as her residence is located at a distance of 18 km from the showroom. The showroom incurs an expenditure of ₹ 1000 for delivering the furniture at Ms. Leena's residence.

   Determine the value of taxable supply made by Furniture Wala. Will your answer change if residence of Ms. Leena is 50 km away from the showroom?

5. *AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten and specified chemical residues. AKJ Foods Pvt. Ltd. does the testing before the supply and charges*

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a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fees should not form part of the consideration for the supply as it is a separate activity.

Is the company's argument correct in the light of section 15?

6. *Mezda Banners, an advertising firm, gives its customers an interest-free credit period of 30 days for payment. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for a delay of two days.*

   The Department wants to add interest for two days to the value of supply. Should notional interest be included in the value?

7. *Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offered additional discounts on the stock as an incentive to push the sales, without any prior agreement between them for offering such additional discount.*

   Can this additional discount be reduced from the price at which the goods were sold, and concomitant tax adjustments made?

8. *Red Pepper Ltd., Delhi, a registered supplier, manufactures taxable goods. It provides the following details of taxable inter-State supply made by it during the month of March.*

S. No.	Particulars	Amount (₹)
(i)	List price of taxable goods supplied inter-State (exclusive of taxes)	15,00,000
(ii)	Price linked subsidy received from the Central Government for supply of taxable goods to Government School (exclusively related to supply of goods included at S. No. 1)	2,10,000
(iii)	Price linked subsidy received from an NGO for supply of taxable goods to an old age home (exclusively related to supply of goods included at S. No. 1)	50,000
(iv)	Tax levied by Municipal Authority	20,000

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(v)	*Packing charges*	*15,000*
(vi)	*Late fee paid by the recipient of supply for delayed payment of consideration (Recipient has agreed to pay ₹ 6,000 in lump sum and no additional amount is payable by him over and above such amount)*	*6,000*

The list price of the goods is net of the two subsidies received. However, the other charges/taxes/fee are charged to the customers over and above the list price.

Calculate the total value of taxable supplies made by Red Pepper Ltd. during the month of March. Rate of IGST is 18%.

9. *M/s. Flow Pro, a registered supplier, sold a machine to BP Ltd. It provides the following information in this regard:* **-**

S. No.	***Particulars***	***Amount (₹)***
(i)	*Price of the machine [excluding taxes and other charges mentioned at S. Nos. (ii) and (iii)]*	*25,000*
(ii)	*Third party inspection charges* *[Such charges were payable by M/s Flow Pro but the same have been directly paid by BP Ltd. to the inspection agency. These charges were not recorded in the invoice issued by M/s Flo Pro.]*	*5,000*
(iii)	*Freight charges for delivery of the machine* *[M/s Flow Pro has agreed to deliver the goods at BP Ltd.'s premises]*	*2,000*
(iv)	*Subsidy received from the State Government on sale of machine under Skill Development Programme* *[Subsidy is directly linked to the price.]*	*5,000*
(v)	*Discount of 2% is offered to BP Ltd. on the price mentioned at S. No. (i) above and recorded in the invoice*	

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Note: Price of the machine is net of the subsidy received.

Determine the value of taxable supply made by M/s Flow Pro to BP Ltd.

10. *Shri Krishna Pvt. Ltd., a registered supplier, furnishes the following information relating to goods sold by it to Shri Balram Pvt. Ltd.-*

S. No.	***Particulars***	***Amount (₹)***
(i)	*Price of the goods [excluding taxes and other charges mentioned at S. Nos. (iii), (v) and (vi)]*	*1,00,000*
(ii)	*Municipal tax*	*2,000*
(iii)	*Inspection charges*	*15,000*
(iv)	*Subsidy received from Shri Ram Trust [Subsidy is directly linked to the price of the goods supplied.]*	*50,000*
(v)	*Late fees for delayed payment inclusive of GST [Shri Balram Pvt. Ltd. paid the late fees. However, these charges were ultimately waived by Shri Krishna Pvt. Ltd. and the amount was refunded to Shri Balram Pvt. Ltd. during the same month]*	*1,000*
(vi)	*Weighment charges [Such charges were paid by Shri Balram Pvt. Ltd. to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd.]*	*2,000*

Note: Price of the goods is net of the subsidy received.

Determine the value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

11. *Koli Ltd., a registered supplier, has supplied machinery to Ghisa Ltd. (a supplier registered in the same State). It provides following particulars regarding the same:*

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S. No.	Particulars	Amount (₹)
(i)	Price of machinery (exclusive of taxes and discounts)	5,50,000
(ii)	Part fitted in the machinery at the premises of Ghisa Ltd. [Amount has been paid by Ghisa Ltd. directly to the supplier. However, it was Koli Ltd.'s liability to pay the said amount. The said amount has not been recorded in the invoice issued by Koli Ltd.]	20,000
(iii)	Installation and testing charges for machinery, not included in price	25,000
(iv)	Discount @ 2% on price of the machinery mentioned at S. No. (i) above (recorded in the invoice)	
(v)	Koli Ltd. provides additional discount @ 1% at year end, based on additional purchase of other machinery for which adjustment is made at the end of the financial year without any change in individual transactions.	

Determine the value of taxable supply made by Koli Ltd. to Ghisa Ltd.

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ANSWERS

1. No, the post-supply discounts are not eligible for deduction from the value of supplies in all situations. Such discounts are allowed as a deduction from the value of supply only in the situations where the following two conditions are satisfied cumulatively:

(i) The discount is in terms of an agreement that existed at or before the time of supply and can be worked out invoice-wise; and

(ii) Proportionate input tax credit (ITC) is reversed by the recipient - The buyer would have availed ITC of GST payable on the gross value specified in the invoice. Thus, when a credit note is issued to him by the supplier for the discount, the buyer will reverse the proportionate credit; consequent to which, the supplier's output tax liability will be reduced by the same amount.

If any of the above conditions are not satisfied, post-supply discount is not allowed as a deduction from the value of supply and consequently, GST liability of the supplier does not get reduced.

2. The statement is correct. As per the definition of the term 'consideration' provided under the CGST Act, consideration under the GST law includes both payment in money or otherwise made by the recipient or any other person and also takes within its sweep the monetary value of any act or forbearance, by the recipient or any other person for the supply. Further, it includes within its ambit any deposit which is applied as a consideration for the supply but excludes the subsidies provided by the State or Central Government.

The term 'money' has also been defined under the CGST Act and it not only includes cash (Indian as well as foreign currency) but also cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler's cheque, money order, postal/electronic remittance or any such similar instrument recognized by RBI when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination

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but shall not include any currency that is held for its numismatic value. Non-monetary consideration essentially means consideration in kind.

3. As per section 15(2)(e), the value of a supply includes subsidies directly linked to the price, excluding subsidies provided by the State Governments and the Central Government.

In the given case, though the subsidy is given by a non-Government body, the same is not includible in the value as it is given in lumpsum and not directly linked to the price of the supply being valued. Therefore, the value of supply made by Sharp Minds during the month is ₹ 3,00,000.

4. In the given case, the showroom is not charging any amount towards freight from Ms. Leena but incurring the same out of its own pocket. Therefore, the same should not be added to the value. Hence, the value of supply will be ₹ 2,00,000.

However, the answer will change in the second case when the showroom will charge ₹ 300 for freight [(50km – 20 km) x ₹ 10] from Ms. Leena. In this case, the supply will be a composite supply (principal supply being the supply of furniture) and value thereof will be ₹ 2,00,300.

5. Section 15(2) mandates addition of certain elements in the value of supply. Clause (c) of section 15(2) specifies that the amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services shall be included in the value of supply.

Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefor will be included in the value of the supply. Therefore, AKJ Foods Pvt. Ltd.'s argument is not correct. The testing fee should be included in the price to arrive at value of supply.

6. This is a supply that is valued as per transaction value under section 15(1) as price is the sole consideration for the supply and the supply is made to unrelated person. The value of a supply includes interest for delayed payment of any consideration for any supply. However, the **time of supply** to the extent it relates to an addition in the value of supply by way of interest

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for delayed payment of any consideration is the date on which the supplier receives such addition in value. In the given case, the supplier has waived the interest for delayed payment. Consequently, the supplier has not received the interest. Therefore, notional interest for 2 days shall not be included in the value of the supply.

7. The discounts were not known or agreed for at the time of supply of goods to the dealers. Therefore, in terms of section 15(3), such discounts cannot be reduced from the price on which tax had been paid.

8. Computation of total value of taxable supplies made by Red Pepper Ltd. during the month of March

Particulars	**Amount (₹)**
List price of the goods	15,00,000
Subsidy amounting to ₹ 2,10,000 received from the Central Government [Since the subsidy is received from the Government, the same is not includible in the value in terms of section 15(2)(e)]	NIL
Subsidy received from NGO [Since the subsidy is received from a non-Government body and directly linked to the price, the same is includible in the value in terms of section 15(2)(e)]	50,000
Tax levied by the Municipal Authority [Includible in the value as per section 15(2)(a)]	20,000
Packing charges [Being incidental expenses, the same are includible in the value as per section 15(2)(c)]	15,000
Late fees paid by recipient of supply for delayed payment [Includible in the value as per section 15(2)(d) - As the amount of interest received is a lump sum amount, the	5,085

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same has to be taken as inclusive of GST] [₹ 6,000 x 100/118] rounded off	
Total value of taxable supplies	**15,90,085**

9. Computation of value of taxable supply made by M/s. Flo Pro to BP Ltd.

Particulars	**Amount (₹)**
Price of the machine [Since the subsidy is received from the State Government, the same is not includible in the value of supply in terms of section 15(2)(e)]	25,000
Third party inspection charges [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)(b)]	5,000
Freight charges for delivery of the machine [Since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are added in the value of principal supply.]	2,000
Total	32,000
Less: Discount @ 2% on ₹ 25,000 being price charged to BP Ltd. [Discount given before or at the time of supply if duly recorded in the invoice is deductible from the value of supply in terms of section 15(3)(a)]	500
Value of taxable supply	**31,500**

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10. Computation of value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

Particulars	Amount (₹)
Price of the goods	1,00,000
Municipal tax [Includible in the value as per section 15(2)(a)]	2,000
Inspection charges [Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value as per section 15(2)(c)]	15,000
Subsidy received from Shri Ram Trust [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)(e)]	50,000
Late fees for delayed payment [Not includible since the same is waived off]	Nil
Weighment charges paid to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd. [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)(b)]	2,000
Value of taxable supply	**1,69,000**

11. Computation of value of taxable supply made by Koli Ltd. to Ghisa Ltd.

Particulars	Amount (₹)
Price of machinery (exclusive of taxes and discounts)	5,50,000
Amount paid by Ghisa Ltd. directly to the supplier for the part fitted in the machinery	20,000

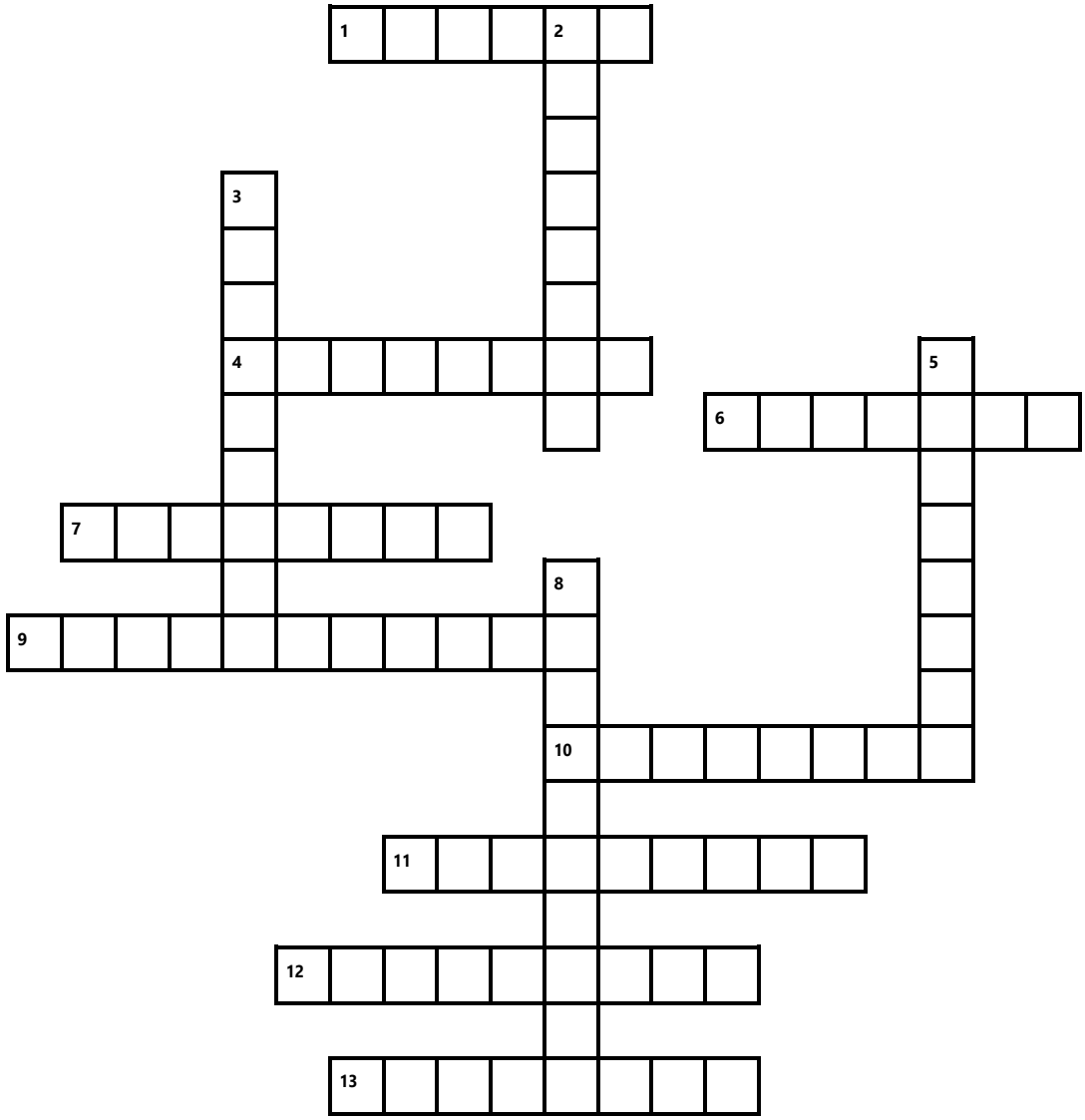
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[Any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods is includible in the value of supply in terms of section 15(2)(b).]	
Installation and testing charges [Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value of supply in terms of section 15(2)(c).]	25,000
Less: Discount @ 2% on the price of machinery [₹ 5,50,000 x 2%] [Since discount is given at the time of supply of machinery and recorded in the invoice, the same is deductible from the value of the supply in terms of section 15(3)(a).]	11,000
Less: Additional 1% discount at year end [Though the additional discount is established before/at the time of supply, it is not deductible from the value of supply in terms of section 15(3)(b) **as the same is not linked to any specific transaction** and is adjusted by the parties at the end of the financial year.]	Nil
Value of taxable supply	**5,84,000**

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CROSSWORD



ACROSS

1. Agent includes a factor, _____, commission agent, arhatia, del credere agent.
4. Persons shall be deemed to be related if such persons are employer and _____.
6. The value of supply includes, _____ directly linked to the price, other than that given by the Central Government and State Governments.

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7. Persons shall be deemed to be related if one of them, directly or indirectly, _____the other.

9. Persons shall be deemed to be related if a_____, directly or indirectly, controls both of them.

10. The value of supply includes _____ for delayed payment of consideration.

11. Persons shall be deemed to be related if one of them is the _____of the other.

12. Persons shall be deemed to be related if such persons are _____ in one another's business.

13. The value of supply includes any amount that the _____ is liable to pay in relation to supply but which has been incurred by the recipient of the supply and not already included in the price.

DOWNWARDS

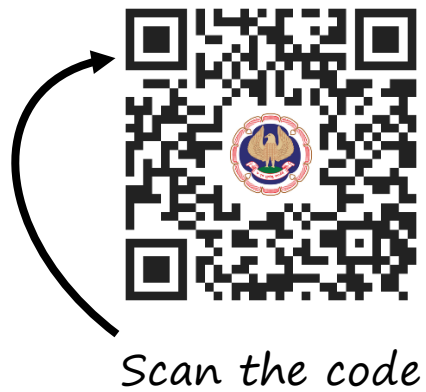
2. The value of supply _____ CGST, SGST, UTGST, GST Compensation Cess, if charged separately.

3. The transaction value is the value of supply when supply is undertaken between _____ persons and when price is the sole consideration for the supply.

5. The value of supply excludes, _____ given before or at the time of supply and shown in the tax invoice.

8. The value of supply includes _____ expenses, such as, commission and packing, charged by the supplier to the recipient of a supply.

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



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CHAPTER 8

INPUT TAX CREDIT



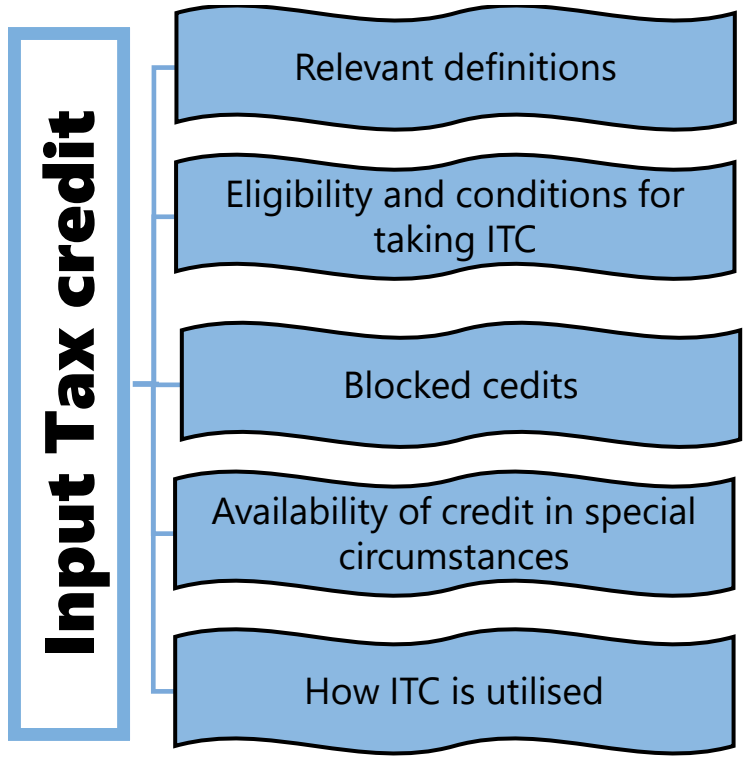
The section numbers referred to in the Chapter pertain to CGST Act and rule numbers referred to in the Chapter pertain to CGST Rules, unless otherwise specified. For the sake of brevity, input tax credit has been referred to as ITC in this Chapter. Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

LEARNING OUTCOMES

After studying this Chapter, you will be able to:

- describe what are inputs, input services, capital goods and other relevant terms in relation to ITC.
- explain the various conditions, timelines, restrictions and processes for taking ITC on goods and services in general and special circumstances.
- identify the items on which ITC is available as also the blocked items on which ITC is not available.
- comprehend and apply the above provisions as also the provisions relating to utilization of ITC to compute the GST liability of a registered person.

CHAPTER OVERVIEW



1. INTRODUCTION

In earlier indirect tax regime, the credit mechanism for indirect taxes levied by the Union Government, (central excise duty and service tax) was governed by the CENVAT Credit Rules, 2004; and the credit mechanism for state-level on sale of goods was governed by the States under their respective VAT laws.



The VAT legislations allowed ITC of VAT on inputs and capital goods in transactions within the State, but not on inputs and capital goods coming in the State from outside the State, on which central sales tax was paid. CENVAT Credit Rules, 2004 allowed availing and utilizing credit of duty/tax paid on both goods (capital goods and inputs) and services by the manufacturers and the service providers across the country.

The credit across goods and services was integrated vide the CENVAT Credit Rules, 2004 in the year 2004 to mitigate the cascading effects of central levies namely, central excise duty and service tax. However, the credit chain remained fragmented on account of State-Level VAT as the credit of central taxes could not be set off against a State levy and *vice versa*. The chain further got distorted as ITC was not available on the inter-State purchases. This resulted in cascading of taxes leading to increase in costs of goods and services.

The GST regime promises seamless credit on goods and services across the entire supply chain with some exceptions like supplies charged to tax under composition scheme, blocked credits and supply of exempted goods and/or services. ITC is considered to be the lifeline of the GST regime. In fact, it is the provisions of ITC, which essentially make GST - a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.

Chapter V of the CGST Act [Sections 16 to 21] & Chapter V: Input Tax Credit of the CGST Rules [Rules 36-45] prescribe the provisions relating to ITC. Further, section 41 contains provisions for availment of ITC, sections 49(5), 49A, 49B and rule 88A which together prescribe the sequence of utilisation of ITCand rules 86A and 86B stipulate the conditions of use of amount available in electronic credit ledger and restrictions on use of amount available in electronic credit ledger. State GST laws also prescribe identical provisions in relation to ITC. In this Chapter, provisions of sections 16, 17, 18 and 41 have been discussed;[1] first the statutory provisions of these sections together with the relevant rules have been extracted followed by their analysis.

Provisions of ITC under the CGST Act have also been made applicable to the IGST Act vide section 20 of the IGST Act.

[1]*Provisions of ITC relating to job work and input service distributor (ISD) [Sections 19, 20 and 21] and provisions relating to ITC claim by banking companies, distribution of ITC by ISD, determination of ITC on inputs, input services and capital goods and reversal thereof [Rules 38, 39, 42 and 43] will be discussed at the Final level.*

Scheme of ITC - At a Glance

Given below are the salient features of the scheme of ITC as contained in the provisions of sections 16, 17 and 18 read with the relevant rules. The scheme has been discussed in detail in the ensuing pages of this Chapter.

- The scheme is designed to avoid cascading effect of taxes and make GST - a destination-based tax.
- Broadly, ITC is available on all inputs, input services and capital goods used for purposes of business by a taxable person. The exception is 'blocked credit', where ITC is not available even when these goods or services are used for the purposes of business.
- ITC is used for payment of tax on taxable output supply to avoid cascading effect of taxes.
- GST law does not require 'one to one' co-relation between inputs/input services and final products/services. Any eligible ITC can be used for payment of tax on any taxable output supply.
- IGST is another core aspect of GST. It is a transitory tax to enable transfer of ITC when goods or services move from one State to another. This is a unique feature of Indian GST.
- Since ITC can be availed & utilized for payment of tax on taxable output supply, as a natural corollary, ITC cannot be availed in respect of exempt output supply on which tax is not payable.
- The exception to the above principle is 'zero rated supply'[2], i.e. exports or supplies to a special economic zone (SEZ) developer/unit, where ITC is available even if no tax is payable on output supply as zero-rated supplies are not exempt supplies. Such ITC can be utilized either for making supplies by paying tax or refund of the unutilized ITC can be obtained. This simple mechanism is used to make exports and supplies to SEZ completely tax free.
- If a taxable person is making both taxable and exempt supply, he is entitled to avail full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all can be availed for inputs, input services and capital goods exclusively used for exempt supply.

[2]*The concept of zero- rated supply and the refund of ITC will be dealt in detail at the Final level.*

- If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available. The common ITC is apportioned in the ratio of value of taxable supply and exempt supply. Elaborate provisions have been made in the GST law to prescribe the manner of calculation of proportionate ITC.

Before proceeding to understand the provisions of sections 16, 17, 18, 41 and the relevant rules, let us first go through few relevant definitions.

2. RELEVANT DEFINITIONS

- **Agent** means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].

- **Business** includes

  (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

  (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);

  (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

  (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

  (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

  (f) admission, for a consideration, of persons to any premises;

  (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) activities of a race club including by way of totalisator or a licence to book maker or activities of a licenced book maker in such club; and

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities [Section 2(17)].

- **Capital goods** means goods, the value of which is capitalized in the books of account of the person claiming the ITC and which are used or intended to be used in the course or furtherance of business [Section 2(19)].
- **Conveyance** includes a vessel, an aircraft and a vehicle [Section 2(34)].
- **Exempt supply** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the IGST Act, and includes non-taxable supply [Section 2(47)].
- **Input** means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business [Section 2(59)].
- **Input service** means any service used or intended to be used by a supplier in the course or furtherance of business [Section 2(60)].
- **Input tax** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

  (a) the integrated goods and services tax charged on import of goods;

  (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;

  (c) the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;

  (d) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or

  (e) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,

  but does not include the tax paid under the composition levy[Section 2(62)].
- **Input tax credit** means the credit of input tax[Section 2(63)].

- **Invoice or tax invoice means** the tax invoice referred to in Section 31 [Section 2(66)].
- **Inward supply** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration [Section 2(67)].
- **Motor vehicle** shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988[Section 2(76)].

  Motor vehicle or vehicle under the Motor Vehicles Act, 1988 means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty five cubic centimetres. [Section 2(28) of Motor Vehicles Act, 1988].
- **Non-resident taxable person** means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India [Section 2(77)].
- **Principal** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both [Section 2(88)].
- **Quarter** shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year [Section 2(92)].
- **Recipient** of supply of goods or services or both, means—

  (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

  (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

  (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

- **Registered person** means a person who is registered under section 25 of CGST Act but does not include a person having a Unique Identity Number [Section 2(94)].

- **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied:

  Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims. [Section 2(105)].

- **Taxable supply** means a supply of goods or services or both which is leviable to tax under CGST Act [Section 2(108)].

- **Works contract** means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract [Section 2(119)].

- **Zero-rated supply** means any of the following supplies of goods or services or both, namely:––

  (a) export of goods or services or both; or

  (b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit [Section 16(1) of the IGST Act].

3. ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT [SECTION 16]

STATUTORY PROVISIONS

Section 16	Eligibility and conditions for taking input tax credit	
Sub-section	**Clause**	**Particulars**
(1)		*Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.*
(2)		*Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,–*
	(a)	*he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;*
	(aa)	*the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;*
	(b)	*he has received the goods or services or both.*
		Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services–
		(i) *where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an*

			agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
		(ii)	*where the services are provided by the supplier to any person on the direction of and on account of such registered person.*
	(ba)		*the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;*
	(c)		*subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and*
	(d)		*he has furnished the return under section 39:*
	Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:		
	Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be paid by him along with interest payable under section 50, in such manner as may be prescribed:		
	Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him to the supplier of the amount towards the value of supply of goods or services or both along with tax payable thereon.		
(3)	*Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.*		

(4)	*A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.*
(6)	*Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,–*
	(i) *filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or*
	(ii) *for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration,*
	whichever is later.
Section 41	***Availment of input tax credit***
(1)	*Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.*
(2)	*The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall*

	be reversed along with applicable interest, by the said person in such manner as may be prescribed. *Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.*
Chapter V: Input Tax Credit of the CGST Rules	
Rule 36	***Documentary requirements and conditions for claiming input tax credit***
(1)	*The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely:-*
	(a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
	(b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;
	(c) a debit note issued by a supplier in accordance with the provisions of section 34;
	(d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
	(e) an input service distributor invoice or input service distributor credit note or any document issued by an input service distributor in accordance with the provisions of sub-rule (1) of rule 54.
(2)	*Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document.*
	Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of

	goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.
(3)	*No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts under section 74.*
(4)	*No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under subsection (1) of section 37 unless,-*
	(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1, as amended in FORM GSTR-1A if any, or using the invoice furnishing facility; and
	(b) the details of input tax credit in respect of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under sub-rule (7) of rule 60.
Rule 37	***Reversal of input tax credit in the case of non-payment of consideration***
(1)	*A registered person, who has availed of input tax credit on any inward supply of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, but fails to pay to the supplier thereof, the amount towards the value of such supply whether wholly or partly, along with the tax payable thereon, within the time limit specified in the second proviso to sub-section (2) of section 16, shall pay or reverse an amount equal to the input tax credit availed in respect of such supply, proportionate to the amount not paid to the supplier, along with interest payable thereon under section 50, while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of one hundred and eighty days from the date of the issue of the invoice.*
	Provided that the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.

	Provided further that the value of supplies on account of any amount added in accordance with the provisions of clause (b) of sub-section (2) of section 15 shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.
(2)	*Where the said registered person subsequently makes the payment of the amount towards the value of such supply along with tax payable thereon to the supplier thereof, he shall be entitled to re-avail the input tax credit referred to in sub-rule (1).*
(4)	*The time limit specified in sub-section (4) of section 16 shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or the provisions of this Chapter, that had been reversed earlier.*
Rule 37A	***Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof***
	Where input tax credit has been availed by a registered person in the return in FORM GSTR-3B for a tax period in respect of such invoice or debit note, the details of which have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1, as amended in FORM GSTR-1A if any, or using the invoice furnishing facility, but the return in FORM GSTR-3B for the tax period corresponding to the said statement of outward supplies has not been furnished by such supplier till the 30th day of September, following the end of the financial year in which the input tax credit in respect of such invoice or debit note has been availed, the said amount of input tax credit shall be reversed by the said registered person, while furnishing a return in FORM GSTR-3B on or before the 30th day of November following the end of the financial year
	Provided that where the said amount of input tax credit is not reversed by the registered person in a return in FORM GSTR-3B on or before the 30th day of November following the end of such financial year during which such input tax credit has been availed, such amount shall be payable by the said registered person along with interest thereon under section 50.

	Provided further that where the said supplier subsequently furnishes the return in FORM GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in FORM GSTR-3B for a tax period thereafter.



ANALYSIS

(i) Eligibility for taking ITC [Section 16(1)]

(a) Registration under GST

Every registered person shall be entitled to ITC of GST charged on inward supply of goods and / or services. This is subject to the provisions relating to use of ITC under section 49 and the conditions and restrictions prescribed in the relevant rules. *[Section 49 prescribes provisions relating to payment of tax, interest, penalty & other amounts. The same has been discussed in detail in Chapter 13: Payment of Tax in this Module of the Study Material.]*

(b) Goods/services to be used for business purposes

ITC of GST will be available on goods and/or services which are used or intended to be used in the course or furtherance of the business [See definition of business]. The "intention to use" the goods and/or services in the course or furtherance of business would also suffice for availing ITC on such goods and/or services. Thus, tax paid on goods and or/services which are used or intended to be used for non-business purposes cannot be availed as credit. ITC will be credited to electronic credit ledger.

(ii) Conditions for taking ITC [Section 16(2)]

This sub-section starts with a non-obstante clause and hence all the conditions specified therein must be fulfilled irrespective of fulfillment of any other conditions given under any other sub-section of section 16 for the purpose of taking of input tax credit. The registered person will be entitled to ITC on an inward supply only if **ALL** the following **six** conditions are fulfilled:

(a) Possession of tax paying document [Section 16(2)(a) read with rule 36]

ITC can be availed on the basis of any of the following documents:

(i) Invoice or revised invoice[3] issued by the supplier of goods and/or services

(ii) Invoice issued by the recipient receiving goods and/or services from unregistered supplier in case of reverse charge, subject to payment of tax

(iii) Debit note issued by the supplier

(iv) Bill of entry or similar document prescribed under the Customs Act[4]

(v) Document issued by input service distributor[5]

The documents on the basis of which ITC is being taken should contain **at least** the following details:

(i) Amount of tax charged

(ii) Description of goods or services

(iii) Total value of supply of goods and/or services

(iv) GSTIN of the supplier and recipient

(v) Place of supply in case of inter-State supply

No ITC of tax paid towards demands involving fraud [Rule 36(3)]: Tax paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts under section 74[6] cannot be availed as ITC.



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[3] Provisions relating to revised invoice have been discussed in detailed in Chapter 10: Tax Invoice: Credit and Debit Notes in this Module of the Study Material.

[4] Provisions relating to the Customs Act, 1962 will be dealt with at the Final level.

[5] Concept of Input Service Distributor (ISD) will be dealt with at the Final level.

[6] Section 74 contains the provisions for determination of tax not paid or short paid or erroneously refunded or ITC wrongly availed or utilized by reason of fraud or any wilful-misstatement or suppression of facts, pertaining to the period upto financial year 2023-24.

(b) Details of invoices/debit notes uploaded by the supplier in his GSTR-1 or using IFF and details communicated in Form GSTR-2B [Section 16(2)(aa) read with rule 36(4)]

ITC in respect of any supply of goods or services or both can be taken by a registered person only if the details of the invoice/debit note in respect of said supply have been furnished by the supplier in the statement of outward supplies (Form GSTR-1, as amended in FORM GSTR-1A if any, or using IFF) and such details have been communicated to the recipient of such invoice/debit note in Form GSTR-2B.

GSTR-1 is a monthly/quarterly statement containing details of outward supplies made by a registered supplier. In case where GSTR-1 is furnished quarterly under QRMP (Quarterly Return Monthly Payment) scheme, supplier can furnish such details for 1st two months of the quarter using invoice furnishing facility (IFF). This facility is provided to the taxpayer, to pass on the credit to their recipients.

Such details of outward supplies furnished by the supplier are communicated and made available electronically (auto populated) to the respective recipient(s) in GSTR- 2B. GSTR-2B is an auto-generated ITC statement for every registered person based on details furnished in GSTR-1/using IFF by the supplier[7].

GSTR-1A is a form wherein a registered person at his own option, amend or furnish additional details of outward supplies of goods and/or services after furnishing the details of outward supplies of goods and/or service in FORM GSTR-1 for a tax period but before filing of return in FORM GSTR-3B for the said tax period.

Thus, in respect of invoices/debit notes the details of which are not furnished by the suppliers in their GSTR-1s, as amended in FORM GSTR-1A if any, or using IFF (and thus they are not visible in GSTR-2B of the recipient), ITC cannot be availed by such recipient.

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[7]The provisions relating to QRMP, filing of GSTR-1/IFF, GSTR-1A and GSTR-2B have been discussed in detail in Chapter 15: Returns in this Module of the Study Material.

ITC on such invoices/debit notes, not reflected in GSTR-2B of the current month, may be claimed by the taxpayer in any of the succeeding months when the details of said invoices/debit notes are furnished by the suppliers.

The above concept has been illustrated as follows:

ITC on invoices/debit notes which have been furnished by the suppliers in their GSTR-1s/using IFF and reflected in GSTR-2B of recipient.	→	FULL ITC can be claimed on such invoices/debit notes, if all other conditions of availing ITC are fulfilled
ITC on invoice/debit note which have not been furnished by suppliers in their GSTR-1s/using IFF and thus, not reflected in GSTR-2B of recipient.	→	NO ITC can be claimed in respect of such invoices/debit notes.



✪Invoices on which ITC is not available under any of the provisions e.g., under section 17(5), are not to be considered for claiming ITC even though furnished by the suppliers.

✪ On the other hand, full ITC can be availed in respect of IGST paid on imports, documents issued under reverse charge, credit received from ISD etc., which are outside the ambit of section 37(1).

ILLUSTRATION 1

Vijay Sales, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of ₹ 10 lakh, from various suppliers during the month of October.

Out of 100 invoices, details of 80 invoices involving GST of ₹ 6 lakh have been furnished by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor and are reflected in GSTR-2B of Vijay Sales. There was no amendment made in GSTR-1s by such suppliers using GSTR-1A for the month of October.

Compute the ITC that can be claimed by Vijay Sales in its GSTR-3B for the month of October to be filed by 20th November assuming that GST of ₹ 10 lakh is otherwise eligible for ITC.

ANSWER

ITC to be claimed by Vijay Sales in its GSTR-3B for the month of October to be filed by 20th November will be computed as under-

Invoices	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
80 invoices furnished in GSTR-1	6 lakh	6 lakh [Refer Note 1]
20 invoices not furnished in GSTR-1	4 lakh	Nil [Refer Note 2]
Total	10 lakh	6lakh

Notes:

(1) 100% ITC can be availed on invoices furnished by the suppliers in their GSTR-1s and reflected in GSTR-2B of Vijay Sales.

(2) As per rule 36(4), the ITC in respect of invoices not furnished by the suppliers in their GSTR-1s and thus, not being reflected in GSTR-2B of recipient, cannot be claimed. Thus, in respect of 20 invoices which are not furnished in GSTR-1s of suppliers and are not reflected in GSTR-2B of Vijay Sales, no ITC can be availed[8].

(c) Receipt of the goods and / or services [Section 16(2)(b)]

The registered person taking the ITC must have received the goods and / or services.

"Bill to Ship to" Model: Under this model, the goods are delivered to a third party - 'C' on the direction of the customer (registered person)– 'B' who purchases the goods from the vendor (supplier) – 'A'. In other words, 'A' bills to 'B' but ships the goods to 'C' on direction of 'B'. In effect, two supplies take place in this scenario viz., from 'A' to 'B' and from 'B' to 'C'. Thus, under this model, the customer (registered person) who receives such goods does not actually receive the said goods.

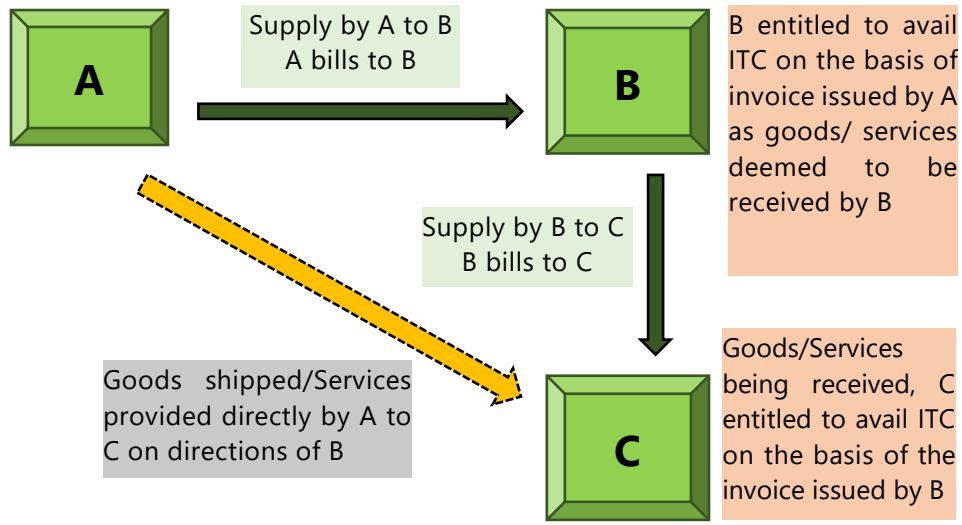
For such cases, by virtue of **explanation to section 16(2)(b)**, it is deemed that the registered person (customer) has received the goods. In other words, goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. So, ITC will be available to the registered person, on whose order the goods are delivered to a third person.

Similarly, services may also be provided to a third party by the service provider (supplier) on the direction of the service recipient (registered person). In this case also, though the service recipient (registered person) does not receive the service, by virtue of explanation to section 16(2)(b) it is deemed that the registered person (service recipient) has received the service. In other words, service provided to any person on the direction of and on account of the registered person, is deemed to

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[8]*Let us suppose, subsequently, the suppliers of these 20 invoices furnish the details of said invoices in their GSTR-1s for the month of November, the details shall be reflected in GSTR-2B of Vijay Sales of November month and Vijay Sales can take credit of such invoices in its GSTR-3B for the month of November.*

have been received by such registered person. So, ITC will be available to the registered person, on whose direction the services are provided to a third person.



(1) Badri is a trader who places an order on Aatmaram for a consignment of soda ash. Badri receives a buying order from Champak for the same quantity of soda ash. Badri instructs Aatmaram to deliver the goods to Champak, and in turn Aatmaram raises an invoice on Badri as Badri is the actual buyer of the goods who have instructed Aatmaram to deliver the goods to Champak. Though the goods are not physically received at the premises of Badri, section 16(2)(b) allows ITC of such goods to Badri.

(2) The registered head office (New Delhi) of ABC Pvt. Ltd. enters into a contract with DEF Pvt. Ltd. of New Delhi for repair and maintenance of computers systems installed at its registered branch office in Bengaluru, Karnataka. DEF Pvt. Ltd. issues an invoice on ABC Pvt. Ltd., New Delhi for the services provided by it. Though the actual services are received by the branch office and not by the head office, section 16(2)(b) allows ITC of such repair and maintenance services to head office.

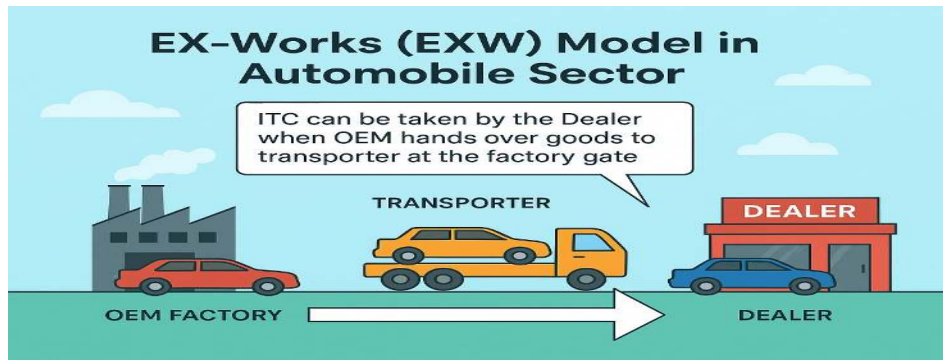
Clarification on availability of ITC in respect of goods delivered under ex-works contract

In automobile sector, the contract between the automobile dealers and the Original Equipment Manufacturers (OEMs) is generally an Ex-Works (EXW) contract, and as per the terms of the contract, the property in goods (i.e. vehicles) passes to the dealer at the factory gate of the OEM, when the goods are handed over to the transporter at the instance of the dealer, and the delivery on the part of the OEM is complete at his factory gate.

The transport may be arranged by the OEM on behalf of the dealer and where insurance is arranged, it may also be done on behalf of the dealer. Any claim in case of loss has to be lodged by the dealer.

The issue which arose for consideration was whether ITC can be availed by the dealer only after the vehicles are physically received by automobile dealers at his business premises or ITC can be availed on the date the vehicles are billed to him and handed over to the transporter by the OEM at his factory gate.

It has been clarified that in such a scenario, the property in the said goods can be considered to have been passed on to the dealer by the OEM upon handing over of the said goods to the transporter at his factory gate, meaning thereby that the goods can be considered to have been delivered to the registered person (the dealer), through the transporter, by the supplier (the OEM) at his factory gate and the supply of the said goods can be considered to have fructified at the factory gate of the OEM, even though the goods may be physically received by the registered person (the dealer) after the transit period.



Accordingly, it is clarified that as per Explanation to section 16(2)(b), the registered person (the dealer) can be considered to have "received" the said goods at the time of such handing over of the goods by the supplier to the transporter, at his factory gate, for their onward transmission to the said registered person (the dealer).

The same principle is applicable in respect of supply of other goods also where the contract between the supplier and recipient is an EXW (Ex Works) contract, and as per terms of the contract, the goods are to be delivered by the supplier to the recipient, or to any other person (including a transporter) on behalf of the recipient, at his (supplier's) place of business and the property in the goods stands transferred to the recipient at the time of such handing over.

In such cases, the said goods can be construed to have been "received" by the said recipient at the time of handing over the said goods to the recipient or to the transporter, as the case may be, as per provisions of section 16(2)(b).

It is also mentioned that as per provisions of section 16(1) (discussed earlier), a registered person is entitled to ITC only in respect of supply of goods and/or services, which is used or intended to be used in the course or furtherance of business.

Thus, if the goods are found to have been diverted for non-business purposes at any stage, either before physically receiving the said goods at his business premises or subsequently, the registered person shall not be entitled to ITC on such goods in terms of section 16(1).

Further, if at any time after "receiving" the goods, such goods are lost, stolen, destroyed, written off or disposed of by way of gift or free samples, the registered person would not be entitled to the ITC in respect of such goods as per provisions of section 17(5)(h) [Section 17(5) contains the provisions relating to Blocked credit and will be discussed subsequently in this chapter][9].

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[9] *Circular No. 241/35/2024 GST dated 31.12.2024*

(d) Details of ITC in respect of the said supply communicated to the registered person under section 38 not restricted [Section 16(2)(ba)]

Section 38 stipulates that the details of outward supplies furnished by the registered suppliers in GSTR-1 (as amended in Form GSTR-1A if any)/using IFF and an auto-generated statement containing the details of ITC is made available to the recipients of such supplies every month. This auto-generated statement is GSTR-2B.

GSTR-2B contains the details of inward supplies (i) on which ITC is available to the recipient as well as (ii) on which ITC cannot be availed, whether wholly or partly, by the recipient. Section 38 stipulates that ITC cannot be availed in case where the details of the outward supplies in GSTR-1/using IFF have been furnished by specified registered persons.

- Accordingly, ITC will not be available in respect of inward supplies details of which have been furnished by a registered supplier: who is a new registrant (within such prescribed period of taking registration).
- who has defaulted in payment of tax and where such default has continued for a prescribed period.
- whose output tax payable as per GSTR-1/IFF exceeds the output tax paid in GSTR-3B for a particular tax period by prescribed limit.
- who has availed ITC of an amount that exceeds the credit that can be availed by him as per GSTR-2B during prescribed period and by prescribed limit.
- who has defaulted in discharging his tax liability in accordance with the provisions of section 49(12) read with rule 86B, i.e. who has discharged more tax liability from electronic credit ledger than prescribed under rule 86B[10].
- other specified classes of persons.

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[10] *Rule 86B provides that the registered person shall not utilise the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds ₹ 50 lakh subject to specified exceptions. It has been discussed subsequently in this chapter.*

(e) Tax leviable on supply actually paid to Government [Section 16(2)(c)]

The supplier should have actually paid the tax charged on the goods and/or services, for which ITC is being taken, either in cash or by utilizing ITC, subject to the provisions of section 41.

Availment of self-assessed ITC [Section 41]

A registered person can avail the credit of eligible ITC as self-assessed in his return. Such amount shall be credited to his electronic credit ledger.

Reversal of ITC in the case of non-payment of tax by the supplier and re-availment thereof [Section 41 read with rule 37A]

(I) **Reversal of ITC:** If the tax payable corresponding to such ITC availed is not paid by the supplier to the Government, ITC so availed shall be reversed by the said person along with applicable interest.

A registered person (recipient) can avail ITC in GSTR-3B for a tax period in respect of such invoice/debit note, the details of which have been furnished by its supplier in the statement of outward supplies (in GSTR-1**,** as amended in Form GSTR-1A if any/using IFF).

However, if supplier does not furnish return in Form GSTR-3B for the tax period corresponding to the said statement of outward supplies till 30th September following the end of FY in which the ITC in respect of such invoice/ debit note has been availed; the said amount of ITC shall be reversed by the said recipient, while furnishing a return in GSTR-3B on or before 30thNovember following the end of such FY during which such ITC has been availed.

However, where the said amount of ITC is not so reversed by recipient, such amount shall be payable by the said person along with interest thereon under section 50.

(II) Re-availment of reversed ITC: Where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him.

Thus, where the said supplier subsequently furnishes the return in GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in GSTR-3B for a tax period thereafter.



(3) Jhamku, a registered supplier, supplies goods to Chamku valuing ₹ 10,000 on which he charged CGST and SGST of ₹ 900 each in the invoice raised in March, 2024. Jhamku uploaded the details of the said invoice in his GSTR-1 for the said month filed before the due date based on which Chamku availed the said ITC of ₹ 900 each towards CGST and SGST while filing his GSTR-3B for March, 2024 as the said ITC was also reflected in his GSTR-2B. However, Jhamku failed to furnish the corresponding GSTR-3B (for the month of March, 2024) up to September, 2024.

Accordingly, while filing GSTR-3B for the month of October, 2024 on 20thNovember, 2024, Chamku reversed an amount of ITC earlier availed by him. Subsequently, suppose if Jhamku files GSTR-3B on 20thDecember, 2024 and pays the said amount of ₹ 900 each towards CGST and SGST, Jhamku can now re-avail the said input tax credit of ₹ 900 towards CGST and SGST which he has reversed earlier.

(f) Filing of return [Section 16(2)(d)]

The registered person taking the ITC must have filed his return in GSTR-3B under section 39. Thus, a taxpayer should file GSTR-3B to avail ITC on eligible inward supplies.

(iii) Goods received in lots: ITC available only on receipt of last lot [First proviso to section 16(2)]

In case the goods covered under an invoice are not received in a single consignment but are received in lots / instalments, ITC can be taken only upon receipt of the last lot / instalment.



(4) XYZ enters into a contract with ABC for supply of 10 MT of a chemical for ₹ 1,18,000 (inclusive of GST of ₹18,000) in the month of August. The chemical is to be delivered in lots over a period of three months. ABC raises the invoice for the entire amount in August and XYZ also makes the payment in the same month but the supply is completed in November. Though XYZ paid the full tax as early as August, it can take the ITC of the same only on receipt of the last lot of the chemical in the month of November.

(iv) Payment for the invoice to be made within 180 days [Second proviso to section 16(2) read with rule 37]

The registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice [Second proviso to section 16(2)].

However, where a registered person, who has availed of ITC on any inward supply fails to pay to the supplier thereof, the amount towards the value of such supply, **whether wholly or partly**, along with the tax payable thereon, within 180 days from the date of issue of invoice by supplier, **shall pay or reverse an amount equal to the ITC availed in respect of such supply, proportionate to the amount not paid to the supplier, along with interest payable thereon under section 50, while furnishing the return in Form GSTR-3B for the tax period** immediately following the period of 180 days from the date of the issue of the invoice.

Exceptions

This condition of payment of value of supply plus tax within 180 days does not apply in the following situations:

(a) Supplies on which tax is payable under reverse charge

(b) Deemed supplies without consideration – Schedule I

(c) Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply as per section 15(2)(b).

Under situations given in points (b) & (c), the value of supply is deemed to have been paid.



(5) Due to a quality dispute, PZP Ltd withheld payment on a machine supplied by a vendor till it could be rectified. More than 180 days went by in this dispute. The credit taken by PZP on the invoice needs to be paid / reversed along with interest in GSTR-3B furnished for the month after completion of 180 days. Only after the vendor rectified the machine and PZP released the payment, could PZP take the credit again.

(v) If depreciation claimed on tax component, ITC not allowed [Section 16(3)]

If the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed. Thus, in respect of the tax paid on such items, dual benefit cannot be claimed under Income-tax Act, 1961 and GST law simultaneously. In other words, either depreciation on the tax component can be claimed under Income Tax Act or ITC of such tax paid can be availed under GST law.

(vi) Time limit for availing ITC: 30th November of succeeding financial year or date of filing of relevant annual return, whichever is earlier [Section 16(4)]

ITC on invoices pertaining to a financial year or debit notes issued in a financial year can be availed any time till **30th November** of the succeeding **financial year** or the date of filing of the relevant annual return, whichever is earlier.

Here, in case of debit notes, the date of issuance of debit note and not the date of underlying invoice is relevant to determine the relevant financial year[11].

Clarification on time limit under section 16(4) in respect of RCM supplies received from unregistered persons[12]

It is clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) **the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f),** subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of sections 16 and 17.

In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of section 122[13].



(6) A debit note dated 07.07.2024 is issued in respect of the original invoice dated 16.03.2024. As the invoice pertains to F.Y. 2023-24, the relevant financial year for availment of ITC in respect of the said invoice in terms of section 16(4) shall be FY 2023-24. However, as the debit note has been issued in FY 2024-25, the relevant financial year for availment of ITC in respect of the said debit note shall be FY 2024-25 in terms of section 16(4).

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[11] *Circular No. 160/16/2021 GST dated 20.09.2021*

[12] *Circular No. 211/5/2024 GST dated 26.06.2024*

[13] *Section 122 containing the penal provisionss shall be discussed in detail at the Final level.*



(7) Hercules Machinery delivered a machine to XYZ, a monthly return filer under GST, in the month of January under Invoice no. 49 dated 28th January 2024 for ₹ 4,15,000 plus GST and undertook trial runs and calibration of the machine as per the requirements of XYZ. The amount chargeable for the post-delivery activities was covered in a debit note raised in the month of April 2024 for ₹ 50,000 plus GST. XYZ did not file its annual return for FY 2023-24 till November, 2024.

The time-limit to avail ITC in respect of tax paid on supply for Invoice No. 49 would be 30th November, 2024.

Since the debit note is received in the next financial year, the time limit for taking ITC available on ₹ 50,000 is 30th November 2025, [earlier of the date of filing the annual return for the preceding financial year or 30th November of the succeeding year].

Exception

The time limit u/s16(4) does not apply to claim for re-availing of credit that had been reversed earlier.

(vii) Time limit for taking ITC in case of revoked registration cancellation [Section 16(6)]

In case where registration of a taxpayer is cancelled and subsequently, it is revoked, return for the period from date of cancellation/ effective date of cancellation till the date of revocation of cancellation cannot be filed on the portal by the taxpayers till their cancellation of registration is revoked. In such cases, where the recipient has not claimed the ITC in respect of any invoice/debit note pertaining to that financial year and in the meantime, time-limit stipulated in section 16(4) lapses, he would not be able to claim ITC on the said invoice/debit note.

Consequently, relaxation has been given and the time limit to avail ITC under section 16(4) in respect of any invoice/debit note, is extended till the date of filing return in cases where the returns for the period from date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed within 30 days

of revocation of cancellation of registration, subject to the condition that the time limit to avail ITC in respect of the said invoice or the debit note under section 16(4) had not already expired on the date of cancellation of registration.

(viii) Restriction of ITC in proportion of (i) taxable supplies (ii) business purposes [Sub-sections (1) and (2) of section 17]

ITC is restricted in proportion of the use of the goods and/or services (i) in the taxable and / or zero-rated supplies (ii) for business purposes. This is elaborated in heading (4) below.

(ix) ITC not allowed on certain supplies [Section 17(5)]

ITC has been blocked for specified goods and services. This is elaborated in heading (4) below.



Following amounts of GST are being reflected in GSTR-2B of Sukhiya Associates, registered under GST, for the month of April:

Raw material purchased	₹ 20,000
Machinery purchased for manufacturing goods	₹ 1,00,000
Raw material purchased for construction of immovable property to be capitalised in the books of accounts	₹ 5,00,000

Apart from this, an invoice for purchase of raw materials containing GST of ₹ 30,000 is not reflected in GSTR-2B of April as the supplier has not furnished his GSTR-1. Moreover, GST of ₹ 25,000 is paid on GTA services received from Sindhu Transporters in April for transport of raw materials.

Compute the amount of ITC that Sukhiya Associates is eligble to avail for the month of April.

(a)	₹ 1,45,000	(b)	₹ 6,20,000	(c)	₹ 6,45,000	(d)	₹ 6,75,000

4. APPORTIONMENT OF CREDIT& BLOCKED CREDITS [SECTION 17[14]]

STATUTORY PROVISIONS

Section 17	Apportionment of credit and blocked credits	
Sub-section	**Clause**	**Apportionment of credit and blocked credits**
(1)		*Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.*
(2)		*Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.*
(3)		*The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.*
		Explanation.— For the purposes of this sub-section, the expression ''value of exempt supply'' shall not include the value of activities or transactions specified in Schedule III, except,— *(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and* *(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule;*

[14] *Provisions relating to ITC claim by banking companies and determination of ITC on inputs, input services and capital goods and reversal thereof [Rules 38, 42 and 43] will be discussed at the Final level.*

(5)	*Notwithstanding anything contained in sub-section (1) of section 16 and sub- section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—*			
	(a)	*motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—*		
		(A)	*further supply of such motor vehicles; or*	
		(B)	*transportation of passengers; or*	
		(C)	*imparting training on driving such motor vehicles;*	
	(aa)	*vessels and aircraft except when they are used—*		
		(i)	*for making the following taxable supplies, namely:—*	
			(A)	*further supply of such vessels or aircraft; or*
			(B)	*transportation of passengers; or*
			(C)	*imparting training on navigating such vessels; or*
			(D)	*imparting training on flying such aircraft;*
		(ii)	*for transportation of goods;*	
	(ab)	*services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):*		
		Provided that the input tax credit in respect of such services shall be available—		
		(i)	*where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;*	
		(ii)	*where received by a taxable person engaged—*	
			(I)	*in the manufacture of such motor vehicles, vessels or aircraft; or*

			(II)	*in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;*
	(b)	*the following supply of goods or services or both—*		
		(i)		*food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:*
				Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;
		(ii)		*membership of a club, health and fitness centre; and*
		(iii)		*travel benefits extended to employees on vacation such as leave or home travel concession:*
				Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force[15]*.*
	(c)	*works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;*		
	(d)	*goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such*		

[15] *Circular No. 172/04/2022 GST dated 06.07.2022 clarifies that this proviso is applicable to the whole of section 17(5)(b).*

		goods or services or both are used in the course or furtherance of business.
		Explanation.––For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.
	(e)	*goods or services or both on which tax has been paid under section 10;*
	(f)	*goods or services or both received by a non-resident taxable person except on goods imported by him;*
	(fa)	*goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;*
	(g)	*goods or services or both used for personal consumption;*
	(h)	*goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and*
	(i)	*any tax paid in accordance with the provisions of* ***section 74 in respect of any period up to Financial Year 2023-24.***
(6)	*The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.*	
	Explanation.— For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—	
	(i)	*land, building or any other civil structures;*
	(ii)	*telecommunication towers; and*
	(iii)	*pipelines laid outside the factory premises.*



ANALYSIS

Section 17 requires apportionment and concomitant restriction of ITC in two situations as also blocking of ITC on specified inward supplies.

A. Apportionment of ITC [Sub-sections (1) and (2) of section 17]

(i) The fundamental principle of credit scheme under value added tax is that tax paid on inputs, input services and capital goods can be availed as credit only when the output is taxable. Thus, when tax is not payable on output, credit cannot be availed.

Accordingly, ITC under GST can be availed and utilised for payment of tax on output supply. Consequently, ITC cannot be availed when tax is not payable on output supply, i.e. on exempt supply. The only exception to the above principle is 'zero rated supply, where ITC is available even if no tax is payable on output supply as zero rated supply is not an exempted supply.

If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all can be availed for inputs, input services and capital goods exclusively used for exempt supply.

If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available. The common ITC is apportioned in the ratio of value of taxable supply and exempt supply.

(ii) Also, in case goods and/or services are used by the taxable person partly for the business purposes and partly for non-business purposes, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for business purposes and no credit at all can be availed forgoods and/or servicesexclusively used for non-business purposes.

If common inputs, input services and capital goods are used partly for business and partly for non-business purposes, only proportionate ITC attributable to the business purpose is available.

Elaborate provisions have been made in sub-sections (1) and (2) of section 17 and rules 42 and 43 for calculation of such proportionate ITC. Such provisions will be discussed in detail at the Final level.

Section 16(2) of the IGST Act specifies that ITC may be availed on inward supplies for making zero-rated supply. Zero-rated supply is an expression that covers two kinds of supplies: (i) exports, and (ii) supplies for authorised operations to a SEZ unit or SEZ developer. Therefore, ITC is available on goods and / or services used for supplies made in the course of export or to an SEZ unit or SEZ developer[16].

(8) A registered person is in the business of manufacturing shoes. He gave 50 pairs of shoes to his friends free of cost. ITC on inputs and input services attributable to such 50 pair of shoes, being used for non-business purposes will not be available.

(9) A registered person manufactures a product 'X' chargeable to 18% GST, a product 'Y' chargeable to NIL rate of tax and a product 'Z' which is exported without payment of tax under bond. All the three products are manufactured from common inputs and input services. ITC on inputs and input services attributable to product 'Y' being an exempt supply, will not be available.

B. Blocked credits [Section 17(5)]

ITC of tax paid on almost every inputs, input services or capital goods used for supply of taxable goods and/or services is allowed under GST except a small list of items provided u/s 17(5). Thus, ITC on such items is not allowed even though the same may qualify as inputs, input services or capital goods and are used in the course or furtherance of business.



[16] *Provisions relating to zero-rated supplies have been discussed at the Final level.*

The blocked list of credit covers mainly items of personal consumption, inputs and input services use of which results into formation of an immovable property (except plant and machinery), telecommunication towers, pipelines laid outside the factory premises, etc. and taxes paid as a result of detection of evasion of taxes, etc.

The various goods and/or services on which credit is blocked are discussed hereunder:

(i) Motor vehicles and other conveyances and related services (insurance, servicing and repair and maintenance)

Motor vehicles and conveyances have been defined in the CGST Act*[See definition under the heading Relevant Definitions]*.

Motor vehicles exclude –

- vehicle running upon fixed rails
- special purpose vehicles for being used in a factory or any enclosed premises
- vehicle with less than 4 wheels fitted with engine capacity of upto 25cc–(Thus, railways, two/three wheelers with engine capacity of upto 25cc, bicycle etc. do not fall in the definition of motor vehicle.)

Broadly, ITC is blocked on motor vehicles, vessels and aircrafts with certain exceptions. Further, ITC is also blocked on certain services relating to motor vehicles, vessels and aircrafts namely, general insurance, servicing and repair and maintenance. The basic principle here is that the motor vehicles, aircrafts and vessels on which ITC is blocked, the ITC on services of insurance, servicing and repair and maintenance pertaining to such motor vehicles, vessels and aircrafts is also blocked. The blocked credits relating to motor vehicles, vessels, aircrafts and related services are discussed in the next page:

S. No.	Goods and/or services on which credit is blocked	Exceptions to goods and/or services mentioned in column (2) on which credit is allowed	Remarks
(1)	(2)	(3)	(4)
(i)	Motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) – *Referred to as ineligible motor vehicle in this table*	Ineligible motor vehicles when used for any of the following eligible purposes- ➢ making further taxable supply of such motor vehicles (e.g traders of motor vehicles)* ***[Refer discussion on availability of ITC on demo vehicles given below this table.]*** ➢ making taxable supply of transportation of passengers (e.g travel operator offering	❑ ITC on ineligible motor vehicles used for any purpose other than the eligible purposes is not allowed. ❑ ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed. ❑ ITC on motor vehicles other than ineligible motor vehicles (e.g. motor vehicle used for

		transportation services); ➢ Making taxable supply of imparting training on driving such motor vehicles (e.g motor vehicle driving schools).	transportation of goods, dumpers, tippers etc.) used for any purpose is allowed.
(ii)	Vessels and aircrafts	Vessels and aircraft when used for any of the following eligible purposes- ➢ making further taxable supply of such vessels or aircraft; ➢ making taxable supply of transportation of passengers; ➢ making taxable supply of imparting training on navigating such vessels; ➢ making taxable supply of imparting training on flying such aircrafts;	ITC on vessels and aircrafts used for any purpose other than the eligible purposes is not allowed.

		➢ transportation of goods.	
(iii)	General insurance, servicing, repair and maintenance relating to: ➢ Ineligible motor vehicles ➢ Vessels ➢ Aircraft	❑ Such services relating to ineligible motor vehicles, vessels or aircraft when used for eligible purposes ❑ Such services when received by- ○ Manufacturer of ineligible motor vehicles, vessels or aircraft; or ○ Supplier of general insurance services in respect of ineligible motor vehicles, vessels or aircraft insured by him	❑ ITC is not allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is not allowed. ❑ ITC is allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is allowed.
(iv)	Leasing, renting or hiring of motor vehicles, vessels or	❑ Such services when used for making an outward taxable	❑ ITC on leasing, renting or hiring of motor vehicles,

	aircraft on which ITC is not allowed	supply of the same category of services or as an element of a taxable composite or mixed supply ❑ Such services when provided by an employer to its employees under a statutory obligation	vessels or aircraft on which ITC is allowed, is also allowed**. ❑ ITC on such services is allowed in the case of sub-contracting, i.e. when such services are used by the taxpayer who is in the same line of business.



*****The term "leasing" referred in above table refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items.***

Accordingly, availment of ITC is not barred in case of leasing, other than leasing of motor vehicles, vessels and aircrafts[17].

Clarification on availability of input tax credit in respect of demo vehicles which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5)[18]

As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. Therefore, as demo vehicles promote sale of similar type of motor vehicles, they can be considered to be used by the dealer for making

[17] *Circular No. 172/04/2022 GST dated 06.07.2022*
[18] *Circular No. 231/25/2024 GST dated 10.09.2024*

'further supply of such motor vehicles'. Accordingly, input tax credit in respect of demo vehicles is not blocked under clause (a) of section 17(5) of CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause.



(10) ITC on cars purchased by a manufacturing company for official use of its employees is blocked.

(11) ITC on cars purchased by a car dealer for sale to customers is allowed.

(12) ITC on cars purchased by a company engaged in renting out cars for transportation of passengers is allowed.

(13) ITC on cars purchased by a car driving school for imparting training on driving is allowed.

(14) ITC on buses (seating capacity for 24 persons) purchased by a company for transportation of its employees from their residence to office and back, is allowed.

(15) ITC on trucks purchased by a company for transportation of its finished goods is allowed.

(16) ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked.

(17) ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed.

(18) ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes is blocked.

(19) ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed.

(20) ITC on general insurance services taken on cars manufactured by a car manufacturing company is allowed.

(21) A business jet purchased for the official travel of the company's directors is blocked.

(ii) Food & beverages, outdoor catering, health services and other services

S. No.	Goods and/or services on which credit is blocked	Exceptions to goods and/ or services mentioned in column (2) on which credit is allowed	Remarks
(1)	(2)	(3)	(4)
(i)	➢ Food and beverages ➢ Outdoor catering ➢ Beauty treatment ➢ Health services ➢ Cosmetic and plastic surgery ➢ Life insurance and health insurance	❑ Such goods and/or services when used by a registered person for making an outward taxable supply of the same category of goods and/or services or as an element of a taxable composite or mixed supply ❑ Such goods and/or services when provided by an employer to its employees under a statutory obligation	❑ ITC on such goods and/or services is allowed in the case of sub-contracting, i.e. when such goods and/or services are used by the taxpayer who is in the same line of business, e.g. outdoor catering service availed by another outdoor caterer. ❑ When such goods and/or services are provided by the employer to its

			employees without any statutory obligation, ITC thereon is blocked.
(ii)	Membership of a club, health and fitness centre	Such services when provided by an employer to its employees under a statutory obligation	When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is blocked.
(iii)	Travel benefits extended to employees on vacation such as leave or home travel concession		



(22) A manufacturing company purchases food items for being served to its customers, free of cost on its 10th year of incorporation. ITC on such goods is blocked.

(23) AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana.

The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. ITC on such outdoor catering services availed by AB & Co., is allowed.

(24) ITC on outdoor catering services availed by a garment exporter for a marketing event organised for its prospective customers, is blocked.

(25) Outdoor catering service is availed by a company to run a free canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering is allowed.

(26) The Managing Director of a company has taken membership of a club, the fees for which is paid by the company. ITC on such service is

blocked.

(27) A company avails services of a travel agency for organizing a free vacation for its top performing employees. ITC on such services is blocked.

(iii) Works contract services for construction of immovable property [Clause (c) of section 17(5)]

One major input service, ITC on which is blocked is input service relating to construction activity like construction of office building, factory building etc. (except in case of persons like builders, developers and contractors who are undertaking construction for others). However, ITC is available for routine construction related services like repairs, maintenance, renovation etc. of office and factory building. Thus, broadly, ITC of construction services is not available when the expenses are capitalised in the books of account. Here, it needs to be noted that capitalisation of an expense does not depend on whether the taxpayer intends to avail ITC, but on the basis of Accounting Standards and GAAP.

Works contract has been defined in the CGST Act *[See definition under the heading Relevant Definitions]*. Essentially, works contract is a composite supply involving both goods and services. Under the erstwhile laws, definition of works contract included works in relation to both movable and immovable properties. However, under GST law, the ambit of works contract has been **confined only to immovable property**.

Meaning of immovable property

Immovable property has not been defined under the GST law. Therefore, we will have to look for the definition of immovable property in other laws. Section 3(26) of the General Clauses Act, 1897, defines the term immovable property to include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.

The term "attached to the earth" is defined in section 3 of the Transfer of Property Act, 1882 to mean:

(a) rooted in the earth, as in the case of trees and shrubs; [However, the term "immovable property" under the Transfer of Property Act does not cover standing timber, growing crops or grass.]

(b) embedded in the earth, as in the case of walls or buildings.

(c) attached to what is so embedded for the permanent beneficial enjoyment of that to which it is attached.

Under GST law, a composite supply of works contract is treated as supply of services in terms of para 6(a) of Schedule II to the CGST Act.

ITC on works contract services for construction of an immovable property is blocked **EXCEPT WHEN**

- It is an input service for further supply of works contract service (sub-contracting);

  [ITC on works contract services can be availed only by that taxpayer who is in the same line of business, i.e. only a works contractor can avail ITC on works contract services received by him.]

- Immovable property is plant and machinery

  [Plant and machinery affixed permanently to the earth constitutes an immovable property. However, ITC on works contract services used for construction of such plant and machinery is allowed as an exception.]

Meaning of construction

"Construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

Thus, if re-construction, renovation, additions or alterations or repairs are not capitalized, it would not tantamount to construction under GST law. Consequently, ITC on works contract services availed for such construction, which is not capitalized, whether for any immovable property or for any plant and machinery, would be allowed to all the recipients irrespective of their line of business.

Meaning of plant and machinery

"Plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural supports that are used for making outward supply of goods and/or services **and includes such foundation or structural support**

but excludes

land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

Thus, ITC on works contract services availed for construction of eligible plant and machinery is allowed to the recipient irrespective of the line of business of such recipient and irrespective of whether expense is capitalized or not by the recipient.

For instance, ITC on works contract services for construction of machinery fixed to earth by a foundation, would be allowed. However, ITC on works contract services for construction of telecommunication tower(s), would be blocked.



(28) ITC on works contracts services availed by a software company for construction of its office, is blocked.

(29) CD & Co., a works contractor of Noida, has been awarded a contract for construction of a commercial complex in Lucknow. The firm avails services of EF & Co., a local works contractor of Lucknow, for the construction of complex. ITC on such works contract services availed by CD & Co., is allowed.

(30) ITC on works contract services availed by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed.

(31) ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is blocked.

(32) A consulting firm has availed services of a works contractor for repair of its office building. The company has booked such expenditure in its profit and loss account. ITC on such services is allowed.

(33) A telecommunication company has availed services of a works contractor for repair of its office building. The company has capitalized such expenditure. ITC on such services is blocked.



ITC on works contract services for construction of immovable property is available only in the following three situations:

(i) When the works contract service is availed by a works contractor for being used in further providing the works contract service.

(ii) For construction of eligible plant and machinery. In this case, ITC is allowed to all recipients irrespective of their line of business and whether expense capitalized or not.

(iii) When the value of works contract service is not capitalized. In this case, ITC is allowed to all recipients irrespective of their line of business.

(iv) Self-construction of immovable property [Clause (d) of section 17(5)]

So now we know that ITC on works contract services availed by a taxpayer, other than a works contractor, for construction of immovable property (other than plant and machinery) is not available. But what happens if a taxpayer procures goods and services and constructs an immovable property, for being used in the course or furtherance of business, without availing services of a works contractor? Will ITC be allowed in such a case?

The answer is No. ITC is not allowed on goods and/or services received by a taxable person for construction of an immovable property (other than plant and machinery) **on his own account** even though such goods and/or services are used in the course or furtherance of business. Thus, ITC on goods and/or services used in the construction of an immovable property is blocked only in those cases where the taxable person constructs the immovable property for his own use even if the immovable property being constructed is used in the course or

furtherance of his business.

The discussion on terms, 'construction' and 'plant and machinery' for works contract services [Elaborated in point (iii) above] applies to construction on own account also.



ITC on goods and/or services used in construction of immovable property is available only in the following three situations:

(i) For construction of eligible plant and machinery

(ii) When the value of goods and/or services is not capitalized

(iii) When the construction is not on own account



(34) A company buys cement, tiles etc. and avails the services of an architect for construction of its office building. ITC on such goods and services is blocked.

(35) MN & Constructions procures cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients. ITC on such goods and services is allowed to MN & Co.

(36) A company buys cement, tiles etc. and avails the services of an architect for renovation of its office building. The company has booked such expenditure in its profit and loss account. ITC on such goods and services is allowed.

(37) ITC on goods and/or services used by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed.

Clarification on availability of ITC on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5)[19]

Issue: Whether the input tax credit on the ducts and manholes used in network of optical fiber cables (OFCs) for providing telecommunication

[19] *Circular No. 219/13/2024 GST dated 26.06.2024*

services is barred in terms of clauses (c) and (d) of section 17(5), read with Explanation to section 17?

Clarification: Ducts and manholes are basic components for the optical fiber cable (OFC) network used in providing telecommunication services. The OFC network is generally laid with the use of PVC ducts/sheaths in which OFCs are housed and service/connectivity manholes, which serve as nodes of the network, and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance. In view of the Explanation in section 17, it appears that ducts and manholes are covered under the definition of "plant and machinery" as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another.

Moreover, ducts and manholes used in network of optical fiber cables (OFCs) have not been specifically excluded from the definition of "plant and machinery" in the Explanation to section 17 as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.

Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in network of optical fiber cables (OFCs), either under clause (c) or under clause (d) of section 17(5).

(v) Inward supplies charged to tax under composition levy [Clause (e) of section 17(5)]

A supplier registered under composition scheme cannot collect tax from its customers. Thus, such supplier issues bill of supply and not a tax invoice. A composition supplier pays a lumpsum tax at a specified rate on its quarterly turnover.

Tax paid on goods and/or services under composition scheme is not available as ITC for the recipient.

Since a composition supplier cannot collect any tax on its supplies, from the recipient of its supplies, it is obvious that no ITC can be availed in

respect of such supplies by the recipients. Nevertheless, section 17(5)(e) specifically blocks the ITC on inward supplies received by a taxable person from a composition supplier.

(vi) Inward supplies received by a non-resident taxable person [Clause (f) of section 17(5)]

Non-resident taxable person has been defined in the CGST Act *[See the definition under the heading Relevant Definitions]*. Essentially, a non-resident taxable person has no fixed place of business in India but he sporadically supplies goods or services in India.

Tax paid on goods and/or services received by such non-resident taxable person, is not available as ITC. However, tax paid by him on **imported goods** is allowed as ITC.



Whereas ITC on goods imported by a non-resident taxable person is allowed, ITC on services imported by him is blocked.

(vii) Inward supplies used/intended to be used for purpose of CSR [Clause (fa) of section 17(5)]

ITC shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility (CSR) referred to in section 135 of the Companies Act, 2013.

CSR is a strategy undertaken by companies to not just grow profits, but to take an active and positive social role in the world around them. Corporate social responsibility programs aim to give structure to a company's efforts to give back to the community, participate in philanthropic causes, and provide positive social value. Businesses increasingly turn to CSR to make a difference and build a positive brand around their company.

(viii) Inward supplies used for personal consumption [Clause (g) of section 17(5)]

One of the foremost conditions laid down in section 16 for availing ITC on goods and/or services is that such goods and/or services should be used **in the course or furtherance of business.** Further, where goods and/or services are used partly for the purpose of any business and partly for other purposes, section 17(1) restricts the credit to so much of the ITC as is attributable to business purposes.

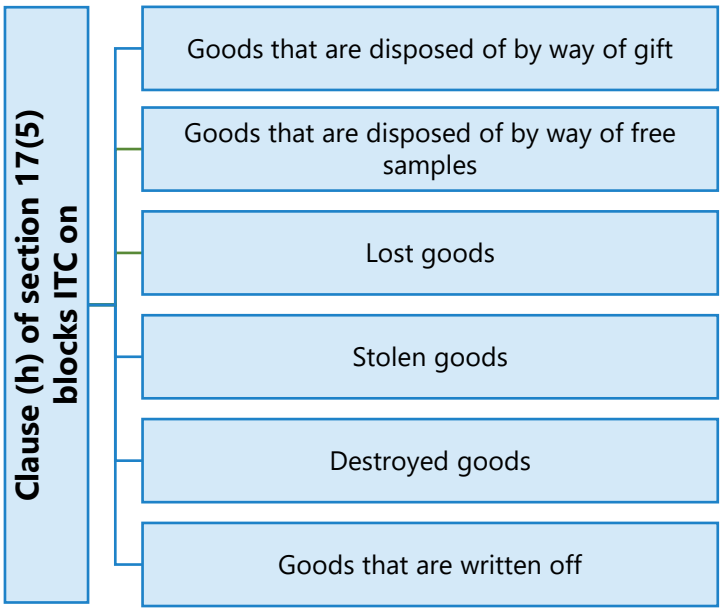
Furthermore, section 17(5)(g) also specifically blocks the ITC on goods and/or service used for personal consumption.

The term 'personal consumption' has not been defined in the GST law. Thus, it may be understood in the general sense which would mean non-business use.



(38) Mr. X owns a grocery store. He procures rice, wheat and biscuits for being sold in its store. Out of the inventory so purchased, he gives 10 kgs each of rice and wheat to his wife for household use. Being used for personal consumption, ITC on 10 kg of rice and 10 kg of wheat is blocked.

(ix) Free samples, gifts, goods lost/stolen etc. [Clause (h) of section 17(5)]



ITC in respect of goods that are disposed of by way of gift or free samples is not available. Also, ITC is blocked on lost goods, stolen goods, destroyed goods and goods that are written off. This is because principally, ITC is available only for payment of tax on output supply. If no tax is payable on output supply, ITC on inputs/input services/capital goods relating to such output supply is not eligible. Hence, ITC on gifts and free samples is blocked as no tax is payable on its outward supply. In case of lost/destroyed/stolen written off goods also, ITC is not available as these goods cannot be said to have been used for making a taxable supply.

Meaning of 'gift'

The term gift has not been defined in the GST law. Therefore, we will have to look for the definition of gift in other laws. Section 122 of the Transfer of Property Act, 1882, defines gift as transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee.

In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right.

Meaning of 'sample'

Sample is also not defined in the GST law. The dictionary meaning of sample is "a small part or quantity intended to show what the whole is like". In commercial parlance, samples are given to prospective customers to enable them to test the quality of the item before making a decision to buy the same.

ITC in the hands of the supplier in respect of sales promotional schemes

Circular No. 92/11/2019 GST dated 07.03.2019 has clarified the entitlement of ITC in the hands of supplier in respect of various sales promotional schemes as under *[Taxability of such schemes has been discussed at relevant places in Chapter 2: Supply Under GST and Chapter 7: Value of Supply in Module 1 of the Study Material.]*:

A. Samples and free gifts

Samples which are supplied free of cost, without any consideration, do not qualify as "supply" under GST, except where the activity falls within the ambit of Schedule I of the CGST Act.

ITC shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of "supply" on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail the ITC.

B. Buy one get one free offer

This is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8.

ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including 'Buy more, save more' offers

Discounts offered by the suppliers to customers (including staggered discount under "Buy more, save more" scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

However, the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the

supply of goods or services or both on such discounts.

D. Secondary discounts

These are the discounts which are not known at the time of supply or are offered after the supply is already over. Such discounts shall not be excluded while determining the value of supply. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

ITC reversal when return of time expired medicines/drugs are treated as fresh supply

The common trade practice in the pharmaceutical sector is that the drugs or medicines (hereinafter referred to as "goods") are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. Such goods have a defined life term which is normally referred to as the date of expiry. Such goods which have crossed their date of expiry are colloquially referred to as **time expired goods** and are returned to the manufacturer, on account of expiry, through the supply chain.

Circular No. 72/46/2018 GST dated 26.10.2018 has clarified that the retailer/ wholesaler can return the time expired goods, **either by treating the same as fresh supply or by issuing credit notes**[20].

Return of time-expired goods by treating the same as fresh supply

In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it is as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, "return supply"). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail ITC of the tax levied on the said return supply subject to the fulfillment of the conditions specified in section 16.

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[20]*The procedure for return of time expired drugs or medicines by issuing credit note is covered in Chapter 10: Tax Invoice; Credit and Debit Notes in this Module of the Study Material.*

In case the person returning the time-expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply. In case the person returning the time-expired goods is an unregistered person, he may return the said goods by issuing any commercial document without charging any tax on the same.

Where the goods returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h). It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

The clarification may also be applicable to return of goods for reasons other than being time expired.



(39) If a manufacturer has availed ITC of ₹10/- at the time of manufacture of medicines valued at ₹ 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is ₹ 15/-. So, when the time expired goods are destroyed by the manufacturer, he would be required to reverse ITC of ₹ 15/- and not of ₹ 10/.

(x) Tax paid in fraud cases, detention, confiscation etc. [Clause (i) of section 17(5)]

Tax paid under sections 74, 129 and 130[21]is not available as ITC. These sections prescribe the provisions relating to tax paid as a result of evasion of taxes, or upon detention of goods or conveyances in transit, or towards redemption of confiscated goods/conveyances.

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[21] *Declaration is to be filed in Form GST ITC-01 where a registered person ceases to pay composition tax and switches to regular scheme or his exempt supplies become taxable supplies.*

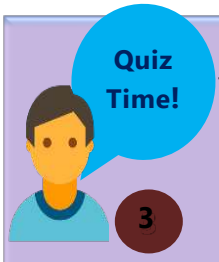


Cheeku Ltd., a registered person, is engaged in manufacturing of taxable goods. It provides following details in relation to GST paid on inward supplies procured by it during the month of January:

Raw material purchased (to be received in the month of February)	₹ 2,00,000
Capital goods purchased (Invoice for one of the machines is missing. GST paid on the same is ₹ 70,000)	₹ 4,80,000
Free samples distributed	₹ 80,000
Trucks used for transport of minerals	₹ 1,20,000

Determine the amount of ITC that can be availed by Cheeku Ltd. for the month of January. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

(a)	₹ 7,30,000	(b)	₹ 5,30,000	(c)	₹ 6,80,000	(d)	₹ 7,60,000



Dheeru Ltd., a registered person, is engaged in manufacturing of toys. It provides following details in relation to GST paid on inward supplies procured by it during the month of October:

Particulars	**GST (₹)**
Raw material purchased	2,00,000
Construction of pipelines laid outside the factory premises	3,00,000
Insurance charges paid for trucks used for transportation of goods	80,000

Determine the amount of ITC that can be availed by Dheeru Ltd. for the month of October. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

(a)	₹ 5,00,000	(b)	₹ 2,80,000	(c)	₹ 3,80,000	(d)	₹ 5,80,000

5. CREDIT IN SPECIAL CIRCUMSTANCES [SECTION 18]

STATUTORY PROVISIONS

Section 18	Availability of credit in special circumstances	
Sub-section	**Clause**	**Particulars**
(1)	Subject to such conditions and restrictions as may be prescribed—	
	(a)	a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;
	(b)	a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;
	(c)	where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:
		Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;

	(d)	*where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:*
		Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.
(2)	*A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.*	
(3)	*Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.*	
(4)	*Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:*	
	Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.	

(5)	*The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.*
(6)	*In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:*
	Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

Chapter V: Input Tax Credit of CGST Rules

Rule 40	***Manner of claiming credit in special circumstances***
(1)	*The input tax credit claimed in accordance with the provisions of sub-section (1) of section 18 on the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, shall be subject to the following conditions, namely -*
(a)	*the input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person.*
(b)	*the registered person shall within a period of thirty days from the date of becoming eligible to avail the input tax credit under sub-section (1) of section 18, or within such further period as may be extended by the Commissioner by a notification in this behalf, shall make a declaration, electronically, on the common portal in* ***FORM GST ITC-01***

		to the effect that he is eligible to avail the input tax credit as aforesaid:	
		Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.	
	(c)	*the declaration under clause (b) shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods–*	
		(i)	*on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under clause (a) of sub-section (1) of section 18;*
		(ii)	*on the day immediately preceding the date of the grant of registration, in the case of a claim under clause (b) of sub-section (1) of section 18;*
		(iii)	*on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under clause (c) of sub-section (1) of section 18;*
		(iv)	*on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under clause (d) of sub-section (1) of section 18;*
	(d)	*the details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds two lakh rupees;*	
	(e)	*the input tax credit claimed in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 18 shall be verified with the corresponding details furnished by the corresponding supplier in* ***FORM GSTR-1 and in FORM GSTR-***	

		1A, if any, *or as the case may be, in* ***FORM GSTR- 4,*** *on the common portal.*
(2)		*The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of sub-section (6) of section 18, shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.*
Rule 41		***Transfer of credit on sale, merger, amalgamation, lease or transfer of a business***
(1)		*A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in* ***FORM GST ITC-02****, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:*
		Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.
		Explanation: - For the purpose of this sub-rule, it is hereby clarified that the "value of assets" means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.
(2)		*The transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.*
(3)		*The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in* ***FORM GST ITC-02*** *shall be credited to his electronic credit ledger.*
(4)		*The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.*

Rule 41A	**Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory**	
(1)	*A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such separate registrations, the details in* ***FORM GST ITC-02A*** *electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:*	
	Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.	
	Explanation.- For the purposes of this sub-rule, it is hereby clarified that the 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.	
(2)	*The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilised input tax credit specified in* ***FORM GST ITC-02A*** *shall be credited to his electronic credit ledger.*	
Rule 44	**Manner of reversal of credit under special circumstances**	
(1)	*The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18 or sub-section (5) of section 29, be determined in the following manner, namely,-*	
	(a)	*for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding*

		invoices on which credit had been availed by the registered taxable person on such inputs;
	(b)	*for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.*
(2)	*The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.*	
(3)	*Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of the goods on the effective date of the occurrence of any of the events specified in sub-section(4)of section 18 or, as the case may be, sub-section (5) of section 29.*	
(4)	*The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in* ***FORM GST ITC-03,*** *where such amount relates to any event specified in sub-section (4) of section 18 and in* ***FORM GSTR-10,*** *where such amount relates to the cancellation of registration.*	
(5)	*The details furnished in accordance with sub-rule (3) shall be duly certified by a practicing chartered accountant or cost accountant.*	
(6)	*The amount of input tax credit for the purposes of sub-section (6) of section 18 relating to capital goods shall be determined in the same manner as specified in clause (b) of sub-rule (1) and the amount shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax:*	
	Provided that where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in ***FORM GSTR-1****.*	



ANALYSIS

Section 18 provides for

(1) entitlement of ITC on inputs in stock and inputs contained in finished goods or work-in-progress, and in last two cases in respect of capital goods as well (i) at the time of registration/voluntary registration,(ii) on coming into regular tax-paying status by exiting composition levy, (iii) on coming into tax-paying status on account of exempt supply becoming taxable supply for a registered person

(2) reversal of ITC on inputs in stock and inputs contained in finished goods or work-in-progress and capital goods (i) at the time of exit from regular tax-paying status by opting for composition levy, (ii) at the time of exit from tax-paying status on account of taxable supply becoming exempt supply for a registered person

(3) amount payable on supply of capital goods or plant and machinery on which ITC has been taken

(4) transfer of ITC on account of change in constitution of the registered person

(i) Entitlement of ITC at the time of registration/voluntary registration or switching to regular tax paying status or coming into tax-paying status [Sub-sections (1) and (2) of section 18 read with rule 40]

The credit on inputs held in stock and contained in semi-finished goods or finished goods held in stock and capital goods at the time of registration/voluntary registration or coming into regular tax/tax-paying status is available in the following manner:

S. No.	Persons eligible to take credit	Goods entitled to ITC		Restriction/ conditions
		Inputs held in stock/ capital goods	As on	
(1)	(2)	(3)	(4)	(5)
1.	Person who has applied for	**Inputs** held in stock and inputs	The day immediately preceding the	➔ ITC to be availed within 1 year from the

	registration within 30 days from the date on which he becomes liable to registration and has been granted such registration	contained in semi-finished or finished goods held in stock	date from which he becomes liable to pay tax	date of the issue of the tax invoice by the supplier.
2.	Person who is not required to register, but obtains **voluntary registration**	**Inputs** held in stock and inputs contained in semi-finished or finished goods held in stock	The day immediately preceding the date of registration	
3.	Registered person **who ceases to pay composition tax and switches to regular scheme**	**Inputs** held in stock and inputs contained in semi-finished or finished goods held in stock **and capital goods**	The day immediately preceding the date from which he becomes liable to pay tax under regular scheme	➔ ITC on capital goods will be reduced by 5% per quarter of a year or part of the year from the date of invoice. ➔ ITC claimed shall be verified with the corresponding details furnished by the corresponding
4.	**Registered person** whose exempt supplies become taxable	**Inputs** held in stock and inputs contained in semi-finished or finished goods held in	The day immediately preceding the date from which such supply becomes	

	supplies	stock relatable to such exempt supply **and capital goods exclusively used for such exempt supply**	taxable	supplier. ➔ ITC to be availed within 1 year from the date of the issue of the tax invoice by the supplier.

In all the above cases, the registered person has to make an electronic declaration in the prescribed form[22]on the common portal, clearly specifying the details relating to the inputs held in stock, inputs contained in semi-finished or finished goods held in stock and capital goods on the days mentioned in column (4) of table above. The declaration is to be filed within 30 days(extendable by Commissioner/Commissioner of State GST/Commissioner of UTGST) from the date when the registered person becomes eligible to avail ITC. If the claim of ITC pertaining to CGST, SGST/UTGST, IGST put together exceeds ₹ 2,00,000, the declaration needs to be duly certified by a practicing Chartered Accountant/Cost Accountant.



(40) 'Z' becomes liable to pay tax on 1st August and has obtained registration on 15th August w.e.f. 1st August. 'Z' is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 31st July. 'Z' cannot take ITC on capital goods.



(41) 'A' applies for voluntary registration on 5th June and obtains registration w.e.f.22ndJune. 'A' is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 21st June. 'A' cannot take ITC on capital goods.



(42) 'B', a registered taxable person, was paying tax under composition scheme upto 30th July. However, w.e.f. 31st July, 'B' becomes liable to pay tax under regular scheme. 'B' will be eligible

[22] *Declaration is to be filed in Form GST ITC-01 where a registered person ceases to pay composition tax and switches to regular scheme or his exempt supplies become taxable supplies.*

for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of the invoice.

(ii) Reversal of ITC on switching to composition levy or exit from tax-paying status [Section 18(4) read with rule 44]

- Section 18(4) requires reversal of ITC when a registered person who has availed ITC switches to composition levy or when his supplies get wholly exempted from tax.
- ITC on **inputs** should be reversed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs. If invoices are not available, ITC can be reversed on the basis of the prevailing market price of such goods on the date of switch over/exemption. The details furnished on the basis of prevailing market value need to be duly certified by a practicing Chartered Accountant/ Cost Accountant.
- ITC involved in the remaining useful life (in months) of the **capital goods** should be reversed on *pro-rata* basis, taking the useful life as 5 years.



(43) Capital goods have been in use for 4 years, 6 month and 15 days. The useful remaining life in months = 5 months ignoring a part of the month.

ITC taken on such capital goods = C

ITC attributable to remaining useful life that should be reversed

= C x 5/60

- The registered person has to debit the electronic credit or cash ledger by the reversal amount in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods on the day immediately preceding the date of switch over/ date of exemption.
- Balance of ITC, if any, lying in the electronic credit ledger lapses.
- Cancellation of registration also requires reversal of ITC on inputs held in stock/ contained in semi-finished goods or finished goods held in

stock, capital goods or plant and machinery on the day immediately preceding the cancellation date. The amount to be reversed on inputs and capital goods is computed in the manner as applicable for sub-sections (4) of section 18 (discussed above).

- ITC to be reversed on inputs and capital goods is calculated separately for ITC of CGST, SGST/UTGST and IGST.
- The reversal amount is added to the output tax liability of the registered person.

(iii) Amount payable on supply of capital goods or plant and machinery on which ITC has been taken [Section 18(6) read with rule 40(2) & rule 44(6)]

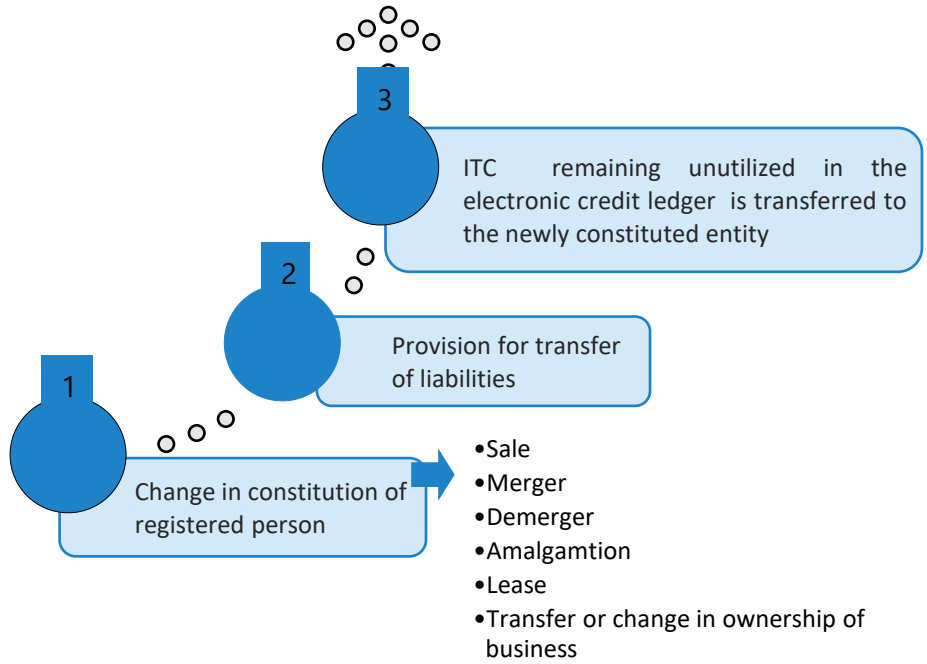
- If capital goods or plant and machinery on which ITC has been taken are supplied outward by the registered person, he must pay an amount that is the **higher of the following:**
  - ✓ ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods (i.e., ITC pertaining to remaining useful life of the capital goods), or
  - ✓ tax on transaction value of such capital goods/plant & machinery
- ITC pertaining to remaining useful life of the capital goods should be computed separately for ITC of CGST, SGST/UTGST and IGST.
- Where the amount of ITC remaining so determined exceeds the tax payable on the transaction value of the capital goods, such amount need to be paid and thus, should be added to the output tax liability.
- If refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value.

***Note:** Under rule 44(6), ITC involved in the remaining useful life (in months) of the capital goods is reversed on *pro rata* basis, taking the useful life as 5 years.

(iv) Transfer of ITC on account of change in constitution of registered person [Section 18(3) read with rule 41]

In case of sale, merger, demerger, amalgamation, lease, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities in such change of constitution. *Circular No. 96/15/2019 GST dated 28.03.2019*has clarified that transfer or change in the ownership of business includes transfer or change in the ownership due to death of the sole proprietor.

The above provisions have been explained with the help of the diagram on next page:



In the case of demerger, ITC will be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. Here, **"value of assets"** means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should duly record the inputs and capital goods so transferred in his books of account.

(v) Transfer of ITC on obtaining separate registrations for multiple places of business within a State/ Union Territory [Rule 41A]

Section 25 enables a taxpayer to obtain separate registrations for multiple places of business within a State/ Union territory *[Provisions of section 25 are discussed under Chapter 9: Registration in this Module of the Study Material*]. The registered person (transferor), having separate registrations for multiple places of business within a State/Union Territory, can transfer the unutilised ITC (wholly or partly) lying in his electronic credit ledger to any or all of the newly registered place(s) of business in the ratio of the value of assets held by them at the time of registration. Here, the 'value of assets' means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations. Upon acceptance of such details by the newly registered person (transferee) on the common portal, the unutilised ITC gets credited to his electronic credit ledger.



Vrinda Enterprises is a trader of electronic items in Haryana. It opted for the composition scheme on 1st April of current financial year. However, with effect from 1st July, it switched to regular scheme of paying the tax since its aggregate turnover crossed ₹ 150 lakh. The stock of goods (purchased during last 6 months) and machinery (purchased on 3rd May) on 30th June is ₹ 16,00,000 and ₹ 6,20,000 respectively. Compute the amount of ITC that can be availed by Vrinda Enterprises assuming the applicable rate of GST to be 18%.

(a)	Nil	(b)	₹ 3,94,020	(c)	₹ 3,96,000	(d)	₹ 2,88,000

6. HOW ITC IS UTILISED



STATUTORY PROVISIONS

Section 49	Payment of tax, interest, penalty and other amounts (Relevant extract)	
Sub-section	**Clause**	**Particulars**
(5)	The amount of input tax credit available in the electronic credit ledger of the registered person on account of––	
	(a)	integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;
	(b)	the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
	(c)	the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
		Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;
	(d)	the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
		Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax

		credit on account of central tax is not available for payment of integrated tax;
	(e)	*the central tax shall not be utilised towards payment of State tax or Union territory tax; and*
	(f)	*the State tax or Union territory tax shall not be utilised towards payment of central tax.*
Section 49A	***Utilisation of input tax credit subject to certain conditions***	
	Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.	
Section 49B	***Order of utilisation of input tax credit***	
	Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.	
Chapter IX: Payment of Tax of the CGST Rules		
Rule 86A	***Conditions of use of amount available in electronic credit ledger***	
(1)	*The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-*	
	(a)	*the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-*

		i.	*issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or*
		ii.	*without receipt of goods or services or both; or*
	(b)	*the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or*	
	(c)	*the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or*	
	(d)	*he registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,*	
	may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.		
(2)	*The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.*		
(3)	*Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.*		
Rule 86B	**Restrictions on use of amount available in electronic credit ledger**		
	Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of		

	ninety-nine per cent. of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:		
	Provided that the said restriction shall not apply where -		
	(a)	*the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired; or*	
	(b)	*the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of sub-section (3) of section 54; or*	
	(c)	*the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or*	
	(d)	*the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or*	
	(e)	*the registered person is -*	
		(i)	*Government Department; or*
		(ii)	*a Public Sector Undertaking; or*
		(iii)	*a local authority; or*
		(iv)	*a statutory body:*

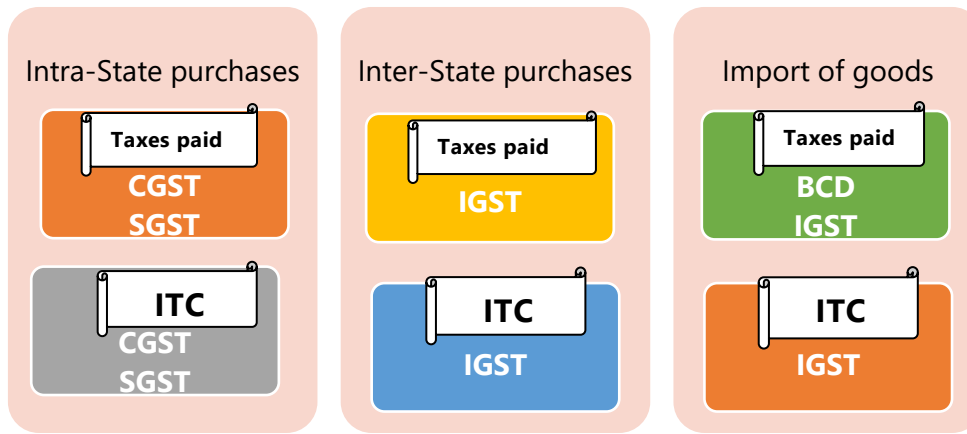
	Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit
Rule 88A	***Order of utilization of input tax credit***
	Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order.
	Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.



ANALYSIS

ITC is credited to a registered person's electronic credit ledger. A taxable person is entitled for ITC of CGST, SGST/UTGST and IGST depending upon the nature of supplies received by him.

To illustrate, a supplier making purchases intra-State, inter-State and via import (of goods) is eligible for ITC as under:



The person may use the ITC to pay his output tax liability. As we know that Indian GST is a dual GST wherein two taxes viz, CGST and SGST/UTGST are levied concurrently on a supply transaction. While the CGST revenue accrues to Central Government, SGST and UTGST revenue accrue to respective State Government and Union Territory, respectively. Hence, ITC of CGST and SGST/UTGST is not inter-changeable and thus, **cross utilisation of CGST and SGST/UTGST is not permissible**.

IGST is a transitory tax. IGST paid by taxpayer initially goes to the Central Clearing Authority. ITC of IGST can be utilised for payment of CGST or SGST/UTGST (or *vice versa*). Thus, cross utilization of IGST and CGST, SGST/UTGST is permissible. Flexibility has been provided to the taxpayer to utilise ITC of IGST for first payment of IGST and then towards payment of CGST and/or SGST/UTGST in any proportion and in any order subject to the condition that the entire input tax credit on account of Integrated tax is completely exhausted before the input tax credit on account of Central Tax or State/Union territory tax can be utilized. If ITC of IGST is used for payment of SGST/UTGST (or *vice versa*), corresponding debit/credit is made to respective State Government/Union Territory.

Sections 49(5), 49A, 49B, rule 88A and *Circular No. 98/17/2019 GST dated 23.04.2019* together prescribe the sequence of utilisation of ITC. A combined reading of such provisions shows that the order of utilization of ITC is as per the order (of numerals) given below:

ITC of	**Output IGST liability**	**Output CGST liability**	**Output SGST/ UTGST liability**
IGST	(I)	(II) – In any order and in any proportion	
(III) ITC of IGST to be completely exhausted mandatorily			
CGST	(V)	(IV)	Not permitted
SGST/UTGST	(VII) Only after ITC of CGST has been utilized fully	Not permitted	(VI)
The numerals given above can be further explained in the following manner:			

(I)	IGST credit should first be utilized towards payment of IGST.
(II)	Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion, i.e. remaining ITC of IGST can be utilized – • first towards payment of CGST and then towards payment of SGST; or • first towards payment of SGST and then towards payment of CGST; or • towards payment of CGST and SGST simultaneously in any proportion e.g. 50: 50, 30: 70, 40: 60 and so on.
(III)	Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.
(IV) & (V)	ITC of CGST should be utilized for payment of CGST and IGST in that order. ITC of CGST cannot be utilized for payment of SGST/UTGST
(VI) & (VII)	ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully. ITC of SGST/UTGST cannot be utilized for payment of CGST.

- Cross-utilization of credit is available only between CGST - IGST and, SGST/UTGST - IGST.
- CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.
- ITC of IGST need to be exhausted fully before proceeding to utilize the ITC of CGST, SGST/UTGST.



(44) Amount of ITC available and output tax liability under different tax heads

Head	Output tax liability (₹)	ITC (₹)
IGST	1000	1300
CGST	300	200
SGST/UTGST	300	200

Total	**1600**	**1700**

Option 1

ITC of	Discharge of output IGST liability (₹)	Discharge of output CGST liability (₹)	Discharge of output SGST/UTGST liability (₹)	Balance of ITC (₹)
IGST	1000	200	100	0
ITC of IGST has been completely exhausted				
CGST	0	100	-	100
SGST/UTGST	0	-	200	0
Total	**1000**	**300**	**300**	**100**

Option 2

ITC of	Discharge of output IGST liability (₹)	Discharge of output CGST liability (₹)	Discharge of output SGST/UTGST liability (₹)	Balance of ITC (₹)
IGST	1000	100	200	0
ITC of IGST has been completely exhausted				
CGST	0	200	-	0
SGST/UTGST	0	-	100	100
Total	**1000**	**300**	**300**	**100**

Option 3

ITC of	Discharge of output IGST liability (₹)	Discharge of output CGST liability (₹)	Discharge of output SGST/UTGST liability (₹)	Balance of ITC (₹)
IGST	1000	150	150	0
ITC of IGST has been completely exhausted				
CGST	0	150	-	50
SGST/UTGST	0	-	150	50
Total	**1000**	**300**	**300**	**100**

There can be other options also for utilization of ITC of IGST against CGST and SGST liabilities. In this example, three options for utilizing ITC of IGST against CGST and SGST liabilities are shown.

Restrictions on utilisation of ITC [Rule 86A]

The Commissioner/ an officer (not below the rank of an Assistant Commissioner) authorised by him is empowered to impose restrictions on utilization of ITC available in the electronic credit ledger if he has **reasons to believe** that such ITC has been fraudulently availed or is ineligible.

The restrictions can be imposed in the following circumstances:

(i) ITC has been availed by the registered person on the basis of tax invoices/debit notes/prescribed documents -

- issued by a non-existent registered person (supplier) or by a supplier not conducting any business from the place declared in registration; or
- without actual receipt of goods or services or both; or
- in respect of any supply the tax in respect of which has not been paid to the Government

(ii) the registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or

(iii) the registered person availing ITC is not in possession of tax invoice/debit note or any other prescribed valid document for it.

If the ITC is so availed, the restrictions can be imposed by not allowing such ITC to be used for discharging any liability under section 49 or not allowing refund of any unutilised amount of such ITC. Such restrictions can be imposed for a period up to 1 year from the date of imposing such restrictions. However, the Commissioner/officer authorised by him, can withdraw such restriction if he is satisfied that conditions for imposing the restrictions no longer exist**.**

Restrictions on the use of amount available in electronic credit ledger [Rule 86B]

Rule 86B restricts the use of ITC available in the electronic credit ledger for discharging output tax liability. The aforesaid rule starts with a non-obstante clause and thus, has an over-riding effect on any other provisions of the CGST Rules.

❑ Applicability of rule 86B

- ❖ Rule 86B is applicable to the registered person having value of taxable supply (other than exempt supply and zero-rated supply) in a month exceeding ₹ 50 lakh.
- ❖ Therefore, in cases wherein value of taxable supply in a month is upto ₹ 50 lakh, then this restriction would not be applicable.

❑ Nature of restriction imposed

The registered person to whom the said rule is applicable cannot use ITC to discharge the output tax liability in excess of 99% of such tax liability. In other words, amount available in electronic credit ledger shall be utilized only to the extent of 99% of the output tax liability while discharging such tax liability. Balance 1% of the output tax liability needs to be discharged from electronic cash ledger.

Minimum 1% of the output tax liability be discharged using electronic cash ledger

The above restriction can be explained with the help of numerical example:



(45) The total value of inter-State supply of Raman & Sons for the month of February is of ₹ 100 lakh. Said supply is taxable @ 18% IGST. Thus, total output tax liability of Raman & Sons is ₹ 18 lakh. Amount available in electronic credit ledger is ₹ 20 lakh (IGST).

In terms of restriction imposed by rule 86B, Raman & Sons can discharge 99% of its output tax liability, i.e. ₹ 17,82,000 (99% of ₹ 18,00,000) from the amount available in electronic credit ledger. However, it has to mandatorily discharge the balance 1% of the output tax liability i.e. ₹ 18,000 (1% of ₹ 18,00,000) through electronic cash ledger only.

❑ Exceptions to rule 86B

In order to strike a balance between restricting potential misuse of ITC and providing relief to compliant taxpayers, few exceptions to rule 86B have been carved out. They take into account different circumstances and ensure that taxpayers who have fulfilled certain criteria are not unduly burdened by the restrictions imposed by rule 86B.

➢ Payment of income tax of more than ₹ 1 lakh

Restriction under rule 86B is not applicable in cases where the below mentioned person(s) have paid a sum of more than ₹ 1 lakh as income tax (under the Income -tax Act, 1961) in each of the last 2 FYs for which the time limit to file return of income under section 139(1) of the Income-tax Act has expired:

- ❖ Registered person /proprietor/Karta/managing director/any of its two partners
- ❖ Whole-time directors,
- ❖ Members of Managing Committee of Associations
- ❖ Board of Trustees

➢ Receipt of refund of input tax credit of more than ₹ 1 lakh

Rule 86B is not applicable where the registered person has received a refund amount of more than ₹ 1 lakh on account of unutilized ITC under:

- ❖ zero-rated supplies made without payment of tax
- ❖ inverted duty structure

It is pertinent to note that refund should have been received in preceding FY.

➢ Payment of output tax liability through electronic cash ledger in excess of 1% of total output tax liability in current FY

If the registered person has discharged his output tax liability through the electronic cash ledger for an amount in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the

current financial year, the restrictions under rule 86B shall not apply.

This exception provides relief to registered persons who have consistently made substantial cash payments towards their GST liabilities. The total cash payment of GST made by the registered person is considered cumulatively for all preceding months of the current FY. The cumulative approach ensures that the registered person is given credit for its consistent cash payments throughout the year, rather than assessing each month in isolation.



(46) Assuming a scenario wherein in the current FY upto September month, the value of outward supply is ₹ 80 lakh. Output tax liability discharged through electronic cash ledger till August month is ₹ 1 lakh. Rule 86B would not be applicable in the September month even though the value of supply during this month exceeds ₹ 50 lakh, since cumulative payment of tax made in cash is more than 1% of total output tax liability (1% of ₹ 80 lakh is ₹ 80,000).

It is pertinent to note that GST liability paid under reverse charge mechanism should not be taken into account while calculating the total output liability paid through electronic cash ledger.

➢ Specified registered persons

Rule 86B is not applicable in case of below-mentioned registered person:

- ❖ Government Department; or
- ❖ a Public Sector Undertaking; or
- ❖ a local authority; or
- ❖ a statutory body.

However, Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.



5

Dua & Co made an outward inter-State supply of ₹ 80 lakh in the month of March. During the month, it purchased raw material worth ₹ 70 lakh and procured cement of ₹ 5 lakh for making foundation and structural support to a plant and machinery. Assuming that the opening balance of ITC for IGST for the relevant period is ₹ 2 lakh and all inward and outward supplies undertaken in the month of March are inter-State, compute the amount of net IGST payable in cash, if any, for the month of March. Rate of GST applicable is 18%. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

(a) ₹ 14,400	(b) Nil	(c) ₹ 14.40 lakh	(d) ₹ 9,000

ILLUSTRATION 2

ABC Ltd., registered under GST, is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S. No.	Items	GST (₹)
(i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw material	2,00,000
(iv)	Confectionery items. These items were supplied free of cost to the customers in a customer meet organized by the company	25,000

Determine the amount of ITC that can be availed by ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

ANSWER

Computation of ITC that can be availed by with ABC Co. Ltd. for the month of July

S. No.	Items	ITC (₹)
(i)	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	5,20,000
(ii)	Trucks used for the transport of raw material [ITC on motor vehicles used for transportation of goods is not blocked under section 17(5)(a)]	1,00,000
(iii)	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	2,00,000
(iv)	Confectionery items for consumption of customers at customers meet [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
	Total ITC	8,20,000

ILLUSTRATION 3

XYZ Ltd., registered under GST, is engaged in manufacture of taxable goods. Compute the ITC that can be availed by XYZ Ltd. for the month of October from the following particulars:-

S. No.	Inward supplies	GST (₹)	Remarks
(i)	Inputs 'A'	1,00,000	One invoice on which GST payable was ₹ 10,000, is missing

(ii)	*Inputs 'B'*	*50,000*	*Inputs are to be received in two lots. First lot has been received in October*
(iii)	*Capital goods*	*1,20,000*	*XYZ Ltd. has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.*
(iv)	*Input services*	*2,25,000*	*One invoice dated 20th January on which GST payable was ₹50,000 was missing and has been found in October*

Note:

(i) Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

(ii) The annual return for the previous financial year was filed on 15th September.

ANSWER

Computation of ITC that can be availed by XYZ Ltd. for the month of October

S. No.	Inward supplies	ITC (₹)
(i)	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	90,000
(ii)	Inputs 'B' [When inputs are received in lots, ITC can be availed only on receipt of last lot-First proviso to section 16(2)]	Nil
(iii)	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
(iv)	Input services	1,75,000

	[As per section 16(4), ITC on an invoice cannot be availed after 30th November following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the previous financial year has been filed on 15th September (prior to 30th November), ITC on the invoice pertaining to previous financial year cannot be availed after 15th September]	
	Total ITC	**2,65,000**

ILLUSTRATION 4

XT Pvt. Ltd., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:

Particulars	***Amount (₹)***
Intra-State supply of goods	*8,00,000*
Inter-State supply of goods	*3,00,000*

It has also furnished the following information in respect of purchases made by it in that tax period:

Particulars	***Amount (₹)***
Intra-State purchases of goods	*2,00,000*
Inter-State purchases of goods	*50,000*

The company has following opening balance of ITCs for the tax period:

Particulars	***Amount (₹)***
CGST	*57,000*
SGST	*Nil*
IGST	*70,000*

Note:

(i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.

(ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.

(iii) All the conditions necessary for availing the ITC have been fulfilled.

Compute the minimum GST, payable in cash, by XT Pvt. Ltd. for the tax period. Make suitable assumptions as required.

ANSWER

Computation of GST payable on outward supplies

S.No.	Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
(i)	Intra-State supply of goods for ₹ 8,00,000	72,000	72,000		1,44,000
(ii)	Inter-State supply of goods for ₹ 3,00,000			54,000	54,000
	Total GST payable				**1,98,000**

Computation of total ITC

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	57,000	Nil	70,000
Add: ITC on Intra-State purchases of goods valuing ₹ 2,00,000	18,000	18,000	Nil
Add: ITC on Inter-State purchases of goods valuing ₹ 50,000	Nil	Nil	9,000
Total ITC	**75,000**	**18,000**	**79,000**

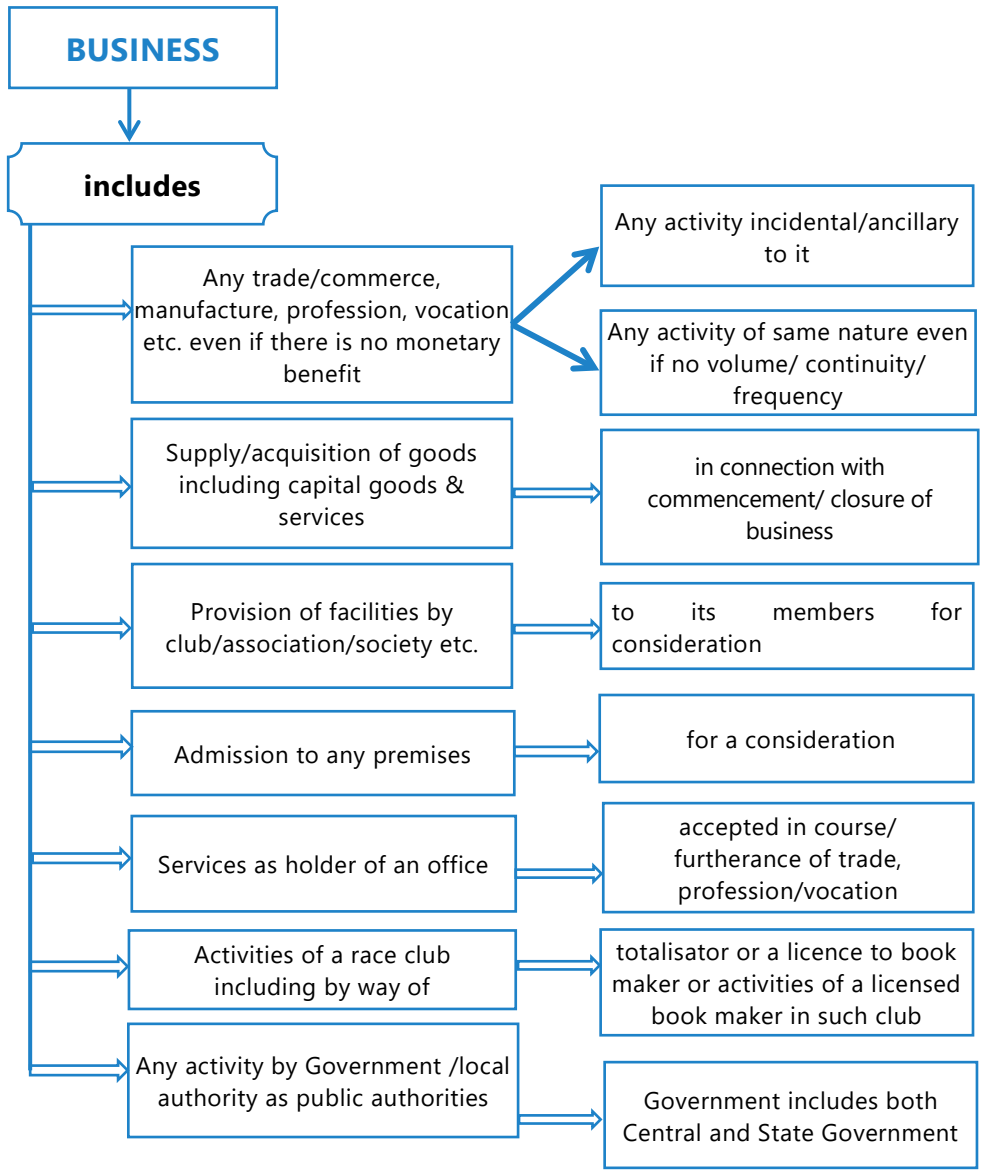
Computation of minimum GST payable from electronic cash ledger

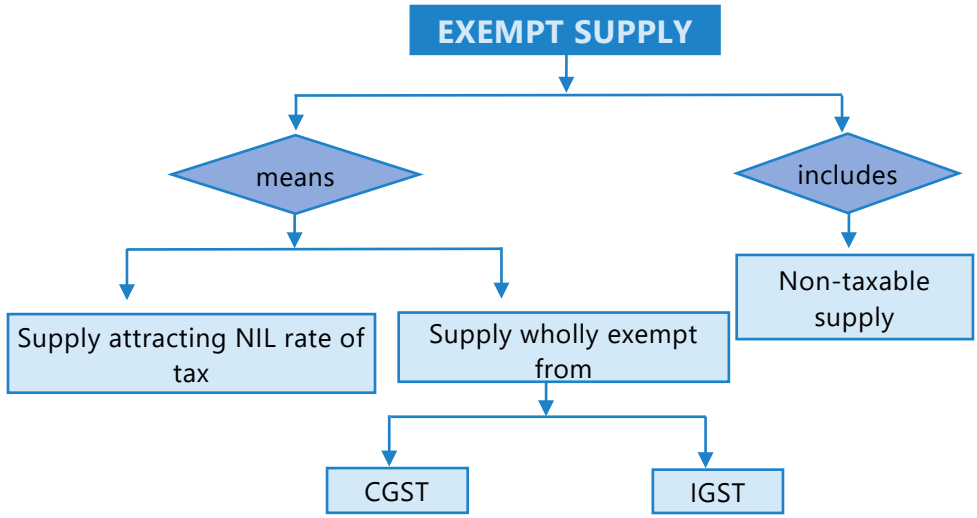
Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
GST payable	72,000	72,000	54,000	1,98,000
Less: ITC [First ITC of IGST should be utilized in full - first against IGST liability and then against CGST and SGST liabilities in a manner to minimize cash outflow]	(Nil) IGST	(25,000) IGST	(54,000) IGST	79,000
ITC of CGST and SGST set off against CGST and SGST respectively	(72,000) CGST	(18,000) SGST		90,000
Minimum GST payable in cash	**Nil**	**29,000**	**Nil**	**29,000**

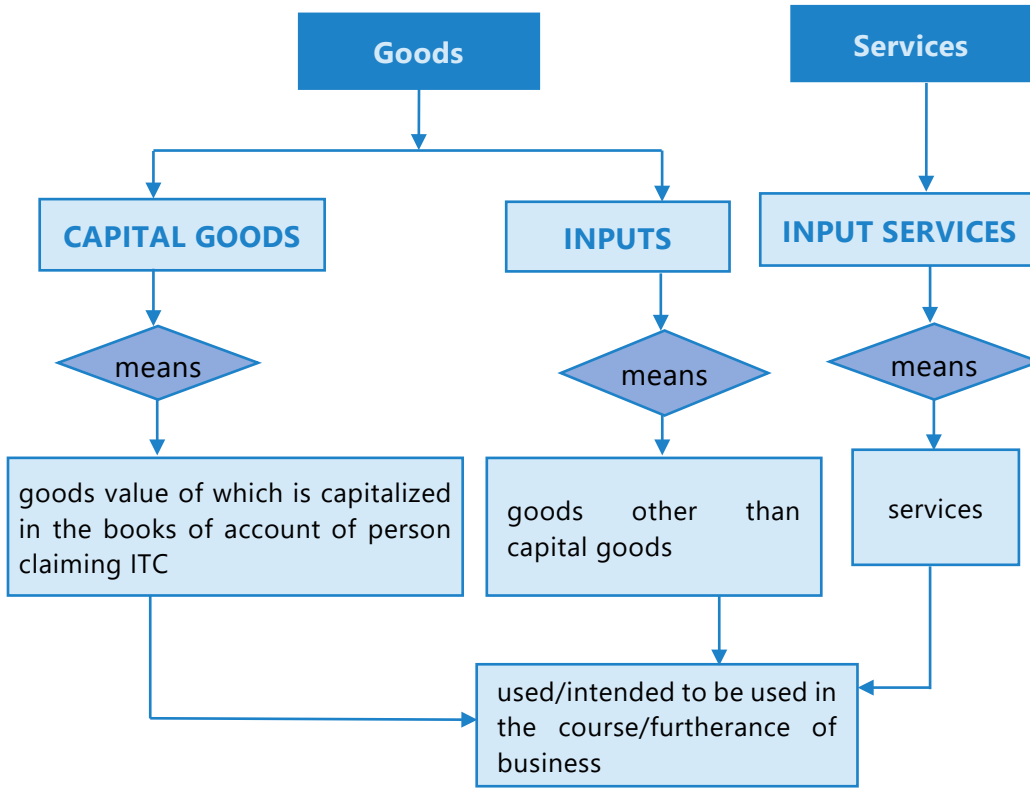
Note : Since sufficient balance of ITC of CGST is available for paying CGST liability and cross utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cash outflow.

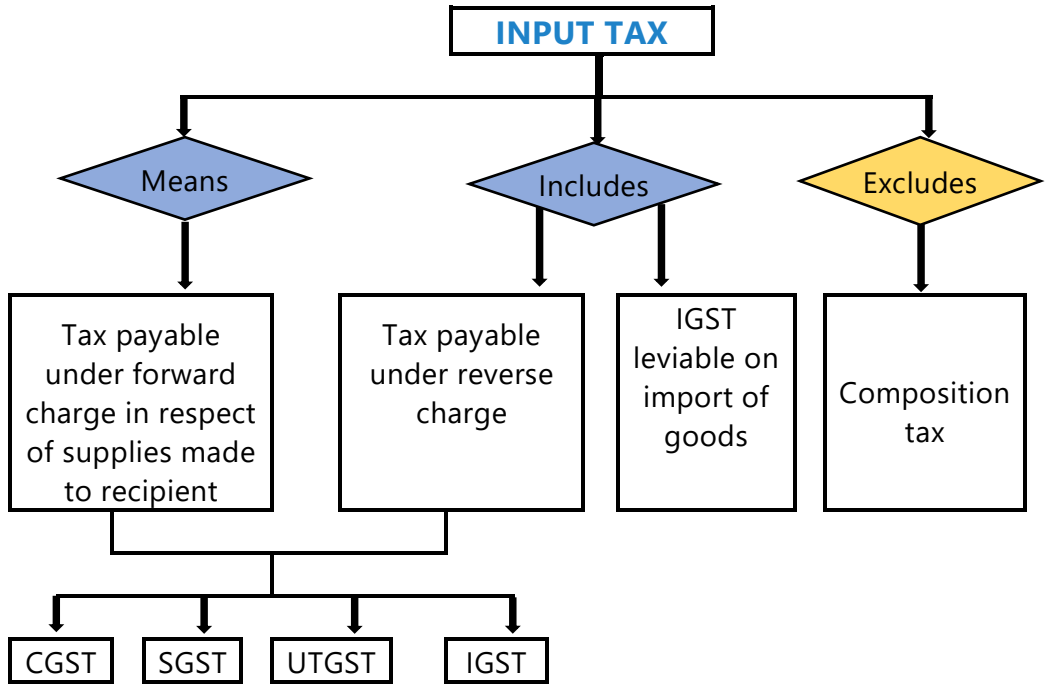
LET US RECAPITULATE

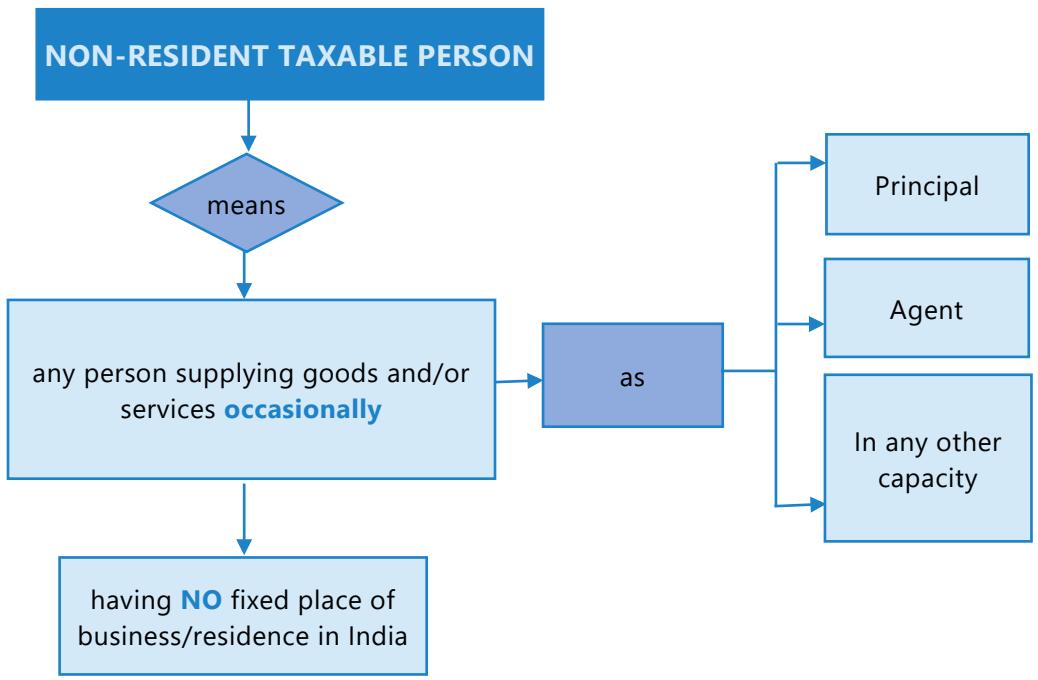
I. Definitions of certain key terms are summarized by way of diagrams as under:

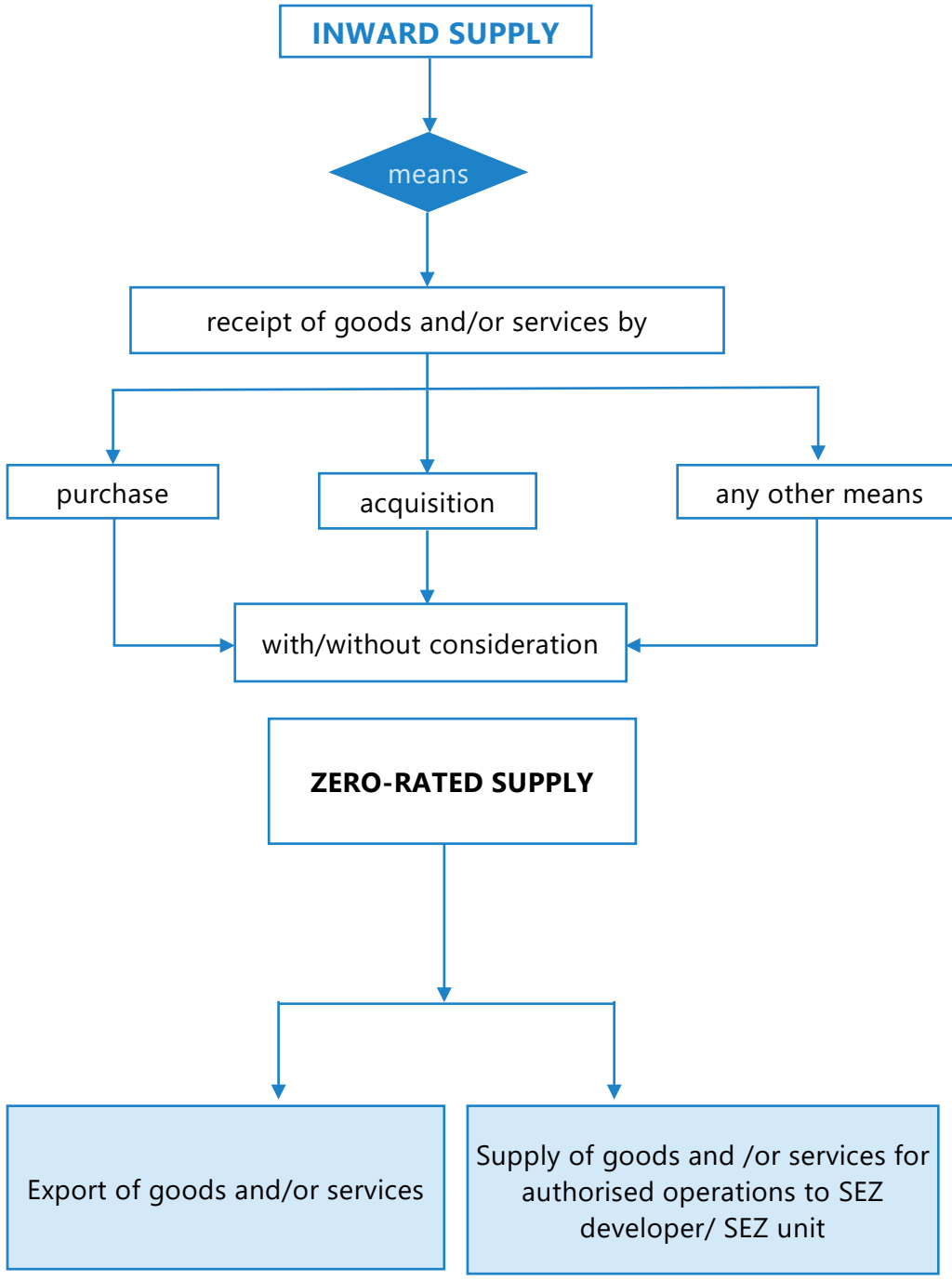



EXEMPT SUPPLY
means
includes
Supply attracting NIL rate of tax
Supply wholly exempt from
Non-taxable supply
CGST
IGST

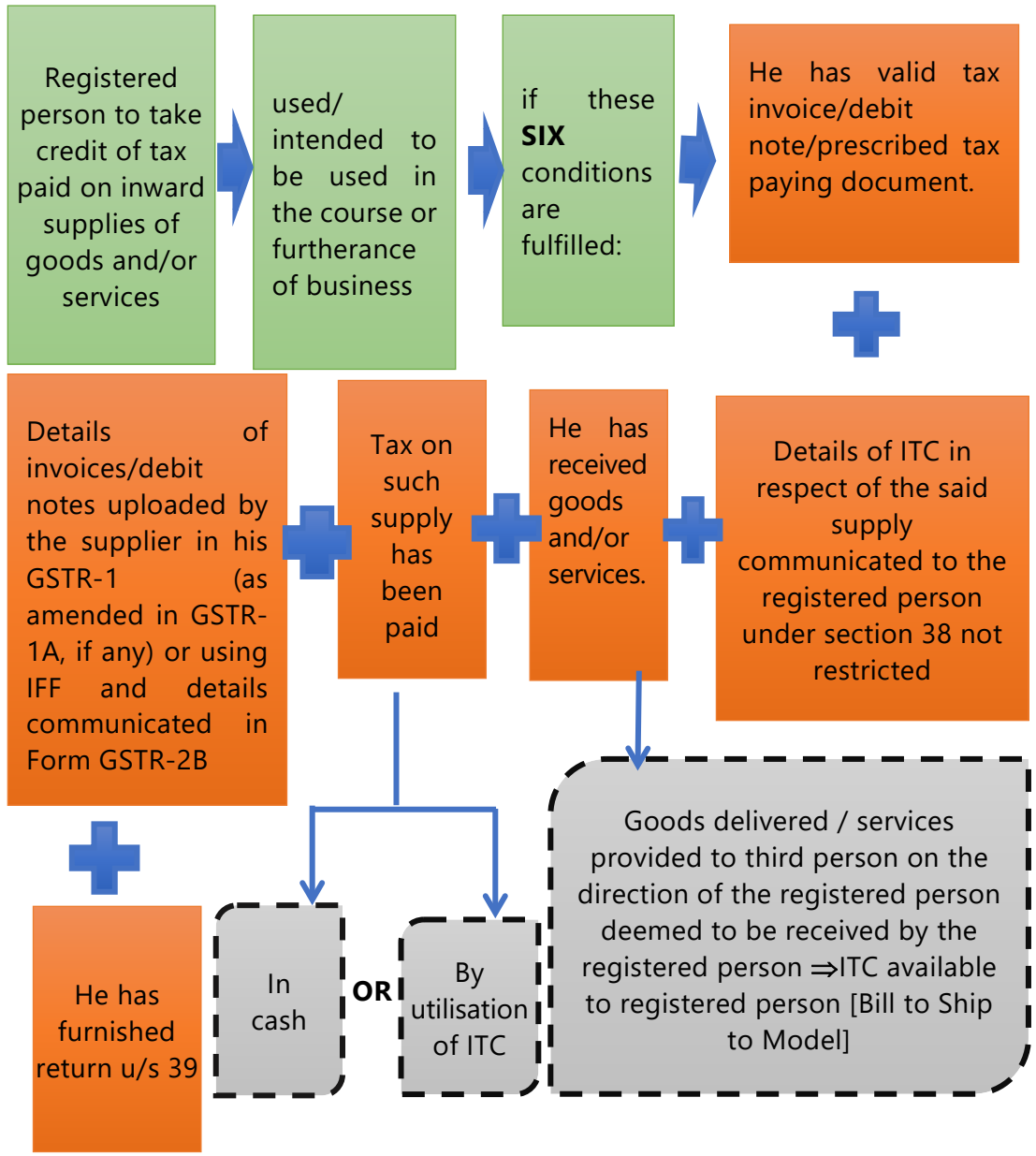

Goods
Services
CAPITAL GOODS
INPUTS
INPUT SERVICES
means
means
means
goods value of which is capitalized in the books of account of person claiming ITC
goods other than capital goods
services
used/intended to be used in the course/furtherance of business


INPUT TAX
Means
Includes
Excludes
Tax payable under forward charge in respect of supplies made to recipient
Tax payable under reverse charge
IGST leviable on import of goods
Composition tax
CGST
SGST
UTGST
IGST


NON-RESIDENT TAXABLE PERSON
means
any person supplying goods and/or services occasionally
having NO fixed place of business/residence in India
as
Principal
Agent
In any other capacity


INWARD SUPPLY
means
receipt of goods and/or services by
purchase
acquisition
any other means
with/without consideration
ZERO-RATED SUPPLY
Export of goods and/or services
Supply of goods and /or services for authorised operations to SEZ developer/ SEZ unit

II. Provisions of section 16 relating to eligibility and conditions for taking ITC read with relevant rules are summarized below:



If depreciation claimed on tax component, ITC not allowed.

Goods received in lots → ITC allowed upon receipt of last lot

Time limit for availing ITC - ITC pertaining to a particular FY can be availed by 30th November of next FY or filing of annual return, whichever is earlier.
Exception: Re-availment of ITC reversed earlier

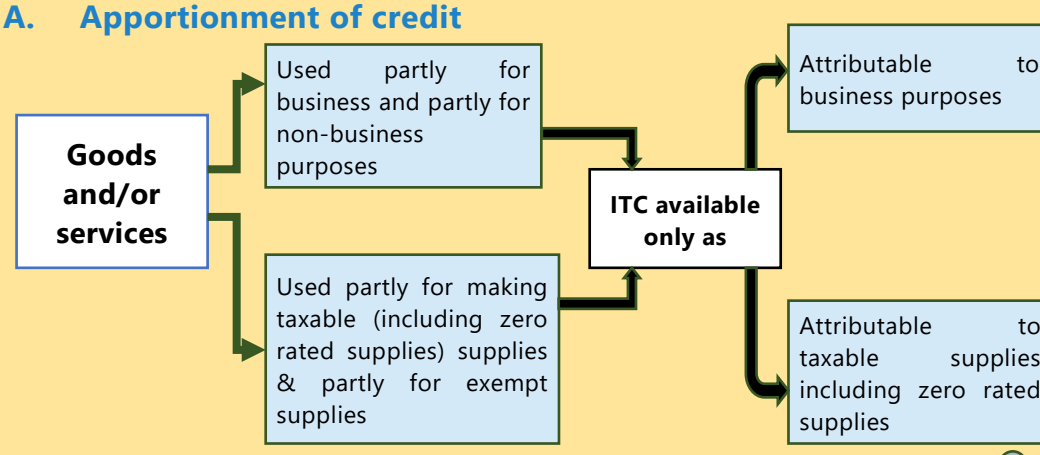
- ❖ Proportionate ITC to be reversed/paid with interest if whole/part of value + tax of goods and /or services is not paid within 180 days of the issuance of invoice.
- ❖ On payment to supplier, the ITC could be re-availed without any time limit.

EXCEPTIONS

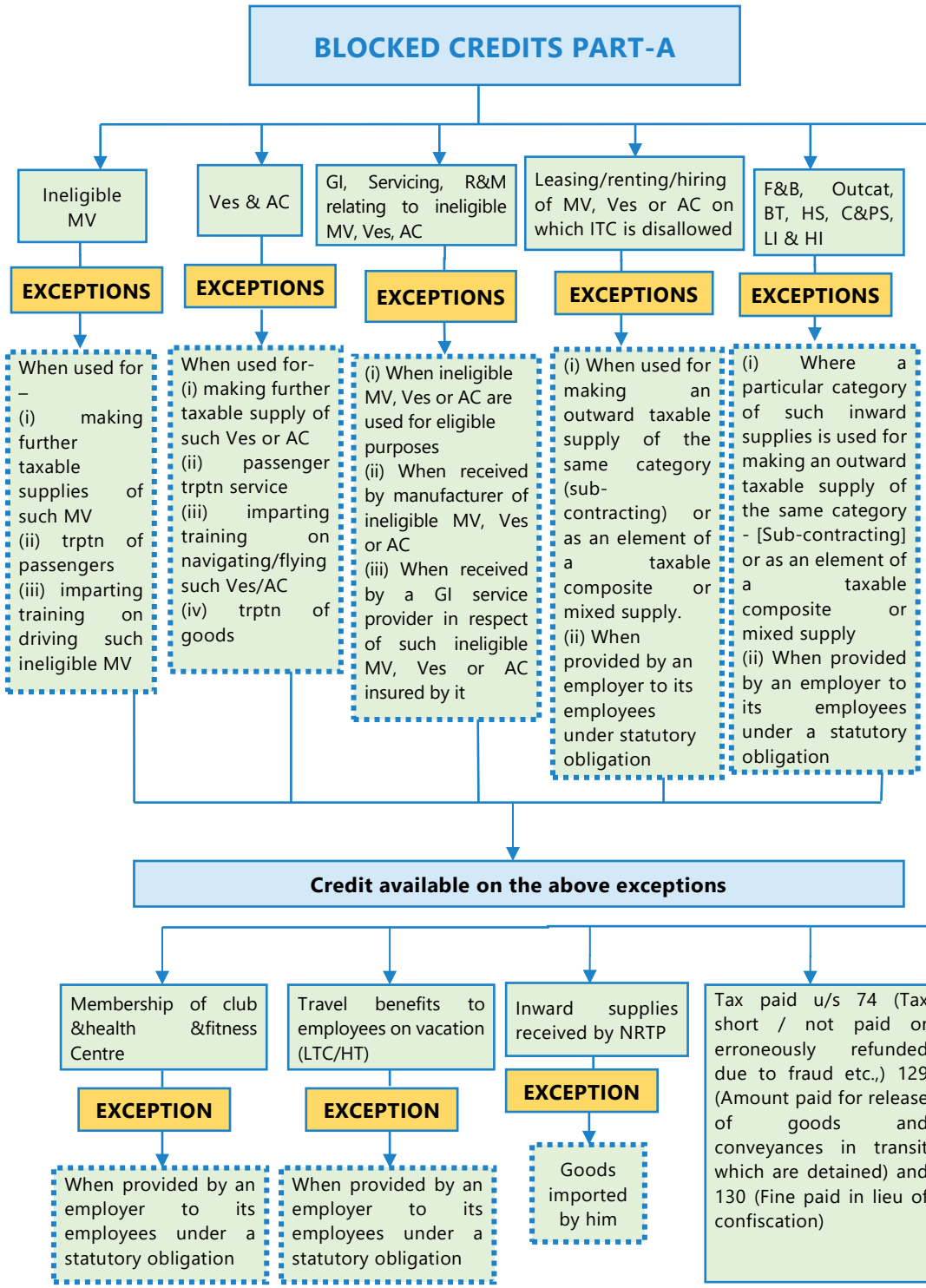
- Reverse charge supplies
- Deemed supplies without consideration
- Additions made to value of supplies on account of supplier' sliability being incurred bythe recipient of the supply

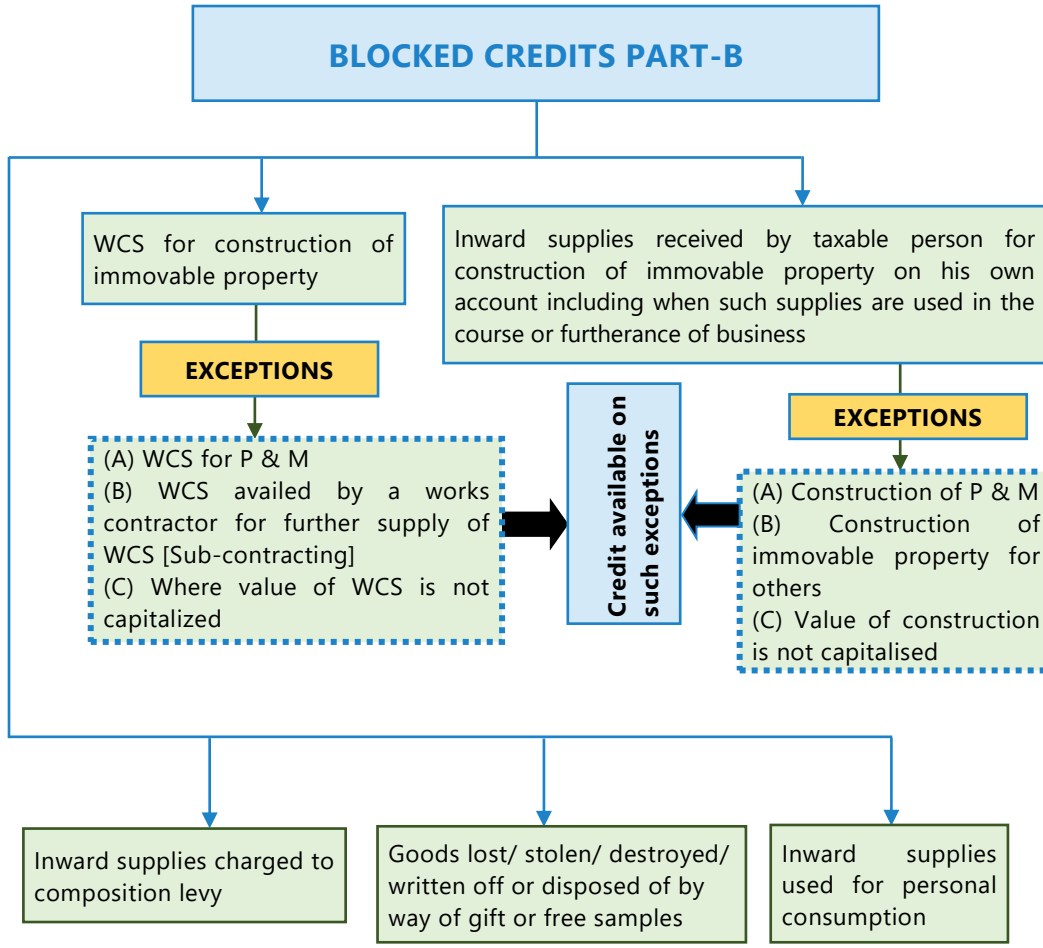
III. Provisions of section 17 relating to apportionment of credit and blocked credits read with relevant rules are summarized as under:

A. Apportionment of credit



Exempt supplies include reverse charge supplies & transactions in securities and exclude activities specified in Schedule III except sale of land and sale of building when entire consideration is received post completion certificate/first occupation, whichever is earlier and the value of such activities/transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.


BLOCKED CREDITS PART-A
Ineligible MV
Ves & AC
GI, Servicing, R&M relating to ineligible MV, Ves, AC
Leasing/renting/hiring of MV, Ves or AC on which ITC is disallowed
F&B, Outcat, BT, HS, C&PS, LI & HI
EXCEPTIONS
EXCEPTIONS
EXCEPTIONS
EXCEPTIONS
EXCEPTIONS
When used for – (i) making further taxable supplies of such MV (ii) trptn of passengers (iii) imparting training on driving such ineligible MV
When used for- (i) making further taxable supply of such Ves or AC (ii) passenger trptn service (iii) imparting training on navigating/flying such Ves/AC (iv) trptn of goods
(i) When ineligible MV, Ves or AC are used for eligible purposes (ii) When received by manufacturer of ineligible MV, Ves or AC (iii) When received by a GI service provider in respect of such ineligible MV, Ves or AC insured by it
(i) When used for making an outward taxable supply of the same category (sub-contracting) or as an element of a taxable composite or mixed supply. (ii) When provided by an employer to its employees under statutory obligation
(i) Where a particular category of such inward supplies is used for making an outward taxable supply of the same category - [Sub-contracting] or as an element of a taxable composite or mixed supply (ii) When provided by an employer to its employees under a statutory obligation
Credit available on the above exceptions
Membership of club &health &fitness Centre
Travel benefits to employees on vacation (LTC/HT)
Inward supplies received by NRTP
Tax paid u/s 74 (Tax short / not paid or erroneously refunded due to fraud etc.,) 129 (Amount paid for release of goods and conveyances in transit which are detained) and 130 (Fine paid in lieu of confiscation)
EXCEPTION
EXCEPTION
EXCEPTION
When provided by an employer to its employees under a statutory obligation
When provided by an employer to its employees under a statutory obligation
Goods imported by him



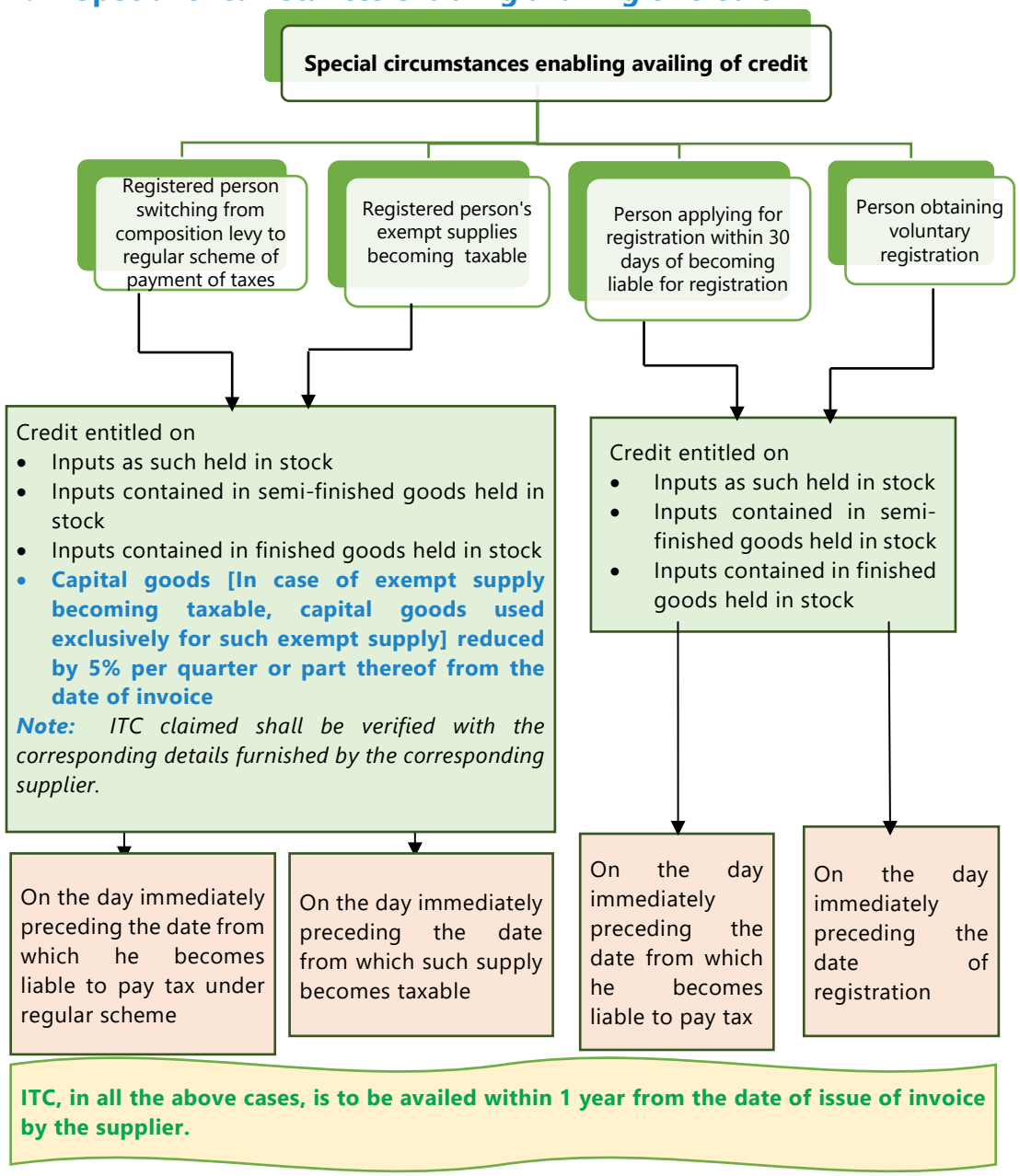
Ineligible MV-Motor vehicle for transportation of persons with seating capacity of ≤ 13 persons (including driver); Ves & AC-Vessel & Aircraft; GI-General insurance; R&M-Repairs & maintenance; F&B-Food & beverages; Outdoor catering; BT-Beauty treatment; HS-Health services; C&PS-Cosmetic & plastic surgery; LI-Life insurance; HI-Health insurance; NRTP-Non-resident taxable person; WCS-Works contract service; LTC-Leave Travel Concession; HT-Home town; trptn-transportation; P & M-Plant & machinery

(A) Construction includes re-construction/ renovation/ addition/ alterations/ repairs to the extent of capitalisation to said immovable property.

(B) P & M means apparatus, equipment, & machinery fixed to earth by foundation or structural supports but excludes land, building/ other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

IV. Provisions of section 18 read with relevant rules are summarized as under:

A. Special circumstances enabling availing of credit



Conditions for availing above credit:

(i) Filing of electronic declaration giving details of inputs held in stock/contained in semi-finished goods and finished goods held in stock and capital goods on the daysimmediately preceding the day on which credit becomes eligible.

(ii) Declaration has to be filed within 30 days from becoming eligible to avail credit.

(iii) Details in (i) above to be certified by a practising CA/ Cost Accountant if aggregate claim of CGST, SGST/ IGST credit is more than ₹ 2,00,000.

B. Special circumstances leading to reversal of credit/payment of amount

Special circumstances leading to reversal of credit /payment of amount

- Registered person (who has availed ITC) switching from regular scheme of payment of tax to composition levy
- Supplies of registered person getting wholly exempted from tax
- Cancellation of registration
- Supply of capital goods (CG)/ plant and machinery (P& M) on which ITC has been taken

Amount to be reversed is equivalent to ITC on:

- Inputs held in stock/ inputs contained in semi-finished or finished goods held in stock
- Capital goods

on the day immediately preceding the date of switch over/ date of exemption/date of cancellation of registration

Manner of reversal of credit on inputs and capital goods & other conditions

(i) **Inputs** ⇒ Proportionate reversal based on corresponding invoices. If such invoices not available, prevailing market price on the effective date of switch over/ exemption/cancellation of registration should be used with due certification by a practicing CA/ Cost Accountant

(ii) **Capital goods** ⇒ Reversal on *pro rata* basis pertaining to remaining useful life (in months), taking useful life as 5 years.

(iii) ITC to be reversed will be calculated separately for ITC of CGST, SGST/UTGST and IGST.

(iv) Reversal amount will be added to output tax liability of the registered person.

(v) Electronic credit/cash ledger will be debited with such amount. Balance ITC, if any, will lapse.

Amount to be paid is equivalent to higher of the following:

(i) ITC on CG or P&M less 5% per quarter or part thereof from the date of invoice

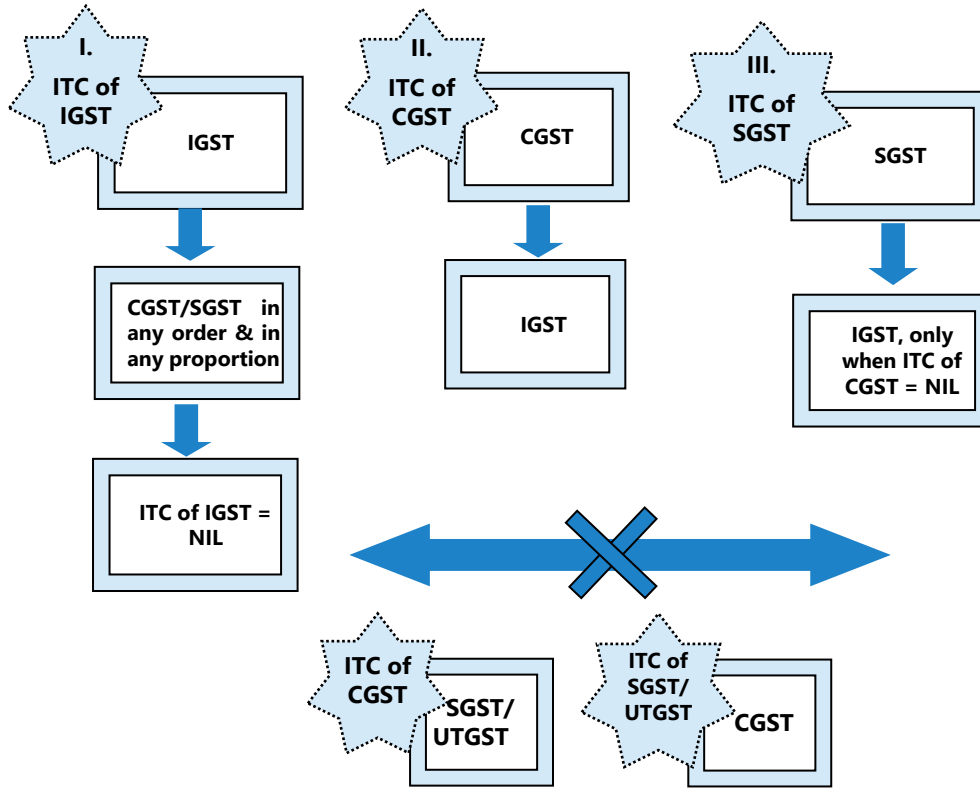
(ii) Tax on transaction value of such CG or P & M

- If amount at (i) exceeds (ii), then reversal amount will be added to output tax liability.
- Separate ITC reversal is to be done for CGST, SGST/UTGST and IGST
- Tax to be paid on transaction value when refractory bricks, moulds, dies, jigs & fixtures are supplied as scrap.

Transfer of unutilised ITC on account of change in constitution of registered person	In case of sale, merger, amalgamation, lease or transfer of business, unutilised ITC can be transferred to the new entity if there is a specific provision for transfer of liabilities to the new entity. The inputs and capital goods so transferred should be duly accounted for by the transferee in his books of accounts.
	In case of demerger, ITC is apportioned in the ratio of value of entire assets (including assets on which ITC has not been taken) of the new units as per the demerger scheme.
	Details of change in constitution are to be furnished on common portal along with request to transfer unutilised ITC. CA/Cost Accountant certificate is to be submitted certifying that change in constitution has been done with specific provision for transfer of liabilities.
	Upon acceptance of such details by the transferee on the common portal, the unutilized ITC is credited to his Electronic Credit Ledger.

Transfer of unutilised ITC on obtaining separate registrations for multiple places of business within a State/UT	Registered person having separate registrations for multiple places of business can transfer the unutilised ITC to any or all of the newly registered place(s) of business in the ratio of the value of assets held by them at the time of registration.
	Value of assets means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.
	The registered person should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations.
	Upon acceptance of such details by the newly registered person (transferee) on the common portal, the unutilised ITC is credited to his electronic credit ledger.

V. Provisions relating to utilization of ITC are summarized as under:





TEST YOUR KNOWLEDGE

1. *What is input tax?*
2. *What are the conditions necessary for availing ITC?*
3. *Can a person take ITC without payment of consideration for the supply along with tax?*
4. *What is the time limit for taking ITC and reasons therefor?*
5. *What is the ITC entitlement of a newly registered person?*
6. *What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?*
7. *A registered person transfers its business to another person.*

   Is such registered person allowed to transfer the unutilized ITC lying in its electronic credit ledger to such transferred business? Discuss.
8. *Swastik Pvt. Ltd. is a manufacturer of taxable goods. It purchased a machinery for ₹ 8,00,000 on which IGST of ₹ 14,400 is paid. The company has claimed depreciation under the Income-tax Act, 1961 on the full value of the machine, i.e. including the IGST component as also availed ITC of ₹ 14,400 paid by it as IGST.*

   Examine if the stand taken by the company is correct in law.
9. *A taxable person is in the business of information technology. He buys a car (maximum seating capacity – 5 persons) for use of his Executive Directors.*

   Can he avail the ITC in respect of GST paid on purchase of such car?
10. *A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ for authorised operations without payment of GST as these supplies are not taxable.*

    The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

11. *'AB', a registered person, was paying tax under composition scheme up to 30th July. However, w.e.f. 31st July, 'AB' becomes liable to pay tax under regular scheme.*

    Is 'AB' eligible for any ITC?

12. *Babla Enterprises is exclusively engaged in making exempt supply of goods and is thus, not registered under GST. On 1st October, the exemption available on its goods gets withdrawn. On that day, the turnover of Babla Enterprises was ₹ 45 lakh.*

    Examine the eligibility of Babla Enterprises for availing ITC, if any.

13. *Mamta Trade Links trades in exempt goods and provides taxable services. It is registered under GST. On 1st October, the exemption available on its goods gets withdrawn.*

    Analyze the scenario and determine the eligibility of Mamta Trade Links for availing ITC, if any, on inputs and/or capital goods used in the supply of exempt goods.

14. *Harshgeet Pvt. Ltd., a registered supplier, is engaged in the manufacture of taxable goods. The company provides the following information pertaining to purchases made/services availed by it during the month of July:*

S. No	Particulars	GST (₹)
(1)	Raw materials (to be received in the month of September)	2,50,000
(2)	Membership of a club availed for employees working in the factory (not obligatory to be provided under any law)	1,45,000
(3)	Inputs to be received in 5 lots, out of which 3rd lot was received during the month	80,000
(4)	Trucks used for transport of raw material	40,000
(5)	Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those items is ₹ 80,000)	1,50,000

Determine the amount of ITC that can be availed by Harshgeet Pvt. Ltd. for the month of July by giving the necessary explanation for the treatment of various

items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

15. *Jamku Ltd., a registered person, is engaged in the business of spices. It provides following details in relation to GST paid on inward supplies procured by it during the month of October.*

S.No.	Particulars	GST (₹)
(1)	Raw spices purchase - Raw spices sold to customers - Raw spices used for personal use of directors	 50,000 20,000
(2)	Electric machinery purchased for being used in the manufacturing process	25,000
(3)	A 6 seater motor vehicle used for transportation of employees	55,000
(4)	Payment made to a contractor for construction of staff quarters	1,25,000

Determine the amount of ITC that can be availed by Jamku Ltd. for the month of October by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

16. *Dina Ltd., a registered supplier from Maharashtra, is engaged in the manufacture of passenger autos. The company provides the following details of purchases made/services availed by it during the month of March:*

S. No.	Particulars	GST (₹)
(1)	Purchase of iron which is used as a raw material [Goods were received in two lots - first in March and the second in April]	2,50,000
(2)	Purchase of accessories which were delivered directly to the dealers of the company on the direction of Dina Ltd. [Only invoice was received by Dina Ltd.]	90,000

(3)	*Purchase of bus (seating capacity 15) for the transportation of employees from their residence to company and back*	*1,97,000*
(4)	*General insurance taken on a car (seating capacity 5) used by executives of the company for official purposes*	*5,200*

You are required to determine the ITC that can be availed by Dina Ltd. for the month of March, by giving brief explanations for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

17. *Comfortable (P) Ltd. is registered under GST in the State of Odisha. It is engaged in the business of manufacturing of iron and steel products. It has received IT engineering services from High-Fi Infotech (P) Ltd. for ₹ 11,00,000/- (excluding GST @ 18%) on 28th October. Invoice for service rendered was issued on 5th November.*

Comfortable (P) Ltd. made part payment of ₹ 4,20,000/- on 30th November. Being unhappy with service provided by High-fi Infotech (P) Ltd., it did not make the balance payment. Deficiency in service rendered was made good by High-Fi Infotech (P) Ltd. by 15th April of next financial year. Comfortable (P) Ltd. made the balance payment on 6th July of next financial year.

Examine the availability of ITC with Comfortable (P) Ltd. in respect of IT engineering services received by it from High-Fi Infotech (P) Ltd.

18. *M/s. Diwan & Sons of New Delhi, has placed an order for 250 kg of plastic granules @ ₹ 50 per kg (exclusive of GST) on M/s. Karim & Bros. of Noida, U.P. M/s. Karim & Bros. has agreed to deliver the goods at the warehouse of M/s. Diwan & Sons at New Delhi.*

While the order was getting packed at the factory of M/s. Karim & Bros., M/s. Diwan & Sons got an order from Shubhkamna Sales of Hapur, U.P., for 250 kg of plastic granules @ ₹ 60 per kg (exclusive of GST). In order to save on transportation cost, M/s. Diwan & Sons asks M/s. Karim & Bros. to directly deliver the plastic granules to Shubhkamna Sales at its godown located in Hapur. Accordingly, M/s. Karim & Bros. has delivered the plastic granules at the godown of Shubhkamna Sales at Hapur.

Examine the availability of ITC with M/s. Diwan & Sons & M/s. Karim & Bros.

Note: All the parties are registered under GST and rate of GST is 18%.

19. *Paritosh& Co., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:*

Particulars	***Amount (₹)***
Intra-State supply of goods	*10,00,000*
Inter-State supply of goods	*8,00,000*

It has also furnished the following information in respect of purchases made by it in that tax period:

Particulars	***Amount (₹)***
Intra-State purchases of goods	*3,00,000*
Inter-State purchases of goods	*2,50,000*

Paritosh & Co. has following opening balance of ITCs for the tax period:

Particulars	***Amount (₹)***
CGST	*57,000*
SGST	*60,000*
IGST	*1,40,000*

Note:

(i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.

(ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.

(iii) All the conditions necessary for availing ITC have been fulfilled.

Compute the minimum GST, payable in cash, by Paritosh & Co. for the tax period and the ITC to be carried forward to the next month. Make suitable assumptions as required.



ANSWERS

1. Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.

2. Following conditions are to be satisfied by the registered taxable person for obtaining ITC:

(a) he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;

(aa) the details of the invoice or debit note referred above has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;

(b) he has received the goods or services or both;

(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted

(c) subject to section 41, the supplier has actually paid the tax charged in respect of the supply to the Government; and

(d) he has furnished the return under section 39.

3. Yes, the recipient can take ITC. However, he is required to pay the amount towards value of supply along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

4. Refer point (vi) "Time limit for availing ITC: 30th November of succeeding financial year to which such invoice or debit note pertains or date of filing of relevant annual return, whichever is earlier" under Heading No. 3 "Eligibility and Conditions for Taking Input Tax Credit [Section 16]".

5. (i) A person who has applied for registration within 30 days from the date

on which he became liable to registration, can take ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

(ii) In case of voluntary registration, ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of registration can be taken.

6. In case of supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery reduced by 5% per quarter or part thereof from the date of invoice or the tax on the transaction value of such capital goods or plant and machinery, whichever is higher.

However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person can pay tax on the transaction value.

7. As per section 18(3), in case of sale, merger, demerger, amalgamation, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities to the new entity.

The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should duly account for the inputs and capital goods so transferred in his books of account.

8. As per section 16(3), if the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed.

Since in the given case, Swastik Pvt. Ltd. has claimed depreciation on the tax component of the cost of the machine, it cannot claim ITC of IGST of ₹ 14,400 paid by it on the machine. It can either claim depreciation on the

tax component or avail ITC of such tax but cannot avail both the benefits simultaneously.

9. No. ITC on motor vehicles for transportation of persons with approved seating capacity of up to 13 persons (including driver), can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving such motor vehicles or is in the business of further supply of such motor vehicles. Also, ITC can be availed on motor vehicles used for transportation of goods.

10. ITC is disallowed only to the extent it pertains to supplies used for non-business purposes or supplies other than taxable and zero-rated supplies. Supplies to SEZ units for authorised operations are zero rated supplies in terms of section 16(1) of the IGST Act. Thus, full ITC is allowed on inward supplies of BMT Ltd. used for effecting supplies to the unit in the SEZ for authorised operations.

11. 'AB' is eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

12. Since the exemption available on goods being supplied by Babla Enterprises, an unregistered person, gets withdrawn, it becomes liable to registration as its turnover had crossed the threshold limit on the day when the exemption is withdrawn.

Assuming that Babla Enterprises applies for registration within 30 days of 1st October and it obtains such registration, it will be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which it becomes liable to pay tax, i.e. 30th September [Section 18(1)(a)]. Input tax paid on capital goods will not be available as ITC in this case.

13. If the exempt supply made by a registered person becomes a taxable supply, provisions of section 18(1)(d) become applicable. In the given case, since Mamta Trade Links is a registered person, section 18(1)(d) will be applicable.

As per section 18(1)(d), Mamta Trade Links will be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and

on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable, i.e. 30th September. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

14. Computation of ITC that can be availed by Harshgeet Pvt. Ltd. for the month of July:

Particulars	**ITC (₹)**
Raw Material [ITC not available as raw material is not received in July]	Nil
Membership of a club availed for employees working in the factory (not obligatory to be provided under any law) [Blocked credit in terms of section 17(5)]	Nil
Inputs to be received in 5 lots, out of which 3rd lot was received during the month [In case of goods received in lots, ITC can be taken only upon receipt of the last lot]	Nil
Trucks used for transport of raw material [ITC of GST paid on motor vehicles used for transportation of goods is allowed unconditionally]	40,000
Capital goods [ITC can be availed only on the basis of a valid document (invoice). Thus, GST paid on items for which invoice is missing, i.e. ₹ 80,000, is not available.]	70,000
Total ITC	**1,10,000**

15. Computation of ITC that can be availed by Jamku Ltd. for the month of October

Particulars	ITC (₹)
Purchase of raw spices which are sold to customers [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	50,000
Purchase of raw spices for personal use of directors [ITC is not available on goods used for personal consumption.]	Nil
Electric machinery purchased for being used in the manufacturing process [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	25,000
Motor vehicle used for transportation of employee [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. In the given case, since the supplier is in the business of spices, ITC on a 6 seater motor vehicle used for transportation of employees is blocked credit.]	Nil
Payment made to a contractor for construction of staff quarters [ITC is not available for works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service]	Nil
Total ITC	**75,000**

16. Computation of ITC that can be availed by Dina Ltd. for the month of March:

Particulars	ITC (₹)
Purchase of iron used as a raw material [When inputs are received in lots, ITC can be availed only on the receipt of last lot. Hence, since last lot is received in April, ITC cannot be availed in March.]	Nil
Purchase of accessories delivered directly to the dealers of the company [Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. Thus, ITC is available to the registered person, on whose order/direction the goods are delivered to a third person.]	90,000
Bus for the transportation of employees [ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.	1,97,000
General insurance taken on car (seating capacity 5) used by executives of the company for official purpose [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. Further, ITC is not allowed on services of general insurance relating to such ineligible motor vehicles. Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on general insurance taken on such car is also blocked.]	Nil
Total ITC	**2,87,000**

17. Every registered person is entitled to take credit of input tax charged on any supply of goods and/or services which are used or intended to be used in the course or furtherance of his business if, *inter alia*, he is in possession of a tax invoice issued by a supplier and he has received the goods and/or services.

The registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice. In the event of failure to do so, the corresponding credits availed by the registered person would be required to be reversed or paid by such person alongwith interest. However, once the recipient makes the payment of value of goods and/or services along with tax, he will be entitled to avail the credit again without any time limit. In case part-payment has been made, proportionate credit would be allowed.

In the given case, High-fi Infotech (P) Ltd. provides the service in the month of October and Comfortable (P) Ltd. receives the invoice in the month of November. Therefore, in view of the above provisions and assuming all other conditions required for availing ITC having been fulfilled, ITC of ₹ 1,98,000 (₹ 11,00,000 x 18%) will be availed by Comfortable (P) Ltd. for the month of November when it receives the invoice issued by High-fi Infotech (P) Ltd.

However, proportionate ITC amounting to ₹1,33,932⇒[(₹ 12,98,000 - ₹ 4,20,000)/118] x 18] will be reversed in GSTR-3B of Comfortable (P) Ltd. for May month, to be paid along with interest thereon, as full payment has not been made within 180 days of issuance of the invoice, i.e. by 4thMay of next F.Y. ITC of ₹ 1,33,932 can, however, be availed again by Comfortable (P) Ltd. for the month of July next F.Y. when it makes the balance payment to High-Fi Infotech (P) Ltd.

18. One of the conditions for availing ITC is that the registered person taking the ITC must have received the goods and / or services. However, goods delivered to a third person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. So, ITC is available to the registered person, on whose direction the goods are delivered to a third person even though the registered person does not receive the goods by itself.

In the given case, goods have been delivered by M/s. Karim & Bros. (supplier) to Shubhkamna Sales (third person) on the direction of M/s. Diwan & Sons (registered person). Therefore, in view of the above provisions, ITC of ₹ 2,250

(₹50 x 250 x 18%) will be available to M/s. Diwan & Sons (registered person) on the purchase of 250 kg of plastic granules @ 50 per kg.

Further, in this case there is another supply between Diwan & Sons (supplier) and Shubhkamna Sales (recipient). Therefore, Shubhkamna Sales can avail ITC of ₹ 2,700 (₹ 60 x 250 x 18%) on the purchase of 250 kg of plastic granules @ 60 per kg.

19. Computation of GST payable on outward supplies

S. No.	Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
(i)	Intra-State supply of goods for ₹ 10,00,000	90,000	90,000		1,80,000
(ii)	Inter-State supply of goods for ₹ 8,00,000			1,44,000	1,44,000
	Total GST payable				**3,24,000**
	Computation of total ITC				
Particulars		**CGST @ 9% (₹)**	**SGST @ 9% (₹)**	**IGST @ 18% (₹)**	
Opening ITC		57,000	60,000	1,40,000	
Add: ITC on Intra-State purchases of goods valuing ₹ 3,00,000		27,000	27,000	Nil	
Add: ITC on Inter-State purchases of goods valuing ₹ 2,50,000		Nil	Nil	45,000	
Total ITC		**84,000**	**87,000**	**1,85,000**	

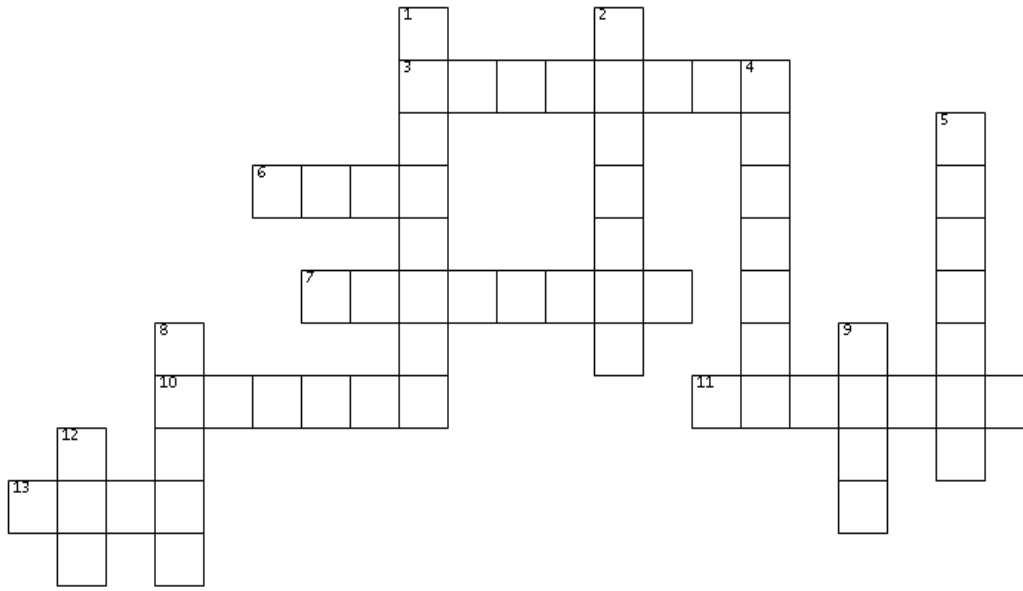
Computation of minimum GST payable from electronic cash ledger

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
GST payable	90,000	90,000	1,44,000	3,24,000
Less: ITC [First ITC of IGST should be utilized in full - first against IGST liability and then against CGST or SGST liabilities in any order to minimize cash outflow]	(22,000) IGST	(19,000) IGST	(1,44,000) IGST	1,85,000
CGST and SGST ITC utilized against CGST and SGST output Tax liability respectively	(68,000) CGST	(71,000) SGST		1,39,000
Minimum GST payable in cash	Nil	Nil	Nil	Nil
ITC balance to be carried forward next month	**16,000**	**16,000**	**Nil**	**32,000**

Note : The above computation is one of the many ways to set off the ITC of IGST (₹ 41,000-after set off against IGST liability) against CGST and SGST liability to compute minimum GST payable in cash and carry forward both CGST and SGST ITC equally. To illustrate, IGST of ₹ 10,000 can be set off against SGST payable and IGST of ₹31,000 can be set off against CGST payable. In this situation also, the net GST payable will be nil but the ITC of CGST and SGST to be carried forward will be ₹25,000and ₹7,000 (totaling to ₹ 32,000), respectively. However, if the entire ITC of ₹ 41,000 is set off against CGST payable, then SGST of ₹ 3,000 will be payable in cash thus, increasing the cash outflow. Therefore, such a set-off would not be advisable for computing the minimum GST payable.



CROSSWORD



ACROSS

3. Plant and machinery _____pipelines laid outside the factory premises.
6. ITC on capital goods is reduced by ____% per quarter of a year or part of the year from the date of invoice in case a registered person who ceases to pay composition tax and switches to regular scheme.
7. A registered person is not entitled to take ITC in respect of any invoice after 30th ___ following the end of financial year to which such invoice pertains or furnishing of the relevant annual return, whichever is earlier.
10. ITC on _____supplies received by a taxable person from a composition supplier is blocked.
11. ITC on cars purchased by a car dealer for sale to customers is _____.

13. Where the goods against an invoice are received in lots, the registered person is entitled to take credit upon receipt of the __lot.

DOWNWARDS

1. For availment of credit by registered person, services should have been actually _____.
2. _____ percent ITC can be claimed on invoices furnished by the suppliers in their GSTR-1s and reflected in GSTR-2B of recipient.
4. Motor vehicles exclude ___ purpose vehicles for being used in a factory.
5. ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is _____.
8. Where the value of taxable supply of a registered person exceeds ₹ _____ lakh in a month, he shall have to pay at least 1% of his output tax liability in cash.
9. ITC is not available in case of ____ goods.
12. Either depreciation on the ____component can be claimed under Income-tax Act or ITC can be availed under GST law.

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



AMENDMENTS MADE VIDE THE FINANCE ACT, 2025

The Finance Act, 2025 has come into force from 29.03.2025. However, most of the amendments made under the CGST Act and the IGST Act vide the Finance Act, 2025 would become effective only from a date to be notified by the Central Government in the Official Gazette. Such a notification has not been issued till 30.04.2025. Therefore, the applicability or otherwise of such amendment for May 2026, September 2026 and/or, January 2027 examinations shall be informed by the ICAI by way of an announcement.

In the table given below, the existing provisions of section 17(5)(d) is compared with the provisions as amended by the Finance Act, 2025.

Once the announcement for applicability of such amendments for examination(s) is made by the ICAI, students should read the amended provisions given hereunder in place of the related provisions discussed in the chapter.

Section No.	Existing provisions	Provisions as amended by the Finance Act, 2025	Remarks
17(5)(d)	goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.	goods or services or both received by a taxable person for construction of an immovable property (other than plant ***and*** machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. ***Explanation 1*** — For the purposes of clauses (c) and (d), the expression	Clause (d) of sub-section (5) of section 17 is being amended to substitute the words "plant or machinery" with words "plant and machinery".

	Explanation — For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.	"construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property. ***Explanation 2- For the purposes of clause (d), it is hereby clarified that notwithstanding anything to the contrary contained in any judgment, decree or order of any court, tribunal, or other authority, any reference to "plant or machinery" shall be construed and shall always be deemed to have been construed as a reference to "plant and machinery".***	

CHAPTER 9

REGISTRATION



The section numbers referred to in the Chapter pertain to CGST Act, 2017, unless otherwise specified. Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

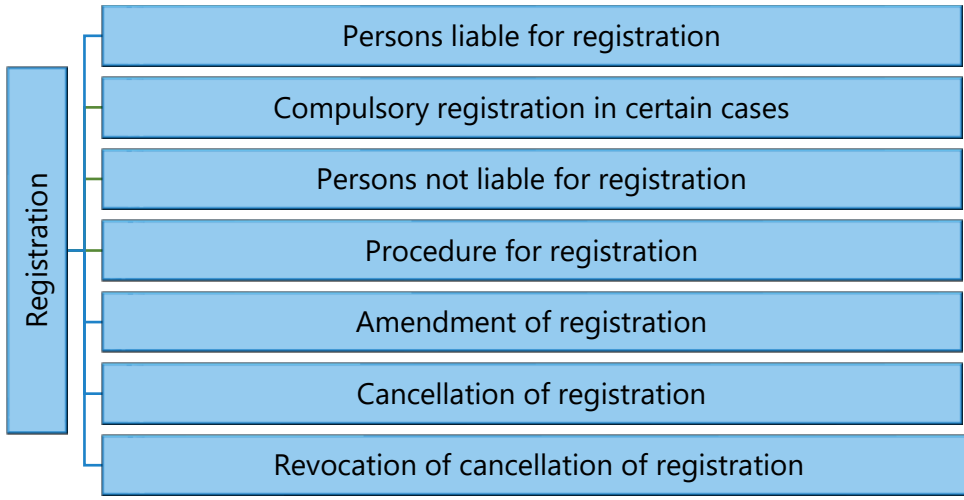
LEARNING OUTCOMES

This Chapter will equip you to –

- understand the concept of the taxable person.
- explain when a person becomes liable to get registered under GST.
- identify the scenarios where registration is compulsory.
- identify the persons who are not liable for registration.
- describe the procedure for obtaining registration under GST.
- explain the procedure for amendment of registration.
- describe the cancellation of registration and revocation of cancellation of registration in specified circumstances.

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CHAPTER OVERVIEW



1. INTRODUCTION



Under any taxation law, registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. It is the first step towards becoming GST complaint. Under indirect tax regime, without registration, a person can neither collect tax from his customers nor claim any credit of tax paid by him.





Registration legally recognizes a person as supplier of goods or services or both and legally authorizes him to collect taxes from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/recipients. He can claim the input tax credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services. Registration ensures the seamless flow of input tax credit from suppliers to recipients at the national level.

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Under GST law, a supplier is required to obtain State-wise registration. There is no concept of a centralized registration under GST like the erstwhile service tax regime. A supplier has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified threshold limit. Thus, he is not required to obtain registration from a State/UT from where he makes a non-taxable supply.

Since registration in GST is PAN based, once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates under the same PAN. Further, he is normally required to obtain single registration in a State/UT. However, where he has multiple places of business in a State/UT, he has the option either to get a single registration for said State/UT [wherein it can declare one place as principal place of business (PPoB) and other branches as additional place(s) of business (APoB)] or to get separate registrations for each place of business in such State/UT.

Registration under GST is not tax specific, which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and GST compensation cess.

Chapter VI - Registration [Sections 22 to 30] of the CGST Act and Chapter III – Registration [Rules 8 to 26] of the CGST Rules contain the provisions relating to registration. State GST laws also prescribe identical provisions in relation to Registration.

Provisions of registration under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

Before proceeding to understand the registration provisions, let us first go through few relevant definitions.

2. RELEVANT DEFINITIONS

- **Agent:** means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].

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- **Common portal:** means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].
- **Taxable supply:** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108)].
- **Taxable territory:** means the territory to which the provisions of this Act apply [Section 2(109)].
- **Place of business:** includes [Section 2(85)]:

  a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

  a place where a taxable person maintains his books of account; or

  a place where a taxable person is engaged in business through an agent, by whatever name called.

- **Appellate Authority:** means an authority appointed or authorised to hear appeals as referred to in section 107[1] [Section 2(8)].
- **Fixed establishment:** means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs [Section 2(50)].
- **Principal place of business:** means the place of business specified as the principal place of business in the certificate of registration [Section 2(89)].
- **Proper officer:** in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board [Section 2(91)].
- **Registered person:** means a person who is registered under section 25, but does not include a person having a Unique Identity Number [Section 2(94)].
- **Tax period:** means the period for which the return is required to be furnished [Section 2(106)].

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[1] *Section 107 contains the provisions relating to 'Appeals to Appellate Authority'. The same shall be discussed in detail at final level.*

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❑ **Business:** includes [Section 2(17)]–

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
(b) any activity or transaction in connection with or incidental or ancillary to (a) above;
(c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
(d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
(f) admission, for a consideration, of persons to any premises;
(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and
(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.

3. CONCEPT OF TAXABLE PERSON [SECTION 2(107)]

Under GST law, the concept of taxable person is significant since tax on supplies of goods and/or services, is to be paid by a taxable person. So, let us understand the concept of taxable person. As per section 2(107), taxable person means a person





Taxable person

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who is registered or liable to be registered under section 22 or section 24 *[These sections have been discussed in detail subsequently in this Chapter]*.

Thus, even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

In the subsequent paras, we will see when does a person becomes liable to get registered, what is the procedure for getting registered under GST and how to get the registration application amended, when can registration be cancelled and when the cancellation of the registration by the Department or by the registered person be revoked.

Following sections of Chapter VI – Registration of the CGST Act shall be discussed in this chapter to understand the registration provisions:

Section 22	Persons liable for registration.
Section 23	Persons not liable for registration
Section 24	Compulsory registration in certain cases
Section 25	Procedure for registration.
Section 26	Deemed registration
Section 27	Special provisions relating to casual taxable person and non-resident taxable person
Section 28	Amendment of registration
Section 29	Cancellation or suspension of registration
Section 30	Revocation of cancellation of registration

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4. PERSONS LIABLE FOR REGISTRATION [SECTION 22]

STATUTORY PROVISIONS

Section 22 (Relevant Extract)	Persons liable for registration
Sub-section	**Particulars**
(1)	*Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees.* *Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.* *Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified.* *Provided also that the Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.* *Explanation—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.*

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(2)	*Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.*	
(3)	*Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.*	
(4)	*Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.*	
	Explanation[2]––For the purposes of this section, ––	
	(i)	*the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals*
	(iii)	*the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand.*



ANALYSIS

[2] *Clause (ii) to Explanation relates to 'Job work'. The same shall be discussed in detail at final level.*

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(i) Threshold limit for registration

- Every supplier of goods or services or both is required to obtain registration
- in the State or the Union territory from where he makes the taxable supply
- if his **aggregate turnover** exceeds specified threshold limit in a FY.

Aggregate Turnover



Before, we study what is the applicable threshold limit for various States/ UTs, let us first understand the concept of **aggregate turnover**.

Aggregate turnover is a crucial parameter for deciding the eligibility of a supplier to avail the benefit of threshold exemption from registration, eligibility for composition scheme *[Discussed in Chapter 3 – Charge of GST]*.

'Turnover' in common parlance is the total volume of business. The term 'aggregate turnover' as defined under section 2(6) has been presented in the diagrammatic form as follows:

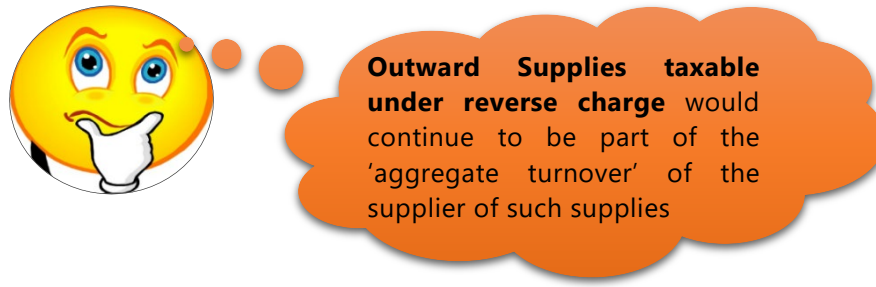
Aggregate turnover

Includes	**Excludes**
Value of all outward supplies --Taxable supplies --Exempt supplies --Exports --Inter-State supplies **of persons having the same PAN to be computed on all India basis.**	--CGST/ SGST/ UTGST/ IGST/ Cess --Value of inward supplies on which tax is payable under reverse charge.

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Section 2(6) [definition of 'aggregate turnover' as given above] read with explanation (i) to section 22 has been analysed as follows:

(A) Aggregate turnover to exclude inward supplies on which tax is payable under reverse charge: It may be noted that the inward supplies on which recipient is required to pay tax under Reverse Charge Mechanism (RCM) do not form part of the 'aggregate turnover'. The law stipulates certain supplies like, Goods Transport Agency services, legal services, sponsorship services, to name a few, where the recipient of service is made to pay the tax – *Discussed in detail in Chapter 3 – Charge of GST*. The value of such supplies would not form part of the 'aggregate turnover' of recipient of such supplies.





(1) Raghubir Private Ltd. pays GST on sitting fees paid to its directors for the services rendered by them, taxable under reverse charge. Value of services provided by the directors to Raghubir Private Ltd. will form part of the aggregate turnover of the directors and not of Raghubir Private Ltd.

(B) Aggregate turnover excludes the element of CGST, SGST, UTGST, and IGST and compensation cess.

(C) Aggregate turnover to include total turnover of all branches (i.e. all GST registrations) under same PAN

Aggregate turnover is calculated by taking together the value in respect of the activities carried out on all-India basis.



(2) A dealer 'X' has two offices – one in Delhi and another in Haryana. In order to determine whether 'X' is liable for registration, turnover of both the offices would be taken into account and only if the same exceeds the applicable threshold limit, X is liable for registration subject to provisions of section 24.

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(D) Value of exported goods/services, exempted goods/services, inter-State supplies between distinct persons having same PAN, to be included in aggregate turnover.



(3) Madhur Oils, Punjab, is engaged in supplying machine oil as well as petrol. Supply of petrol is not leviable to GST, but supply of machine oil is taxable. In order to determine whether Madhur Oils is liable for registration, turnover of both non-taxable[3] as well as taxable supplies would be taken into account and if the same exceeds the applicable threshold limit, Madhur Oils is liable for registration.

(E) Aggregate turnover to include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.



(4) Mohini Enterprises has appointed M/s Bestfords & Associates as its agent. M/s Bestfords & Associates makes supply of goods on its own account and, on behalf of Mohini Enterprises where invoices are issued in name of M/s Bestfords & Associates only.

All the supplies of goods made by M/s Bestfords & Associates as agent of Mohini Enterprises as well as on its own account will be included in the aggregate turnover of M/s Bestfords & Associates.

(F) 'Aggregate turnover' Vs. 'Turnover in a State': The aggregate turnover is different from turnover in a State. The former is used for determining the threshold limit for registration and eligibility for composition scheme *[Discussed in Chapter 3 – Charge of GST]*. However, once a person is eligible for composition levy, the GST payable under composition levy would be calculated as a specified % of 'turnover in the State/UT'.

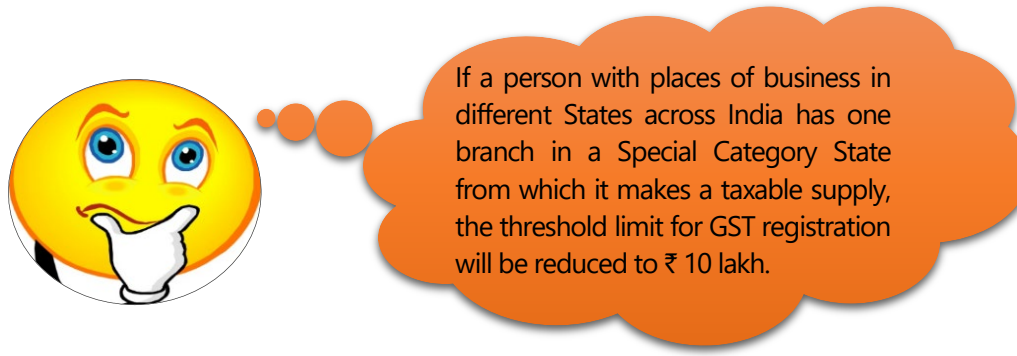
Applicable threshold limit

The threshold limit prescribed under section 22(1) is **₹ 20 lakh** in a FY, i.e. every supplier, whose aggregate turnover in a financial year exceeds ₹ 20 lakh, is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods and/or services.

[3] *Exempt supply includes non-taxable supply as per section 2(47).*

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However, the limit of ₹ 20 lakh will be reduced to **₹ 10 lakh** if the person is carrying out business in **Special Category States**. As per Article 279A(4)(g) of the Constitution, there are 11 Special Category States, namely, States of Arunachal Pradesh, Assam, Jammu and Kashmir[4], Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand. However, as per the explanation (iii) to section 22, for the purposes of registration, only Mizoram, Tripura, Manipur and Nagaland are Special Category States. Therefore, the threshold limit ₹ 10 lakh is applicable for Mizoram, Tripura, Manipur and Nagaland.



Government is empowered to enhance the threshold limit of ₹ 20 lakh upto ₹ 40 lakh for a supplier engaged exclusively in the supply of goods, at the request of a State and on the recommendations of the Council. This shall be subject to such conditions and limitations, as may be notified.

For the purposes of section 22(1), a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Further, *Notification No. 10/2019 CT dated 07.03.2019* exempts any person who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed ₹ 40 lakh, from registration requirement.

Exceptions to this exemption are as follows:

(a) Persons required to take compulsory registration under section 24.

[4] *The erstwhile State of Jammu and Kashmir was reorganised into the Union territory of Jammu and Kashmir (with Legislature) and Union territory of Ladakh vide the Jammu and Kashmir Reorganisation Act, 2019.*

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(b) Persons engaged in making supplies of

(i) ice cream and other edible ice, whether or not containing cocoa [2105 00 00],

(ii) pan masala [2106 90 20],

(iii) all goods of Chapter 24, i.e. Tobacco and manufactured tobacco substitutes,

(iv) fly ash bricks; fly ash aggregates; fly ash blocks [6815],

(v) bricks of fossil meals or similar siliceous earths [6901 00 10],

(vi) building bricks [6904 10 00],

(vii) earthen or roofing tiles [6905 10 00].

(c) Persons engaged in making **intra-State supplies** in the States of Arunachal Pradesh, Uttarakhand, Meghalaya, Sikkim, Telangana, Puducherry and Special Category States as per section 22 [Nagaland, Mizoram, Manipur, Tripura]. **Inter-State supplies of goods** are nevertheless liable to compulsory registration and are already covered in exception (a) above.

(d) Person who has opted for **voluntary registration** or such registered persons who intend to continue with their registration under the CGST Act.

In view the above discussion, the registration requirements under GST can be summarised as follows:

			Threshold limit for persons engaged	
			exclusively in supply of goods	**exclusively in supply of services/ both goods & services**
States/UTs other than Special Category States		Puducherry	₹ 20 lakh	₹ 20 Lakh
		Telangana	₹ 20 lakh	₹ 20 Lakh
		Others	₹ 40 lakh	₹ 20 Lakh
		Manipur	₹ 10 lakh	₹ 10 Lakh

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Special Category States/ UTs as per Constitution	**Special Category States as per section 22**	Mizoram	₹ 10 lakh	₹ 10 Lakh
		Nagaland	₹ 10 lakh	₹ 10 Lakh
		Tripura	₹ 10 lakh	₹ 10 Lakh
	Other States/UTs	Jammu and Kashmir	₹ 40 lakh	₹ 20 Lakh
		Assam	₹ 40 lakh	₹ 20 Lakh
		Himachal Pradesh	₹ 40 lakh	₹ 20 Lakh
		Arunachal Pradesh	₹ 20 Lakh	₹ 20 Lakh
		Meghalaya	₹ 20 Lakh	₹ 20 Lakh
		Sikkim	₹ 20 Lakh	₹ 20 Lakh
		Uttarakhand	₹ 20 Lakh	₹ 20 Lakh

States with threshold limit of ₹ 10 lakh for supplier of goods and/or services

- Manipur
- Mizoram
- Nagaland
- Tripura

States/UTs with threshold limit of ₹ 20 lakh for supplier of goods and/or services

- Arunachal Pradesh
- Meghalaya
- Sikkim
- Uttarakhand
- Puducherry
- Telangana

States/UTs with threshold limit of ₹ 20 lakh for supplier of services/ both goods and services and ₹ 40 lakh for supplier of goods (Intra-State)

- Jammu and Kashmir
- Assam
- Himachal Pradesh
- All other States

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(5) Prithiviraj of Assam is exclusively engaged in intra-State supply of shoes. His aggregate turnover in the current financial year is ₹ 22 lakh. In view of the discussion in the above paras, the applicable threshold limit for registration for Prithviraj in the given case is ₹ 40 lakh. Thus, he is not liable to get registered under GST.

If in above example, all other things remaining the same, Prithiviraj is exclusively engaged in supply of pan masala instead of shoes, he will not be eligible for higher threshold limit of ₹ 40 lakh and the applicable threshold limit for registration in that given case will be ₹ 20 lakh. Thus, Prithiviraj will be liable to get registered under GST.

If instead of pan masala, Prithiviraj is exclusively engaged in supply of taxable services, the applicable threshold limit for registration will still be ₹ 20 lakh. Thus, Prithiviraj will be liable to get registered under GST.

Further, if Prithiviraj is engaged in supply of both taxable goods and services, the applicable threshold limit for registration will be ₹ 20 lakh only. Thus, Prithiviraj will be liable to get registered under GST.



(6) Shivaji of Telangana is exclusively engaged in intra-State supply of toys. Its aggregate turnover in the current financial year is ₹ 22 lakh. Since Shivaji is making taxable supplies from Telangana, he will not be eligible for higher threshold limit available in case of exclusive supply of goods. The applicable threshold limit for registration for Shivaji in the given case is ₹ 20 lakh. Thus, he is liable to get registered under GST.

If in above example, all other things remaining the same, Shivaji is exclusively engaged in supply of taxable services instead of toys, the applicable threshold limit for registration will still be ₹ 20 lakh. Thus, Shivaji will be liable to get registered under GST.

Further, if Shivaji is engaged in supply of both taxable goods and services, the applicable threshold limit for registration will be ₹ 20 lakh only. Thus, Shivaji will be liable to get registered under GST.



(7) Ashoka of Manipur is exclusively engaged in intra-State supply of paper. Its aggregate turnover in the current financial year is ₹ 12 lakh. Since Ashoka is making taxable supplies from Manipur which is a Special Category State, the applicable threshold limit for registration

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for Ashoka in the given case is ₹ 10 lakh. Thus, he is liable to get registered under GST.

If in above example, all other things remaining the same, Ashoka is exclusively engaged in supply of taxable services instead of paper, the applicable threshold limit for registration will still be ₹ 10 lakh. Thus, Ashoka will be liable to get registered under GST.

Further, if Ashoka is engaged in supply of both taxable goods and services, the applicable threshold limit for registration in that given case will be ₹ 10 lakh only. Thus, Ashoka will be liable to get registered under GST.



(8) Raghav of Assam is exclusively engaged in intra-State supply of readymade garments. His turnover in the current F.Y. from Assam showroom is ₹ 28 lakh. He has another showroom in Tripura with a turnover of ₹ 11 lakh in the current F.Y. Since Raghav is engaged in supplying garments from a Special Category State as per section 22, the applicable threshold limit for him gets reduced to ₹ 10 lakh. Further, Raghav is liable to get registered under GST in both Assam and Tripura on his aggregate turnover crossing the threshold limit of ₹ 10 lakh.

(ii) Registration to be obtained only for a place of business from where taxable supply takes place

A supplier is required to obtain registration with respect to his each place of business in India from where a taxable supply has been made. However, a supplier is not liable to obtain registration in a State/UT from where he makes an exempt/non-taxable supply.

It is pertinent to note here that a supplier is required to obtain registration only in the State(s) **"from where taxable supply is made"** and not **"where taxable supply is made"**. It may be noted that if goods and/or services are supplied **in** different States, GST registration is not required in each such State(s).

Thus, if a person has only liaison office or marketing office in a State and if there is no taxable supply from that State, he is not required to obtain registration in that State, even if he is registered in other State/s. Thus, in that State where liaison office or marketing office is located, he will be treated as 'unregistered'.

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(9) Mr. X has a registered office in Delhi. He imports goods which are landed at Mumbai sea port. Mr. X enters into a sales agreement with Mr. Y located in Mumbai to directly sell the goods from the Mumbai port. In this case, Mr. X is not required to obtain registration in Mumbai as he has no fixed establishment in Mumbai.

Further, in a State from where taxable supply has been made, registration is required to be obtained only if the supplier has a "fixed establishment" in such State. This aspect is more relevant in respect of supply of services like repair & maintenance, transportation, security, erection & commissioning services and construction contracts etc.

Further, the threshold limit of a person having places of business in more than one State/UT in India gets reduced to ₹ 10 lakh only when such person makes **taxable supplies** of goods or services or both **from any of the Special Category States** as per section 22. However, in case he makes exempt/non-taxable supply from a Special Category State and taxable supplies from a State other than Special Category State, the threshold limit shall not be so reduced.



(10) Uday Enterprises is engaged in supply of taxable goods and services in Maharashtra. It also supplies alcoholic liquor for human consumption from Nagaland. Its turnover in the current financial year is ₹ 14 lakh in Maharashtra and ₹ 11 lakh in Nagaland.

Since Uday Enterprises is engaged in making taxable supplies of goods and services from Maharashtra, the applicable threshold limit for obtaining registration is ₹ 20 lakh. However, the threshold limit will not be reduced to ₹ 10 lakh in this case, as supply of alcoholic liquor for human consumption from Nagaland (one of the Special Category States) is non-taxable supply[5].

In the given case, since the aggregate turnover of Uday Enterprises exceeds the applicable threshold limit of ₹ 20 lakh, it is liable to obtain registration. It will obtain registration in Maharashtra but is not required to obtain registration in Nagaland as he is not making any taxable supplies from the said State.

[5] *in terms of section 9(1)*

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(iii) Person liable for registration in case of transfer of business



Where a business is transferred, whether on account of succession/any other reason [including transfer/change in the ownership of business due to death of the sole proprietor[6]], to another person as a going concern, the transferee/successor, is to be registered with effect from the date of such transfer/succession. Where the business is transferred, pursuant to sanction of a scheme/ arrangement for amalgamation/ de-merger of two or more companies, pursuant to an order of a High Court/Tribunal, the transferee is to be registered with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order.

5. COMPULSORY REGISTRATION IN CERTAIN CASES [SECTION 24]

As we have seen above that a supplier is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods and/or services only if his aggregate turnover in a financial year exceeds the applicable threshold limit. However, there are certain cases wherein a supplier is mandatorily required to obtain registration irrespective of the quantum of his aggregate turnover. In other words, these are the cases wherein a supplier is compulsorily required to obtain registration even though his aggregate turnover does not exceed the applicable threshold limit.

However, certain exemptions from registration have also been provided under section 23. These exceptions have been incorporated briefly at the relevant places in the discussion under this heading in order to provide a holistic picture. The exceptions have also been explained in detail in the next *heading 6. Persons not liable for registration*.

The category of persons requiring compulsory registration under GST have been enlisted below:

(1) Persons making any inter-State taxable supply. However, threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category States of Mizoram, Tripura,

[6] *clarified vide Circular No. 96/15/2019 GST dated 28.03.2019*

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Manipur and Nagaland) is available in case of inter-State supply of **taxable services** and of notified handicraft goods.

(2) Casual taxable persons (CTP) making taxable supply. However, threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) is available in case of CTP who is making inter-State taxable supplies of notified handicraft goods and availing the benefit of exemption from registration as mentioned in point (1) above.

(3) Persons who are required to pay tax under reverse charge on inward supplies received. However, persons engaged exclusively in making outward supplies, tax on which is liable to be paid on reverse charge basis under section 9(3) [except suppliers of metal scrap (Chapter 72 to 81)] are exempt from registration.

(4) Non-resident taxable persons (NRTP) making taxable supply.

(5) E-commerce:

(i) Every ECO (Electronic Commerce Operator) who is required to collect tax at source under section 52.

(ii) Persons who are required to pay tax under section 9(5)[7] i.e. e-commerce operator who is required to pay tax on specified services.

(iii) Persons who supply goods and/or services, other than supplies specified under section 9(5), through such ECO who is required to collect TCS under section 52. Exceptions are as follows:

- The threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) is available in case of suppliers supplying **services** through ECO.
- The threshold limit for registration is available to persons making intra-State supplies of **goods** through ECO.

(6) Persons who are required to deduct tax under section 51, whether or not separately registered under this Act.

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[7] *The provisions of section 9(5) of the CGST Act, 2017 where the ECO is required to pay tax are discussed in detail in Chapter 3 – Charge of GST in Module 1 of this Study Material.*

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(7) Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise.

(8) Input Service Distributor, whether or not separately registered under this Act.

(9) Every person supplying online information and data base access or retrieval (OIDAR) services from a place outside India to a person in India, other than a registered person[8].

(10) every person supplying online money gaming from a place outside India to a person in India

(11) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

Note: Concept of CTP and NRTP is explained subsequently in this chapter.

6. PERSONS NOT LIABLE FOR REGISTRATION [SECTION 23]

(i) Persons not liable to registration

Section 23 lists the persons who are not liable to registration. Thus, the persons so listed will not be the 'taxable persons'.

(A) Person engaged exclusively in the business of supplying goods and /or services not liable to tax/wholly exempt from tax: As per section 23, any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under CGST Act/IGST Act shall not be liable to registration. This provision can be understood with the help of following examples:



(11) Madhur Oils, Punjab, is exclusively engaged in supplying petrol. Supply of petrol is not leviable to GST. Thus, Madhur Oils is not liable for registration as it is engaged exclusively in supplying goods not leviable to tax.

[8] *The provisions relating to Input Service Distributor, OIDAR services and supply of service of online money gaming from a place outside India to a person in India will be discussed in detail at the Final Level. Hence, text shaded in blue here is only for the purpose of knowledge of the students and is not relevant for the examinations.*

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(12) Bhavyajyoti Foundation, a charitable trust registered under section 12AA of the Income-tax Act, 1961, is exclusively engaged in supply of services by way of charitable activities. Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. Thus, Bhavyajyoti Foundation is not liable for registration as it is exclusively engaged in supplying services exempt from tax.

(B) An agriculturist, to the extent of supply of produce out of cultivation of land: An agriculturist to the extent of supply of produce out of cultivation of land is also not liable to registration. The term agriculturist has been defined under section 2(7) as an individual/Hindu Undivided Family (HUF) who undertakes **cultivation of land**—



(a) by own labour, or

(b) by the labour of family, or

(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.



From the above definition, it is clear that the benefit of not being liable to registration is only restricted to the agriculturists who are individuals or HUFs. Further, if an agriculturist is also engaged in making any supply other than supply of produce out of cultivation of land, he shall be liable to registration based on applicable threshold limit.

(13) Deshbandhu is an agriculturist engaged in cultivation of wheat in his field in the State of Punjab. He was exclusively engaged in intra-State supply of wheat cultivated in his field in the previous year. Thus, he was not liable to registration as he was exclusively engaged in supply of produce out of cultivation of land.

In the current year, he decided to start trading in pre-packaged and labelled puffed rice apart from supplying his wheat produce. His turnover in the current year is ₹ 32 lakh from supply of wheat produced and ₹ 9 lakh from trading of pre-packaged and labelled puffed rice.

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Since he is engaged in trading of pre-packaged and labelled puffed rice also, he is not covered under section 23 above. The threshold limit for registration applicable to a person exclusively engaged in supply of goods in the State of Punjab is ₹ 40 lakh. The aggregate turnover of Deshbandhu in the current year is ₹ 41 lakh [₹ 32 lakh + ₹ 9 lakh] which exceeds the threshold limit. Thus, he will be liable to registration.

(ii) Specified category of persons notified by the Government exempted from obtaining registration

Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.

The following category of persons have been notified as being exempted from obtaining registration under GST law:

A. Persons making only reverse charge supplies

Persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3) have been exempted from obtaining registration.

However, nothing contained in this notification shall apply to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the first schedule to the Customs Tariff Act, 1975.

[Notification No. 5/2017 CT dated 19.06.2017]



(14) Manikaran Transporters is a Goods Transport Agency (GTA) engaged exclusively in supplying GTA services liable to tax under reverse charge [since tax is being paid on GTA services @ 5% and Manikaran has not exercised the option to pay GST itself in the given case]. Thus, it is exempt from registration as it is engaged exclusively in making supplies, tax on which is liable to be paid on reverse charge basis.

Further, Manikaran Transporters supplies said service to Diwakar Manufacturing Pvt. Ltd. whose aggregate turnover does not exceed the

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applicable threshold limit. However, since Diwakar Manufacturing Pvt. Ltd. has to pay tax on GTA services [@ 5%] under reverse charge, it is required to obtain registration mandatorily irrespective of its aggregate turnover.

B. Persons making inter-State supplies of taxable services up to ₹ 20 lakh

The persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of ₹ 20 lakh in a financial year have been exempted from obtaining compulsory registration. However, the aggregate value of such supplies, computed on all India basis, should not exceed an amount of ₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland ***[Notification No. 10/2017 IT dated 13.10.2017].***



(15) Dhola & Co., located in Delhi, is engaged in supply of taxable goods[9] in the neighbouring States of Punjab and Haryana. Its aggregate turnover in current FY is ₹ 10 lakh. Since it is engaged in making inter-State taxable supply of goods, it is required to register mandatorily under GST irrespective of its aggregate turnover.

However, if in the above case, Dhola & Co. is engaged in inter- State supply of taxable services instead of goods, it will be eligible for exemption from registration till its aggregate turnover does not exceed ₹ 20 lakh.

C. Persons making inter-State taxable supplies of notified handicraft goods up to ₹ 20,00,000

As we have seen earlier that as per section 24 read with *Notification No. 10/2017 IT*, a person making inter-State supplies of goods is liable to be registered compulsorily under GST irrespective of the threshold limit.



[9] *other than notified handicraft goods*

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However, in the following cases, **persons making inter-State supplies** of goods have been exempted from obtaining registration:

(a) Persons making inter-State taxable supplies of **notified**[10] **handicraft goods**.

(b) Persons making inter-State taxable supplies of **notified products**[11], when made by craftsmen predominantly by hand even though some machinery may also be used in the process.

Conditions to be fulfilled:

1. The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 lakh [₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland] in a FY.

2. Such persons have obtained a PAN and have generated an e-way bill[12] ***[Notification No. 3/2018 IT dated 22.10.2018].***



(16) Ariza Pvt. Ltd., located in Madhya Pradesh, is a supplier of taxable and notified handicraft goods. It supplies these goods in the neighbouring States of Uttar Pradesh and Orissa. Its aggregate turnover in the month of April is ₹ 15 lakh. Although Ariza Pvt. Ltd. is engaged in making inter-State supplies of taxable goods, it is not liable to obtain registration till its aggregate turnover does not

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[10] *Handicraft goods referred herein are goods as defined and notified in Notification No. 21/2018 CT (R) dated 26.07.2018. This notification notifies the handicraft items which are eligible for concessional rate of tax, for instance, handcrafted candles, articles made of paper mache, coir articles, handbags including pouches and purses; jewellery box, hand embroidered articles, art ware of iron/aluminium, etc. These examples are only for the purpose of knowledge and are not relevant for examination purposes. Handicraft goods are defined under said notification as goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility.*

[11] *Some of the notified products are leather articles, carved wood products, wood turning and lacquer ware, bamboo products, textiles hand printing, theatre costumes, musical instruments, dolls and toys, etc. These examples are only for the purpose of knowledge and are not relevant for examination purpose.*

[12] *The provisions relating to e-way bill have been discussed in detail in Chapter 12 in this Module of the Study Material.*

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exceed ₹ 20 lakh as it has availed the exemption from registration under *Notification No. 03/2018 IT*[13].

D. Casual Taxable Persons making inter-State taxable supplies of notified handicraft goods up to ₹ 20 lakh

As we have seen earlier that as per section 24, a CTP is liable to be registered compulsorily under GST irrespective of the threshold limit.

However, following categories of CTPs have been exempted from obtaining registration:

(a) CTPs making inter-State taxable supplies of **notified handicraft goods**, *[as referred in Point C. above]* or

(b) CTPs making inter-State taxable supplies of **notified products** *[as referred in Point C. above]*, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process.

Conditions to be fulfilled:

1. CTPs are availing benefit of *Notification No. 03/2018 IT dated 22.10.2018 [discussed above]*.

2. The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 lakh [₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland] in a FY.

3. Such persons have obtained a PAN and have generated an e-way bill ***[Notification No. 56/2018 CT dated 23.10.2018]***.

E. Persons making supplies of services through an ECO [other than supplies specified under section 9(5)] with aggregate turnover up to ₹ 20 lakh

Persons making supplies of services, other than supplies specified under section 9(5), through an ECO who is required to collect tax at source under section 52, and having an aggregate turnover, to be computed on all India basis, not exceeding **₹ 20 lakh** (**₹ 10 lakh** in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) in a FY,

[13] *subject to fulfilment of other conditions prescribed under said notification.*

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have been exempted from obtaining compulsory registration *[Notification No. 65/2017 CT dated 15.11.2017]*.

Therefore, all service providers, whether supplying intra-State, inter-State or through ECO, will be exempt from obtaining registration, provided their aggregate turnover does not exceed ₹ 20 lakh (₹ 10 lakh in special category States of Mizoram, Tripura, Manipur and Nagaland).

F. Persons making intra-State supplies of goods through an ECO with aggregate turnover up to the threshold limit

The persons making supplies of goods through an ECO who is required to collect TCS under section 52 and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit in accordance with the provisions of section 22(1), are exempted from obtaining registration, subject to the following conditions, namely:

(i) such persons shall **not make any inter-State supply** of goods;

(ii) such persons shall **not make supply** of goods through **ECO in more than one State**/Union territory;

(iii) such persons shall be **required to have a PAN** issued under the Income-tax Act, 1961;

(iv) such persons shall, before making any supply of goods through ECO, declare on the common portal:

a. their PAN

b. address of their place of business and

c. State/UT in which such persons seek to make such supply,

which shall be subjected to validation on the common portal;

(v) such persons have been **granted an enrolment number** on the common portal on successful validation of the PAN declared above;

(vi) such persons shall not be granted more than one enrolment number in a State/UT;

(vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and

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(viii) where such persons are subsequently granted registration under section 25, the enrolment number shall cease to be valid from the effective date of registration.

[Notification No. 34/2023 CT dated 31.07.2023]

Liability to register in respect of services provided by the commission agent as per APMC Act for sale/ purchase of agricultural produce

CBIC[14] has clarified the issue as to whether the services provided by the commission agent as per APMC Act for sale/ purchase of agricultural produce qualify as supply under GST with the help of the following example. It further examines and clarifies the registration requirements of such commission agents.

Mr. A sells agricultural produce by utilizing the services of Mr. B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State[15]. Mr. B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A.

In case where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Schedule I. However, in case where the invoice is issued by Mr. B to the buyer, Mr. B is an agent as covered under Para 3 of Schedule I to the CGST Act. Hence, in such cases, the services supplied by commission agent Mr. B on behalf of the principal without consideration shall be deemed to be a supply – *Concept of Deemed Supply under Schedule-I has been discussed in detail in Chapter 2 – Supply under GST*.

The registration requirements of the commission agents in such cases have been examined and clarified as follows:

(i) As we have already seen, as per section 24, a person is liable for mandatory registration if he makes **taxable supply** of goods or services or both **on behalf of other taxable persons.**

Accordingly, a commission agent will be liable to get mandatorily registered under this provision only when both the following conditions are satisfied:

(a) the principal should be a taxable person; and

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[14] *Circular No. 57/31/2018 GST dated 04.09.2018*

[15] *As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.*

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(b) the supplies made by the commission agent should be taxable.

However, generally, a commission agent under APMC Act makes supplies on behalf of an **agriculturist** who is not a taxable person if he supplies produce out of cultivation of land[16] [as seen above].

Thus, a commission agent, who is making supplies on behalf of non-taxable person [viz. agriculturist], is not liable for compulsory registration under this provision.

(ii) Further, since the services provided by the commission agent for sale/ purchase of agricultural produce are exempt from GST[17], **such commission agents are not liable to be registered in accordance with provisions of section 23(1)(a)** [as discussed above].

(iii) However, where a commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily (We have already seen under previous heading that persons liable to pay tax under reverse charge are required to obtain registration mandatorily).

The provisions of section 23 can be summarized in the following diagram:

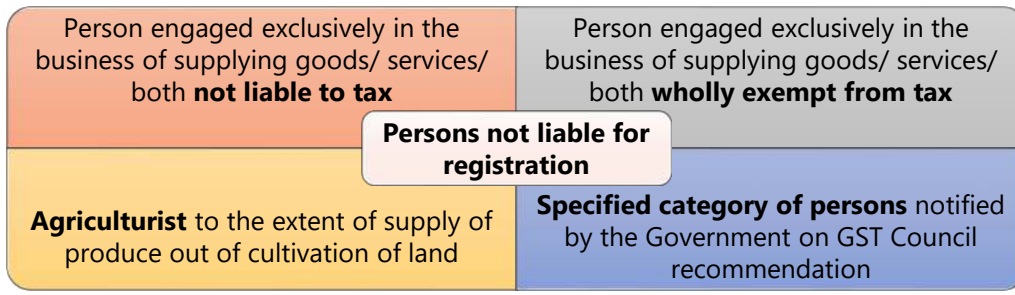


ILLUSTRATION 1

Examine, with reason, whether registration is required, under CGST Act, in the following independent cases:

(i) Aadhav Computers of Gujarat is providing computer maintenance service. Aggregate turnover of Aadhav Computers is ₹ 15 lakh which comprises both inter-State and intra-State supply.

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[16] *in terms of section 23(1)(a)*

[17] *Notification No. 12/2017 CT (R) dated 28.06.2017 [Discussed in Chapter 5 – Exemptions from GST in Module-1 of the Study material.]*

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(ii) Soft Wings of West Bengal, exclusively trading in garments, supplies its taxable goods in various States of India from its outlet in West Bengal. Aggregate turnover of Soft Wings is ₹ 35 lakh.

ANSWER

(i) Registration is compulsory for suppliers engaged in inter-State supply. However, as per *Notification No. 10/2017 IT dated 13.10.2017,* threshold exemption of ₹ 20 lakh [₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland] is available in case of inter-State supply of taxable services.

Therefore, Aadhav Computers (aggregate turnover ₹ 15 lakh) is not required to obtain registration even though it is engaged in inter-State supply of taxable services.

(ii) The threshold limit for registration in the State of West Bengal for the persons engaged exclusively in supply of goods, is ₹ 40 lakh. However, registration is compulsory if the supplier is engaged inter-State supply of goods irrespective of the quantum of aggregate turnover. The threshold exemption is not available in case of inter-State supply of taxable goods. Thus, Soft Wings is required to obtain registration.

ILLUSTRATION 2

Examine whether the liability to register compulsorily under section 24 arises in each of the independent cases mentioned below:

(1) Meenu, a supplier in Maharashtra, is exclusively engaged in supply of potatoes produced out of cultivation of her own land, within Maharashtra and also outside Maharashtra.

(2) Jinu Oils, Gujarat, is engaged in supplying machine oil as well as petrol. Further, it provides intra-state services of refining of oil to customers. Total turnover of supply of machine oil is ₹ 10 lakh, supply of petrol is ₹ 5 lakh and supply of services is ₹ 6 lakh.

(3) Tilu is working as an agent, he is supplying taxable goods as an agent of Tiku (who is registered taxable person) and its aggregate turnover does not exceed the applicable threshold limit during the financial year. Invoices to customers are issued in name of Tilu.

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ANSWER

(1) Section 24 provides that persons making any inter-State taxable supply of goods are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

However, as per section 23, an agriculturist, to the extent of supply of produce out of cultivation of land, is not liable to registration.

Meenu is exclusively engaged in cultivation and supply of potatoes. Thus, she is not liable to registration irrespective of the fact that she is engaged in making inter-State supply of goods. Further, Meenu will not be liable to registration, in the given case, even if her turnover exceeds the threshold limit.

(2) Section 24 specifies the categories of persons who are required to be mandatorily registered under GST irrespective of the quantum of their aggregate turnover.

In the given case, Jinu Oils does not fall in any of the specified categories. Therefore, it is not required to obtain registration compulsorily under GST.

However, as per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019,* a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making supply of both goods and services is ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland and ₹ 20 lakh for the rest of India. Thus, the applicable threshold limit for the State of Gujarat is ₹ 20 lakh for supply of both goods and services. Further, aggregate turnover includes exempted turnover of goods or services.

Accordingly, Jinu Oils is liable obtain registration since its aggregate turnover [₹ 21 lakh (including turnover of exempt supply of petrol)] exceeds the threshold limit of ₹ 20 lakh.

(3) Section 24 provides that persons who make taxable supply of goods and/or services on behalf of other taxable persons whether as an agent or otherwise are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

Therefore, Tilu will be mandatorily required to obtain registration.

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7. PROCEDURE FOR REGISTRATION [SECTIONS 25, 26 & 27]

STATUTORY PROVISIONS

Section 25	Procedure for registration
Sub-section	**Particulars**
(1)	*Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed.* *Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.* *Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.* *Explanation—Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.*
(2)	*A person seeking registration under this Act shall be granted a single registration in a State or Union territory.* *Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.*
(3)	*A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all*

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	provisions of this Act, as are applicable to a registered person, shall apply to such person.
(4)	*A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act*
(5)	*Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.*
(6)	*Every person shall have a Permanent Account Number issued under the Income- tax Act, 1961 in order to be eligible for grant of registration.* *Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.*
(6A)	*Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed.* *Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe.* *Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.*
(6B)	*On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations*

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	of the Council, specify in the said notification. *Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.*
(6C)	*On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendation of the Council, specify in the said notification.* *Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.*
(6D)	*The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.* *Explanation—For the purposes of this section, the expression "Aadhaar number" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016*
(7)	*Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed*
(8)	*Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other*

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	law for the time being in force, proceed to register such person in such manner as may be prescribed
(9)	*Notwithstanding anything contained in sub-section (1),––*
	(a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and
	(b) any other person or class of persons, as may be notified by the Commissioner,
	shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.
(10)	*The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.*
(11)	*A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.*
(12)	*A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.*
Section 26	**Deemed registration**
(1)	*The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25.*
(2)	*Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or*

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	the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.
Section 27	**Special provisions relating to casual taxable person and non-resident taxable person**
(1)	*The certificate of registration issued to a casual taxable person or a non- resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration.* *Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.*
(2)	*A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.* *Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.*
(3)	*The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilized in the manner provided under section 49.*



ANALYSIS

Procedure for registration is governed by section 25 read with relevant CGST Rules. Relevant provisions of CGST Rules have been incorporated at the relevant places. Further, special provisions have been provided for registration of casual taxable person and non-resident taxable person under section 27. Concept of deemed registration has been elaborated under section 26. Under GST, the application for registration has to be submitted electronically at the GST Common Portal – www.gst.gov.in, duly signed or verified.

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A large number of forms/formats relating to registration have been prescribed in the CGST Rules. For every process in the registration chain such as application for registration, acknowledgment, query, rejection, registration certificate, show cause notice for cancellation, reply, cancellation, amendment, field visit report etc., there are separate standard formats[18]. This makes the process uniform all over the country. The decision-making process has also been expedited. Strict time-lines have been stipulated for completion of different stages of registration process.

(i) Where and by when to apply for registration? [Section 25(1)]

Particulars	Where	When
Person who is liable to be registered under section 22 or section 24	in every such State/UT in which he is so liable	within 30 days from the date on which he becomes liable to registration
A casual taxable person or a non-resident taxable person		at least 5 days prior to commencement of business
Every person who makes a supply from the territorial waters of India	in the coastal State/UT where the nearest point of the appropriate base line is located.	within 30 days from the date on which he becomes liable to registration



(17) Sugam Services Ltd. is engaged in taxable supply of services in Delhi. The turnover of Sugam Services Ltd. exceeded ₹ 20 lakh on 1st November. It is liable to apply for registration by 1st December in Delhi.

(ii) State-wise registration [Section 25(2) read with rule 11]

(A) One registration per State

- Registration needs to be taken State-wise, i.e. there is no centralized registration under GST. A business entity having its

[18] *Students are advised to go through various forms/formats relating to registration at* http://www.gst.gov.in. *for knowledge purpose.*

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branches in multiple States will have to take separate State-wise registration for its branches in different States.

- Further, within a State, an entity with different branches shall be granted single registration wherein it can declare one place as principal place of business (PPoB) and other branches as additional places of business (APoB).

(B) Separate registration for different places of business within a State/UT may be granted

- Although a taxpayer having multiple places of business in one State is not mandatorily required to obtain separate registration for each such place of business in the State, he has an option to obtain independent registrations with respect to each such separate place of business.
- However, separate registration for each place of business shall be granted provided all separately registered places of business of such person pay tax on supply of goods/services/both made to another registered place of business, of such person and issue a tax invoice/bill of supply, for such supply. **Separate registration application needs to be filed for each place of business.**
- A registered person opting to obtain separate registration for a place of business shall submit a separate application in Form GST REG 01 in respect of such place of business.



(18) Meethalal & Sons - a supplier in Maharshtra - has three branches in Mumbai, Pune and Mahabaleshwar. Mumbai and Pune branches are engaged in supply of garments and Mahabaleshwar branch engaged in supply of shoes.

It can obtain single registration for Mahrashtra declaring one of the branches as PPoB and other two branches as APoB or it can obtain separate GST registration for each of the three branches in Mumbai, Pune and Mahabaleshwar as separate places of business.

In case Meethalal & Sons opts to have separate registrations for its all three branches and Mumbai branch sends some garments [subject to GST] for sale to Pune branch, Mumbai branch must raise a tax invoice and pay tax on such transfer of garments to Pune branch.

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(C) Composition levy in case of separate registration for multiple places of business within a State/UT

- If a person is paying tax for one of his places of business under normal scheme, he cannot opt to pay tax under composition levy for any other place of business.
- If one of the places of business [separately registered] of a registered person becomes ineligible to pay tax under composition levy, all other registered places of business of said person would also become ineligible to pay tax under composition levy.
- The provisions of rules 9 and 10 *[Discussed in subsequent paras]* relating to verification and grant of registration shall mutatis mutandis apply to an application submitted under this rule.

(iii) Voluntary registration [Section 25(3)]

A person who is not liable to be registered under section 22 or section 24 may get himself registered voluntarily. In case of voluntary registration, all provisions of this Act, as are applicable to a registered person, shall apply to voluntarily registered person. However, once a person obtains voluntary registration, he has to pay tax even though his aggregate turnover does not exceed ₹ 40 lakh/₹ 20 lakh/₹ 10 lakh, as the case may be.

Voluntary registration is usually obtained by businesses for ensuring seamless flow of credit to their customers.

(iv) Distinct Persons/ establishments of distinct persons [Section 25(4) & (5)]

A person who has obtained/ is required to obtain more than one registration, whether in one State/ Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons**.

Further, where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as **establishments of distinct persons**. *These concepts have already been discussed in detail in Chapter 2– Supply under GST.*

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(v) PAN must for obtaining registration [Section 25(6) & (7)]

Permanent Account Number is mandatory to be eligible for grant of registration.

> ✸ A Non-Resident Taxable Person (NRTP) may be granted registration on the basis of other prescribed documents *[Elaborated in subsequent paras]*.

(vi) Unique Identity Number (UIN) [Section 25(9) & (10) read with rule 17]

Any specialized agency of the United Nations Organization or any Multilateral Financial institution and organization as notified under the United Nations (Privileges and Immunities) Act, 1947, consulate or embassy of foreign countries and any other person notified by the Commissioner, is required to obtain a UIN from the GSTN portal.

This UIN is needed for claiming refund of taxes paid on notified supplies of goods and/or services received by them, and for such other purpose as may be notified. UIN granted is a centralized UIN i.e. it shall be applicable to the territory of India. **A person having UIN is not registered person and thus, is not a taxable person.**

The proper officer may, upon submission of an application in prescribed form or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India, assign a UIN to the said person and issue a certificate in Form GST REG 06 within **3 working days** from the date of submission of application.

(vii) *Suo-motu* registration by the proper officer [Section 25(8) read with rule 16]



Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act** has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in prescribed form.

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***Such person shall either:*

(i) submit an application for registration in prescribed form within 90 days from the date of grant of temporary registration, or

(ii) file an appeal against such temporary registration.

In case (ii), if the Appellate Authority upholds the liability to registration, application for registration shall be submitted within 30 days from the date of issuance of such order of the Appellate Authority.

Provisions relating to verification and issue of registration certificate [as contained in rules 9 and 10] *[discussed in subsequent paras]* shall, *mutatis mutandis*, apply to such application submitted by the person granted temporary registration. GSTIN thereafter granted shall be effective from the date of order of proper officer granting temporary registration.

(viii) Procedure for registration [Section 25 read with rules 8, 9 & 10]

Provisions relating to procedure for application for registration, verification of the application and approval & issue of registration certificate are contained in the rules 8, 9 and 10 respectively. The same have to be read in conjunction with section 25 provisions. The procedure for registration prescribed under rules 8, 9 and 10 are also applicable to a person paying tax under composition levy, every person seeking voluntary registration as well as a casual taxable person.

A person who wants to obtain registration shall apply for the same in **Form GST REG 01**. The application for registration in GST Form REG 01 is divided into two parts – Part A and Part B.

Above procedure will not apply to:

- **Non-resident taxable person (NRTP)**
- **A person required to deduct tax at source under section 51**
- **A person required to collect tax at source under section 52**
- **A person supplying OIDAR services from a place outside India to a non-taxable online recipient referred to in section 14 of the IGST Act.**
- **A person supplying online money gaming from a place outside India to a person in India referred to in section 14A of the IGST Act.**

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Separate registration forms and procedure have been prescribed for each of the aforesaid persons. Procedure relating to NRTP, TDS and TCS has been discussed subsequently in this chapter, but procedure for OIDAR services and online money gaming services provided from a place outside India to a person in India have been covered at the Final level.

Facilitation centres



In order to cater to the needs of tax payers who are not IT savvy, Facilitation centres have been established which help the taxpayers in submitting the application for registration, amending the registration certificate, submitting application for cancellation of registration, revocation of cancellation of registration, etc. Facilitation Centre shall be responsible for the digitization and/or uploading of the forms and documents.

Application for registration by Special Economic Zone (SEZ) [Second proviso to section 25(1): A person having unit in SEZ/an SEZ developer will have to make a separate application for registration as distinct from his place of business located outside SEZ in the same State/UT. Thus, there may be a case where two units of a tax payer are located in same State/UT - one in SEZ and another outside SEZ. In that case, separate registrations have to be obtained for each of the two units as separate places of business.



SEZ is a geographically bound zone where the economic laws relating to export and import are more liberal as compared to other parts of the country. SEZ is considered to be a place outside India for all tax purposes.

(19) Suvarna Industries is engaged in manufacturing activities in Uttar Pradesh. It has two manufacturing units in UP - one in SEZ and another outside SEZ. Under GST, one registration per State is

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required. However, since in this case, one of the two units of Suvarna Industries is located in SEZ, SEZ unit will have to compulsorily make a separate application for registration as a place of business distinct from unit located outside SEZ in the same State.

Procedure for registration has been depicted by way of a diagram below:

Procedure for registration

Part I

Every person liable to get registered and person seeking voluntary registration shall, before applying for registration, declare his Permanent Account Number (PAN) and State/UT in **Part A of FORM GST REG-01** on GST Common Portal.

PAN is validated online by Common Portal from CBDT database and is also be verified through separate OTPs sent to the PAN linked mobile number and e-mail address.

Temporary Reference Number (TRN) is generated and communicated to the applicant on the validated mobile number and e-mail address.

Using TRN, applicant shall electronically submit application in Part B of application form, along with specified documents at the Common Portal.

Part B of application contains the details, such as, constitution of business, jurisdiction, option for composition, date of commencement of business, reason to obtain registration, address of PPoB and nature of activity carried out therein, details of APoB, details of bank account(s), details of authorized signatory, aadhaar authentication, etc.

On receipt of such application, an acknowledgement in the prescribed form shall be issued to the applicant electronically. A **Casual Taxable Person(CTP)** applying for registration gets a TRN for making an advance deposit of tax in his electronic cash ledger and an acknowledgement is issued only after said deposit.*

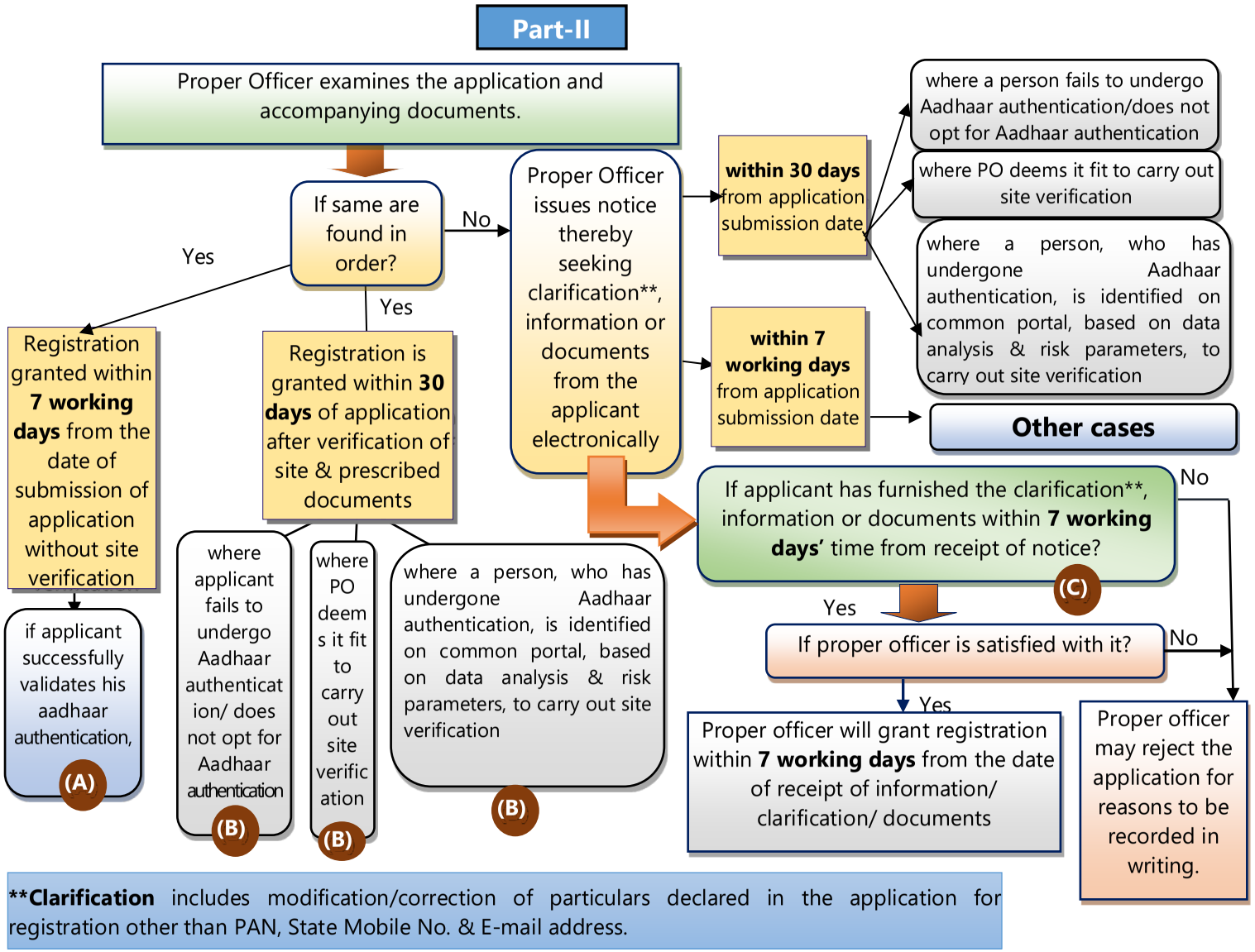
Application shall be forwarded to the Proper Officer.

The procedure after receipt of application by the Proper Officer is depicted in Part II.

***** *Discussed in detail in subsequent paras.*

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****Clarification** includes modification/correction of particulars declared in the application for registration other than PAN, State Mobile No. & E-mail address.

Deemed Approval of Application

If the proper officer fails to take any action in the following cases within the stipulated time, the application for grant of registration shall be deemed to have been approved-

in cases where a person is covered in (B) above	•within a period of 30 days from the date of submission of the application
in case of a person covered in above (A)	•within a period of 7 working days from the date of submission of the application
in cases covered in (C) above	•within 7 working days from the date of receipt of clarification, information or documents furnished by the applicant

To summarise:

- **In case of successful authentication of Aadhaar and no SCN being issued, registration will be deemed to be approved within 7 working days.**
- **If Aadhar authentication is not opted for/ aadhaar authentication fails in validation/ PO deems it fit to carry out site verification and no SCN is issued, registration will be deemed to be approved within 30 days by tax officer.**
- **Tax Officer can issue SCN within 7 working days, for grant of registration, in cases of successful Aadhar authentication.**
- **In cases when taxpayer do not opt to provide Aadhaar/when Aadhar authentication fails/ PO deems it fit to carry out site verification, he can issue SCN upto 30 days. In both cases, applicants can submit their reply within 7 working days from issue of SCN.**

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AADHAAR AUTHENTICATION

[Section 25(6A), (6B), (6C) & (6D) read with rules 8, 9, 10B and 25]

As seen above, there's a simplified registration procedure under GST. However, this easy registration procedure was unduly misused by fly-by-night operators. Thus, in an endeavor to curb/check such operators and to increase compliance, aadhaar e-KYC based registration was introduced under the GST law. Aadhaar authentication is mandatory for the new applicants (whether an individual applicant or an applicant other than individual) in order to be eligible for grant of registration. Aadhaar Authentication is required to be complied with, by the persons applying for GST registration as normal taxpayer/ composition/ casual taxable person/ Input Service Distributor (ISD)/ SEZ Developer/ SEZ Unit etc, in Form GST REG 01.

Existing registrants (those who are already registered under GST) are also required to undergo aadhaar authentication.

How aadhaar authentication is done?

New registrants

While filing the application for registration, the applicant gets an option as to whether he wants to opt for Aadhaar authentication or not. If he opts 'Yes' for Aadhaar authentication, GST system sends "authentication link" on the mobile numbers and email ids (mentioned in the registration application) of promotor/partner, and primary authorized signatory which are selected by the applicant[19].

On clicking the verification link, a window for Aadhaar authentication opens where they enter the Aadhaar Number and the OTP received by them on the mobile number and email id linked with Aadhaar.

Once Aadhaar authentication has been successfully validated, his application will be deemed to be approved within 7 working days and the registration

[19] *While opting for Aadhaar authentication, the applicant needs to select atleast 1 Primary Authorized Signatory and 1 Promoter/ Partner/Karta/Director/Member for authentication purposes.*

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application submitted by him will not be marked for mandatory site visit, unless the tax official raises a show cause notice within stipulated time.

However, in case the applicant does not opt for Aadhaar authentication while applying for registration or where his Aadhar authentication fails in validation, the applicant who has undergone aadhaar authentication is identified for site visit based on data analysis and risk parameters or proper officer deems it fit to carry out site visit, registration application will not be deemed approved within 7 working days and it will be marked for mandatory site visit and approval thereafter, by the tax official. Registration application will get deemed approved after 30 calendar days, if tax official doesn't take any action.

If tax official raises SCN within 30 calendar days, then applicant has 7 working days to reply to it. Tax official can take further action on that reply within 7 working days. If tax official doesn't take any action after receipt of applicant's reply within next 7 working days, his application will get deemed approved.

Existing registrants

All the regular taxpayers and composition taxpayer are required to get Aadhaar authenticated for existing GST registration. An existing taxpayer can get himself Aadhaar authenticated on GST portal using either Aadhaar authentication link or uploading E-KYC documents[20].

Let us go through the aadhaar authentication process in detail:

A. Persons required to undergo aadhaar authentication

As per section 25(6A), (6B) and (6C), following persons are required to undergo aadhaar authentication:

(1) New applicant [Rule 8(4A), (4B) and (5)]

Every (i) individual applicant or (ii) an applicant, other than an individual, shall undergo authentication/furnish proof of possession of Aadhaar number, in the manner prescribed in rule 8[21].

---

[20] It is not mandatory for every authorized signatory, promoter or partner to get Aadhaar authenticated for an existing GST registration. The Aadhaar authentication will be needed only for 1 Primary Authorized Signatory and 1 Promoter/ Partner/ Karta/ Director/ Member.

[21] Notification No. 18/2020 CT dated 23.03.2020

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(i) **Where an applicant opts for authentication of Aadhaar number**: Rule 8(4A) provides that where an applicant opts for authentication of Aadhaar number, he shall, while submitting an application for registration, undergo authentication of Aadhaar number. **Said authentication is required to be eligible for grant of registration.**

Date of submission of the application in such cases shall be earlier of:

(a) the date of authentication of the Aadhaar number,

or

(b) 15 days from the submission of the application in Part B of Form GST REG-01.

Whose aadhaar numbers shall be verified?

In case applicant is an individual, he shall undergo authentication of his own aadhaar number.

In case applicant is other than individual, the authentication will be of aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other notified class of persons *[authorised signatory of all types, Managing and Authorised partners of a partnership firm and Karta of a Hindu Undivided Family, have been so notified*[22]*]* (E)

Risk-based biometric-based aadhaar authentication of registration applicants[23]

An applicant who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by

[22] *Notification No. 19/2020 CT dated 23.03.2020*

[23] *First proviso to rule 8(4A)*

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biometric-based Aadhaar authentication and taking photograph:

(i) of the applicant where the applicant is an individual or

(ii) of notified individuals (mentioned as (E) above) in relation to the applicant where the applicant is not an individual,

along with the verification of the original copy of the documents uploaded with the application form at one of the notified Facilitation Centres.

The application shall be deemed to be complete only after completion of the process laid down hereunder.

An acknowledgement shall be issued to the applicant only after completion of biometric-based authentication.

(ii) Where an applicant does not opt for authentication of Aadhaar number[24]: The application of a person who has not opted for authentication of Aadhaar number, shall be followed by taking photograph:

- of the applicant where the applicant is an individual or
- of notified individuals (mentioned as (E) above) in relation to the applicant where the applicant is not an individual,

along with the verification of the original copy of the documents uploaded with the application form at one of the notified Facilitation Centers.

The application shall be deemed to be complete only after completion of the process laid down hereunder**.**

[24] *Second proviso to rule 8(4A)*

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(2) Persons already registered

Every registered person shall undergo authentication/furnish proof of possession of Aadhaar number, in prescribed form and manner and within the prescribed time.

The manner in which aadhaar authentication needs to be done by a registered person is prescribed as under:-

A registered person, who has been issued a certificate of registration under GST, shall undergo authentication of the Aadhaar number of:-

- Proprietor, in the case of proprietorship firm,
- Any partner, in the case of a partnership firm,
- Karta, in the case of a Hindu undivided family,
- Managing director or any whole-time director, in the case of a company,
- Any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or
- Trustee in the Board of Trustees, in the case of a Trust;

and of the Authorized Signatory,

in order to be eligible for the following purposes:

- ✓ for filing of application for revocation of cancellation of registration [Rule 23]
- ✓ for filing of refund application in Form RFD-01 [Rule 89]
- ✓ for refund of the IGST paid on goods exported out of India [Rule 96].

B. Where Aadhaar number is not assigned

(1) In case of new applicant

If an aadhaar number is not assigned to a new applicant – either (i) an individual or (ii) person/class of persons (other than

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individual), such individual/person/class of persons shall be offered alternate and viable means of identification in the manner specified in rule 9[25].

Proviso to rule 9(1) provides that where:

(i) a person fails to undergo authentication of aadhaar number or does not opt for authentication of Aadhaar number, or

(ii) a person, who has undergone authentication of Aadhaar number, is identified on the common portal, based on data analysis and risk parameters for carrying out physical verification of places of business

(iii) the proper officer (PO), with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business

the registration shall be granted within 30 days of submission of application only after physical verification of the principal place of business, in the prescribed manner *(specified in rule 25 discussed subsequently)* and verification of such documents as the proper officer may deem fit.

Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in within a period of 7 working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically within a period of 7 working days from the date of the receipt of such notice [Rule 9(2)].

---

[25] *Provisos to section 25(6B) and 25(6C) read with Notification No.s 18 and 19/2020 CT both dated 23.03.2020*

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However, in such cases, i.e. where:

(i) a person fails to undergo Aadhaar authentication/does not opt for Aadhaar authentication or

(ii) a person, who has undergone authentication of Aadhaar number, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or

(iii) PO deems it fit to carry out site verification,

the notice (in prescribed form) seeking clarifications/ information/ documents from the applicant may be issued by the proper officer not later than 30 days from the submission of the application for registration [Proviso to rule 9(2)].

2. In case of already registered persons [Rule 10B]

If an Aadhaar number is not assigned to an existing registered person, such person shall be offered alternate and viable means of identification in the prescribed manner[26].

Such manner has been prescribed as follows:

If Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely: –

(a) his/ her Aadhaar Enrolment ID slip; and

(b) (i) Bank passbook with photograph; or

(ii) Voter identity card issued by the Election Commission of India; or

(iii) Passport; or

(iv) Driving license issued by the Licensing Authority

[26] *First proviso to section 25(6A)*

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However, once Aadhaar number is allotted to such person, he shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

In case of failure to undergo aadhaar authentication/furnish proof of possession of Aadhaar number/furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration[27].

C. Persons/class of persons exempt from aadhaar authentication

Section 25(6D) stipulates that above provisions shall not apply to such person or class of persons or any State or Union territory or part thereof, as may be notified.

Following persons have been notified in this regard[28]:

- A person who is not a citizen of India
- Department or establishment of State Government or Central Government
- Local authority
- Statutory body
- Public Sector Undertaking
- A person applying for Unique Identity Number under section 25(9)

Furnishing of bank account details [Rule 10A]

As seen in the diagram outlining the procedure for registration, while filing the application for registration on GST portal, in Part B of the application form, a person is required to furnish the details of his bank account. Rule 10A relaxes this requirement to a limited extent. In pursuance to the same, the registered person is allowed to furnish information within a period of 30 days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both under section 37 in GSTR-1 or

[27] *Second proviso to section 25(6A)*
[28] *Notification No. 03/2021 CT dated 23.02.2021*

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using IFF, whichever is earlier, furnish information with respect to details of bank account on the common portal.

In short, a taxpayer has an option to give his bank account details after obtaining registration, **within 30 days from the date of grant of registration or the due date of furnishing details of outward supplies, whichever is earlier.**

However, this relaxation is not available for those who have been granted registration as TDS deductor/ TCS collector under rule 12[29] or *suo-motu* registration under rule 16. They are mandatorily required to furnish the bank account details at the time of filing the application for registration.

Physical verification of business premises in certain cases [Rule 25]

(1) Where the proper officer is satisfied that the physical verification of the place of business of a person is required AFTER the grant of registration: he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal within a period of 15 working days following the date of such verification.





(2) Where the physical verification of the place of business of a person is required BEFORE the grant of registration in the circumstances specified in the proviso to rule 9(1) [as given in (B) earlier]: the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal at least 5 working days prior to the completion of the time period specified in the said proviso.

[29] *The provisions relating to TDS and TCS have been discussed in detail in Chapter 14 in this Module of the Study Material.*

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Issuance of registration certificate [Rule 10]

Where the application for grant of registration has been approved, a certificate of registration duly signed or verified through EVC by the proper officer in **Form GST REG-06** showing the PPoB and APoB is made available to the applicant on the Common Portal and a Goods and Services Tax Identification Number (hereinafter referred to as "GSTIN") i.e. the GST registration no. is communicated to applicant, within 3 days after the grant of registration.

GSTIN format

State Code	PAN	Entity Code	Check sum character

Display of registration certificate and GSTIN on the name board [Rule 18]

Every registered person shall display his registration certificate in a prominent location at his PPoB and at every APoB. Further, his GSTIN also has to be displayed on the name board exhibited at the entry of his PPoB and at every APoB.

(ix) Effective date of registration [Rule 10]

Where an applicant submits application for registration	Effective date of registration
Within 30 days from the date the person becomes liable to registration	Date on which person becomes liable to registration
After 30 days from the date the person becomes liable to registration	Date of grant of registration



(20) Sugam Services Ltd. is engaged in taxable supply of services in Madhya Pradesh. The turnover of Sugam Services Ltd. exceeded ₹ 20 lakh on 1st November. It is liable to get registered by 1st December [30 days] in the State of Madhya Pradesh. It applies for registration on 28th November and is granted registration certificate on 5th December. The effective date of registration of Sugam Services Ltd. is 1st November.

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(21) In above example, if Sugam Services Ltd. applies for registration on 3rd December and is granted registration certificate on 10th December. The effective date of registration of Sugam Services Ltd. is 10th December.

ILLUSTRATION 3

Determine the effective date of registration under CGST Act in respect of the following cases with proper explanation:

(i) The aggregate turnover of Varun Industries of Mumbai has exceeded ₹ 40 lakh on 1st August. Varun Industries manufactures LED TVs in Mumbai and sells them in Pune. It submits the application for registration on 20th August. Registration certificate granted on 25th August.

(ii) Sweta InfoTech Services is the provider of internet services in Pune. Its aggregate turnover exceeds ₹ 20 lakh on 25th September. It submits the application for registration on 27th October. Registration certificate is granted on 5th November.

ANSWER

As per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

(a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(c) ₹ 40 lakh for rest of India. However, the higher threshold limit of ₹ 40 lakh is not available to persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes,

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

(a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.

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(b) ₹ 20 lakh for the rest of India.

As per rule 10, where a person submits the application for registration within 30 days of becoming liable for registration, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

In the light of the above provisions, in the given cases, the applicable turnover limit for registration will be ₹ 40 lakh and ₹ 20 lakh in case (i) and (ii) respectively.

(i) Since Varun Industries applied for registration within 30 days of becoming liable to registration, the effective date of registration is 1st August.

(ii) Since Sweta InfoTech Services applied for registration after the expiry of 30 days from the date of becoming liable to registration, the effective date of registration is 5th November.

(x) Special provisions for grant of registration in case of Non-Resident Taxable Person (NRTP) and Casual Taxable Person (CTP) [Sections 25 & 27 read with rules 13 & 15]

(A) Meaning of casual taxable person and non-resident taxable person

Before going into nuances of the registration provisions of CTP and NRTP, let us first understand the meaning of casual taxable person and non-resident taxable person:

Casual Taxable Person

There may be case where a person has a registered business in some State in India, but wants to effect supplies from some other State in which he does not have any fixed place of business. Such person needs to register in the State from where he seeks to supply as a 'casual taxable person'.

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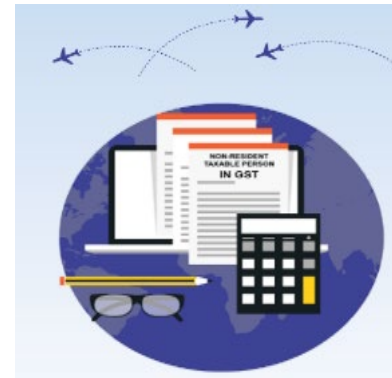
The CGST Act defines a **casual taxable person** as a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in **a State/UT where he has no fixed place of business** [Section 2(20)]. Further, he cannot exercise the option to pay tax under composition levy.



(22) Krishnadev & Co., engaged in supplying taxable goods, is registered in Rajasthan. It wishes to participate in a 5 days' business exhibition being held in Delhi. However, it does not have a fixed place of business in Delhi. In this case, Krishnadev & Co. has to obtain registration as a casual taxable person in Delhi.

Non-Resident Taxable Person

A person who is a foreigner and occasionally wants to effect taxable supplies from any State in India needs GST registration for the same. Such person needs to register in the State from where he seeks to supply as a non-resident taxable person. CGST Act defines **non-resident taxable person** as any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has **no fixed place of business or residence in India** [Section 2(77)]. He cannot exercise the option to pay tax under composition levy.



Based on the aforesaid definitions, following points merit consideration:

- A CTP does not have a fixed place of business in the State/UT where he undertakes supply though he might be registered with regard to his fixed place of business in some other State/UT, while

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a NRTP does not have fixed place of business/residence in India at all.

- A CTP has to undertake transactions in the course or furtherance of business whereas the business test is absent in the definition of NRTP.

(B) Special registration provisions of casual taxable person and non-resident taxable person

GST law prescribes special procedure for registration, as also for extension of the operation period of such casual or non-resident taxable persons. They have to apply for registration at least 5 days in advance before making any supply. Also, registration is granted to them or period of operation is extended, only after they make advance deposit of the estimated tax liability. The **special registration procedure** pertaining to CTP and NRTP is as follows:

(A) Both CTP[30] and NRTP have to compulsorily get registered under GST irrespective of the threshold limit, at least 5 days prior to commencement of business.

(B) As per section 25(6), every person must have a PAN to be eligible for registration. Since NRTP will generally not have a PAN of India, he may be granted registration on the basis of other prescribed documents.

Thus, a NRTP has to submit a self-attested copy of his **valid passport** along with the application duly signed or verified through electronic verification code by his authorized signatory who is an Indian Resident having valid PAN. However, in case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available.

[30] *Subject to exemption from registration under Notification No. 56/2018 CT dated 23.10.2018*

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Application will be submitted by NRTP in a different prescribed form whereas CTP will submit the application for registration in the normal form for application for registration i.e. Form GST REG 01 and his registration of CTP will be a PAN based registration.

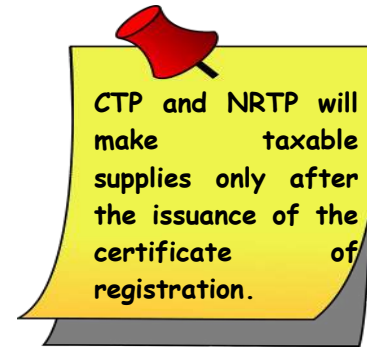
(C) Period of validity of registration certificate granted to CTP/NRTP

Registration Certificate granted to CTP/NRTP will be valid for:

(i) Period specified in the registration application, or

(ii) 90 days from the effective date of registration [can be extended further by a period not exceeding 90 days by making an application before the end of the validity of registration granted to him**]

whichever is earlier.



Provisions relating to verification of application and grant of registration [under rules 9 and 10] will apply *mutatis mutandis*, to an application for registration filed by NRTP.

(D) Advance deposit of tax

At the time of submitting the registration application, CTP/NRTP are required to make an **advance deposit of tax** in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.

Further, CTP/NRTP will get a Temporary Reference Number (TRN) for making an advance deposit of tax which shall be credited to his electronic cash ledger. An acknowledgement of receipt of application for registration is issued only after said deposit.

****Where extension of time is sought, CTP/NRTP will deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.**

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(xi) Deemed registration [Section 26]

Registration under GST is not tax specific, which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and cess.

Grant of registration/UIN under any SGST Act/ UTGST Act is deemed to be registration/UIN granted under CGST Act provided application for registration has not been rejected under CGST Act.

Further, rejection of application for registration/UIN under SGST Act/UTGST Act is deemed to be rejection of application for registration under CGST Act.

(xii) Special provisions for grant of registration in case of persons required to deduct tax at source under section 51 or to collect tax at source under section 52 [Rule 12]

Application for registration has to be submitted by such persons in a different prescribed form at GST Common Portal. They would be granted registration within **3 working days** from the date of submission of application after due verification.

Where, on a request made in writing by a person to whom a registration has been granted under rule 12(2) or upon an enquiry or pursuant to any other proceeding under the CGST Act, the proper officer is satisfied that a person to whom a certificate of registration has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued and such cancellation shall be communicated to the said person electronically.

8. AMENDMENT OF REGISTRATION [SECTION 28]

A registered person or UIN holder may need to make some changes/ amendments in the registration application. There are two categories of details in registration application – core and non-core fields.

Core fields are name of the business, (legal name) if there is no change in PAN, addition / deletion of stakeholders[31], principal place of business (other than change in State) or additional place of business (other than change in State).

[31] *Refer diagram given on Page No. 9.62*

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All other fields are **non-core fields** like name of day to day functionaries, e-mail ids, mobile numbers, etc.

In case the change is in **core information** in the registration application, the taxable person will apply for amendment within 15 days of the event necessitating the change. The proper officer, then, will approve the amendment within next 15 days.

For other changes – **non-core information**, no approval of the proper officer is required, and the amendment can be affected by the taxable person on his own on the common portal.

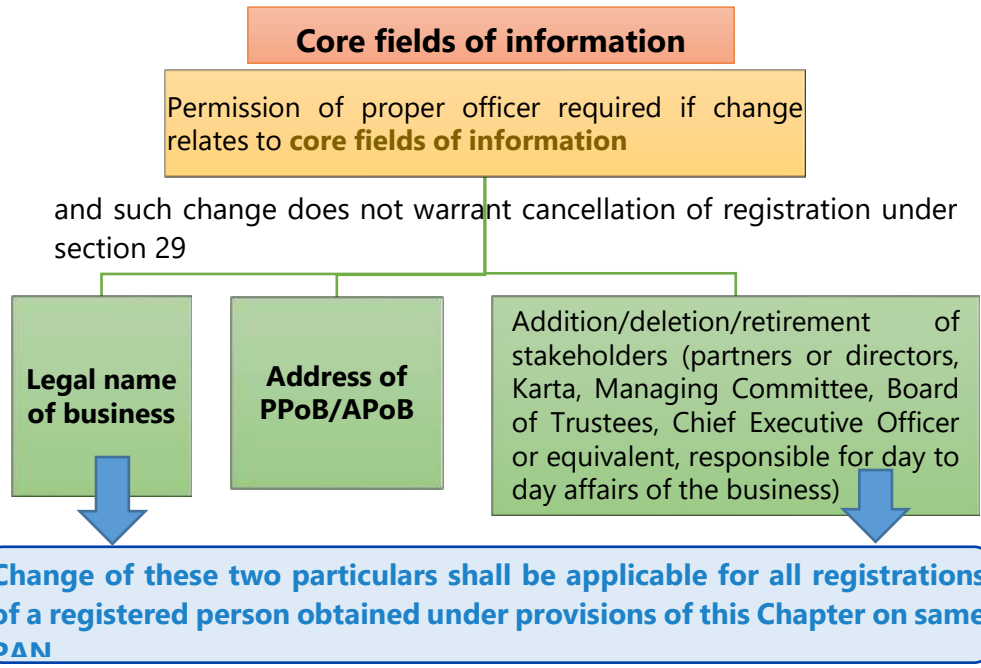
The provisions relating to amendment of registration are contained in section 28 read with rule 19.

The significant aspects of the same are discussed hereunder:

- Where there is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, **within 15 days** of such change, along with documents relating to such change at the Common Portal.
- **In case of amendment of core fields of information**, the proper officer may, on the basis of information furnished or as ascertained by him, approve or reject amendments in the registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.
- However, **where change relates to non-core fields of information**, registration certificate shall stand amended upon submission of the application for amendment on the Common Portal.
- The proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.
- Any rejection or approval of amendments under the SGST/UTGST Act shall be deemed to be a rejection or approval under the CGST Act.

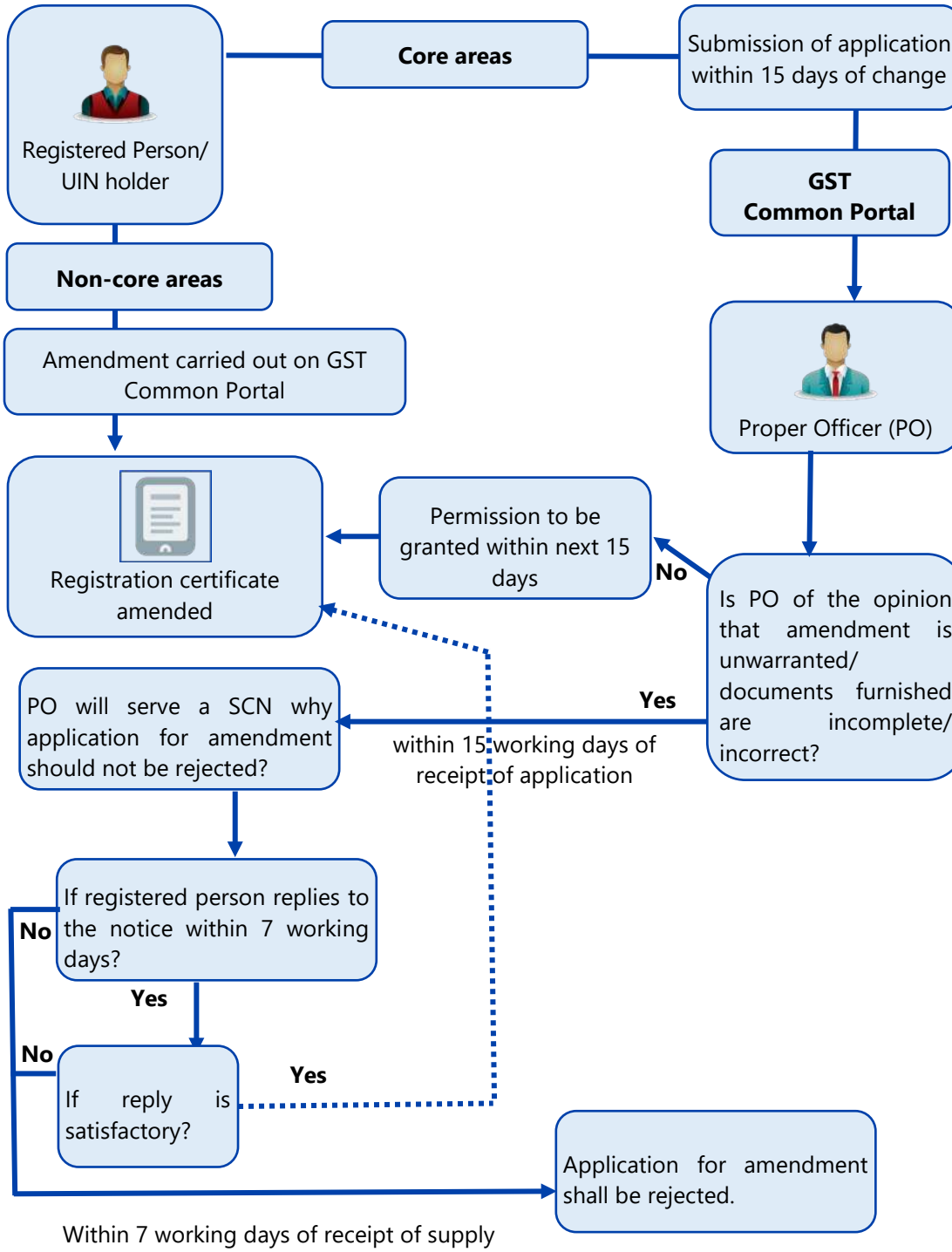
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- Any particular of the application for registration shall not stand amended with effect from a date earlier than date of submission of application for amendment on common portal except with order of Commissioner for reasons to be recorded in writing and subject to conditions specified by Commissioner in the said order.
- Application for amendment of registration cannot be filed for change in PAN because GST registration is PAN-based. One needs to make fresh application for registration in case there is change in PAN. Thus, where a change in the constitution of any business results in change of PAN of a registered person, the said person shall apply for fresh registration.
- Similarly, application for amendment of registration form cannot be filled if there is change in place of business from one State to the other because GST registrations are State-specific. If one wishes to relocate his business to another State, he must voluntarily cancel his current registration and apply for a fresh registration in the State he is relocating his business.



Mobile no./e-mail address of authorised signatory can be amended only after online verification through GST Portal.

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If the proper officer fails to take any action,-

(a) within a period of 15 working days from the date of submission of the application, or

(b) within a period of 7 working days from the date of the receipt of the reply to the show cause notice,

the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.



(23) Varun Enterprises, a sole proprietorship firm, is engaged in supply of electrical goods in Delhi. The firm is registered under GST. Varun is the proprietor of the firm. He wishes to expand his business and his friend – Arun - approaches him to provide additional capital for his business if he is made a partner in Varun's business.

Varun agrees and changes the constitution of his business and forms a partnership firm – Varun Arun & Co. Since the change in constitution of business from sole proprietorship firm to partnership firm results in change in PAN of the registered person, the partnership firm has to apply for fresh registration. The reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.

9. CANCELLATION OR SUSPENSION OF REGISTRATION AND REVOCATION OF CANCELLATION [SECTIONS 29 & 30]

STATUTORY PROVISIONS

Section 29	*Particulars*
Sub-section	*Cancellation or suspension of registration*
(1)	*The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such*

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	period as may be prescribed, having regard to the circumstances where:	
	(a)	*the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of*
	(b)	*there is any change in the constitution of the business*
	(c)	*the taxable person is no longer liable to be registered under section 22 or section 24 or intends to optout of the registration voluntarily made under sub-section (3) of section 25.*
	Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.	
(2)	*The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—*	
	(a)	*a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed*
	(b)	*a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing the said return*
	(c)	*any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed*
	(d)	*any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration*
	(e)	*registration has been obtained by means of fraud, wilful misstatement or suppression of facts*

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	Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard. *Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.*
(3)	*The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.*
(4)	*The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.*
(5)	*Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed.* *Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.*
(6)	*The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.*

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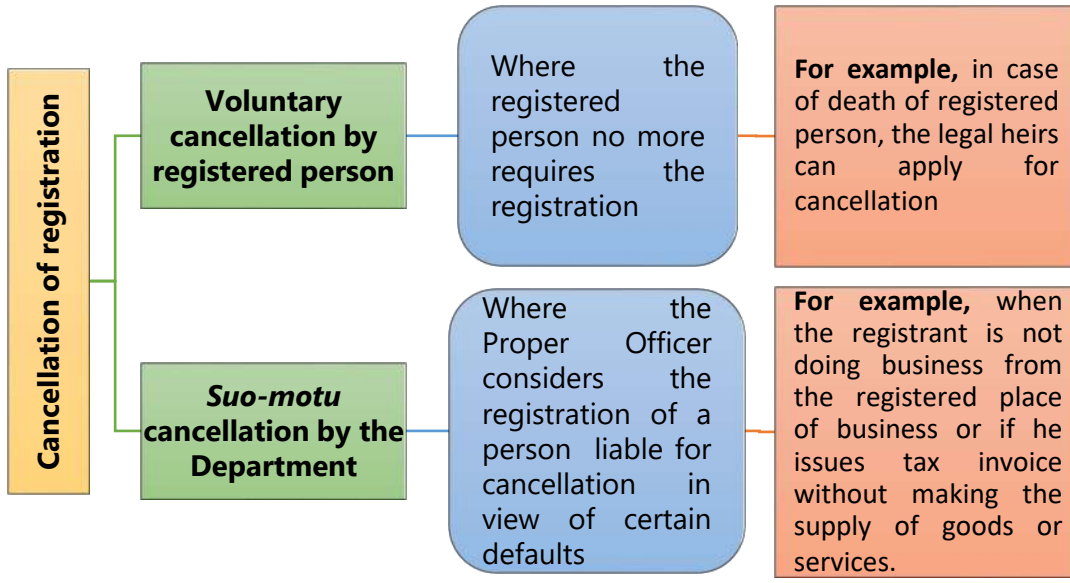
Section 30	Revocation of cancellation of registration
(1)	*Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration such manner, within such time and subject to such conditions and restrictions, as may be prescribed.*
(2)	*The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application.* *Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.* ***Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.***
(3)	*The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.*



ANALYSIS

The provisions relating to cancellation of registration and its revocation are contained in sections 29 & 30 respectively read with rules 20 to 23. The registration granted under GST can be cancelled for specified reasons. The cancellation can either be initiated by the Department on their own motion or the registered person can apply for cancellation of their registration.

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(i) Circumstances where registration is liable to be cancelled [Section 29(1) & (2)]

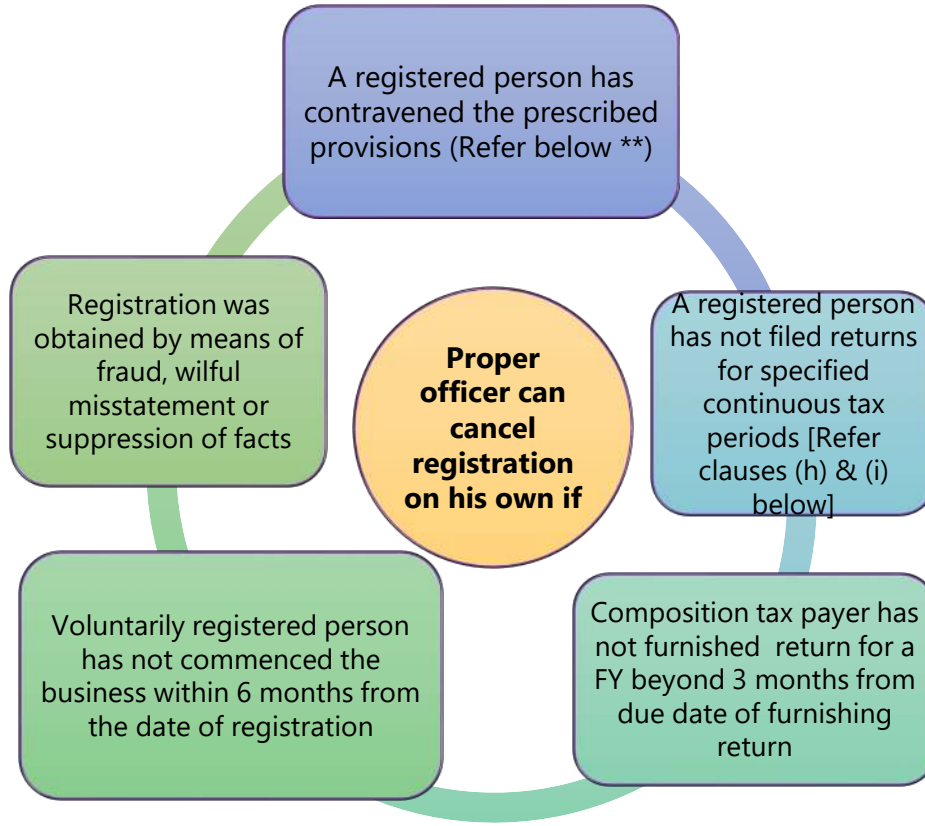
A. Circumstances when the registration can be cancelled either *suo motu* by proper officer or on an application of the registered person or his legal heirs (in case death of such person)

Cancellation by the registered person on its own or by the Department		
--Business discontinued --Transferred fully for any reason *including death of the proprietor* --Amalgamated with other legal entity --Demerged or --Otherwise disposed of	Change in the constitution of the business	Taxable person who is no longer liable to be registered under section 22 or section 24 or who intends to optout of the voluntary registration.

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B. Circumstances when the proper officer can cancel registration on his own

In the following cases, registration can be cancelled by the proper officer from such date, including any retrospective date, as he may deem fit, after giving an opportuniy of being heard:



Prescribed contraventions which make a registered person liable to cancellation of registration **[Rule 21]: The registered person-

(a) does not conduct any business from the declared place of business, or

(b) issues invoice/bill without supply of goods/services in violation of the provisions of this Act, or the rules made thereunder.

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(c) violates the provisions of section 171. Section 171 contains provisions relating to anti-profeetering measure[32].

(d) violates the provision of rule 10A *(discussed earlier in this chapter)*.

(e) avails input tax credit in violation of the provisions of section 16[33] of the CGST Act or the rules made thereunder.

(f) furnishes the details of outward supplies in Form GSTR-1, as amended in FORM GSTR-1A if any, under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods.

(g) violates the provision of rule 86B[34].

(ga) violates the provisions of third or fourth proviso to rule 23(1).

(h) required to file return under section 39(1) for each month or part thereof (i.e. **monthly return filer**), has **not furnished returns** for a **continuous period of 6 months.**

(i) required to file return under proviso to section 39(1) for each quarter or part thereof **(Quarterly return under QRMP scheme)**, has **not furnished returns** for a **continuous period of 2 tax periods.**

C. Suspension of registration [First proviso to section 29(1) and second proviso to section 29(2) read with rule 21A]



Once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, the proper officer may suspend his registration during pendency of the proceedings relating to cancellation of registration. In this way, a taxpayer is freed from the

[32] *Anti-profeetering measure shall be discussed at Final Level.*
[33] *Provisions of section 16 have been discussed in detail in Chapter 8 – Input Tax Credit.*
[34] *Provisions of rule 86B have been discussed in detail in Chapter 8 – Input tax credit.*

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routine compliances, including filing returns, under GST law during the pendency of the proceedings related to cancellation of registration.

The period and manner of suspension of registration is as follows:

1. **Where registered person has applied for cancellation of registration:** Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from:

   (a) the date of submission of the application

   or

   (b) the date from which the cancellation is sought,

   whichever is later,

   pending the completion of proceedings for cancellation of registration.

2. **Where cancellation of the registration has been initiated by the Department on its own motion:** Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he may suspend the registration of such person **with effect from a date to be determined by him**, pending the completion of the proceedings for cancellation of registration.

Where,-

(a) a comparison of the returns furnished by a registered person under section 39 with the details of outward supplies furnished in GSTR-1, as amended in GSTR-1A if any, or the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their GSTR-1, as amended in GSTR-1A if any, of the previous tax period, if any, or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, or

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(b) there is a contravention of the provisions of rule 10A [furnishing of bank account details] by the registered person, the registration of such person shall be suspended and the said person shall be intimated in the prescribed form, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences, anomalies or non-compliances and asking him to explain, within a period of 30 days, as to why his registration shall not be cancelled.

In cases where the cancellation is initiated by the Department on its own and registration of a person has been suspended, such person shall not be granted any refund under section 54[35], during the period of suspension of his registration.

3. A registered person, whose registration has been suspended as above:

- **shall not make any taxable supply**** during the period of suspension and
- shall not be required to furnish any return under section 39.

The expression **"shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

4. The suspension of registration shall be deemed to be revoked upon completion of the cancellation proceedings by the proper officer. Such revocation shall be effective from the date on which the suspension had come into effect.

The suspension of registration may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

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[35] *Section 54 contains provisions relating to refund of GST. The same shall be discussed at the Final level.*

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5. Further, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending GST returns, where GST registration was suspended due to non-filing of GST return for a financial year beyond 3 months from the due date of furnishing the said return by a composition taxpayer or returns for such continuous tax period as may be prescribed by registered persons (other than composition taxpayer) **subject to the condition that the registration has not been cancelled by the proper officer under rule 22.**

6. Further also, where the registration has been suspended under sub-rule (2A) for contravention of provisions of rule 10A [furnishing of bank account details] and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.

7. Where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) [revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

(ii) Procedure for cancellation of registration [Rules 20 and 22]

(a) Voluntary cancellation by registered person

Application

- A registered person seeking cancellation of registration[36] shall electronically submit the application for cancellation of registration in prescribed form within 30 days of occurrence of the event warranting cancellation.
- He is required to furnish in the application the details of inputs held in stock or inputs contained in semi-finished/finished goods held in stock and of capital goods **held in stock on the date from which cancellation of registration is sought**, liability thereon, details of the

[36] *Section 29(1)*

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payment, if any, made against such liability and may furnish relevant documents thereof.

Order

- Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered, proper officer shall issue the order of cancellation of registration within 30 days from the date of submission of application for cancellation.

(b) *Suo-motu* cancellation by the Department

- Where the proper officer cancels the registration *suo-motu*, he shall not cancel the same without giving a show cause notice and without giving a reasonable opportunity of being heard, to the registered person. The reply to such show cause notice (SCN) has to be submitted within 7 days of service of notice.

- If reply to SCN is satisfactory, proper officer shall drop the proceedings and pass an order in prescribed form. However, where the person instead of replying to the SCN served for failure to furnish returns for a continuous period of 6 months or 2 tax periods, as the case may be (return for a F.Y. beyond 3 months from due date of furnishing the said return in case of composition scheme supplier)[37] furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order.

  Where registration of a person is liable to be cancelled, proper officer shall issue the order of cancellation of registration within 30 days from the date of reply to SCN.

(c) Effective date of cancellation

- The cancellation of registration shall be effective from a date to be determined by the proper officer and mentioned in the cancellation order. The taxable person will be directed in the said order to pay

[37] *viz. contravention of the provisions contained in section 29(2)(b)/(c) read with clauses (h) & (i) of rule 21*

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arrears of any tax, interest or penalty including the amount liable to be paid under section 29(5).

(iii) Amount payable on cancellation of registration [Section 29(5) & (6)]

A registered person whose registration is cancelled will have to debit the electronic credit or cash ledger by **an amount equivalent to**:

(i) Input tax credit (ITC) in respect of:

- stock of inputs and inputs contained in semi-finished/finished goods' stock or
- capital goods or plant and machinery on the day immediately preceding the date of cancellation, or

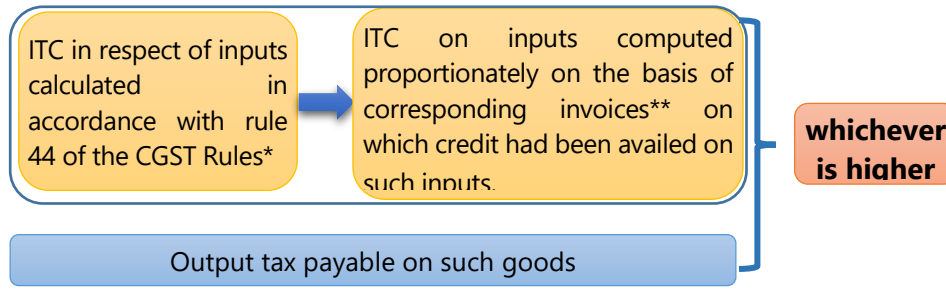
(ii) the output tax payable on such goods

whichever is higher, calculated **in such manner as may be prescribed.**

However, **in case of capital goods or plant and machinery**, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

The manner of determination of amount of credit to be reversed is prescribed under rule 44. On conjoint reading of section 29(5) and rule 44, it can be inferred as follows:

Amount of credit to be reversed in respect of INPUTS:

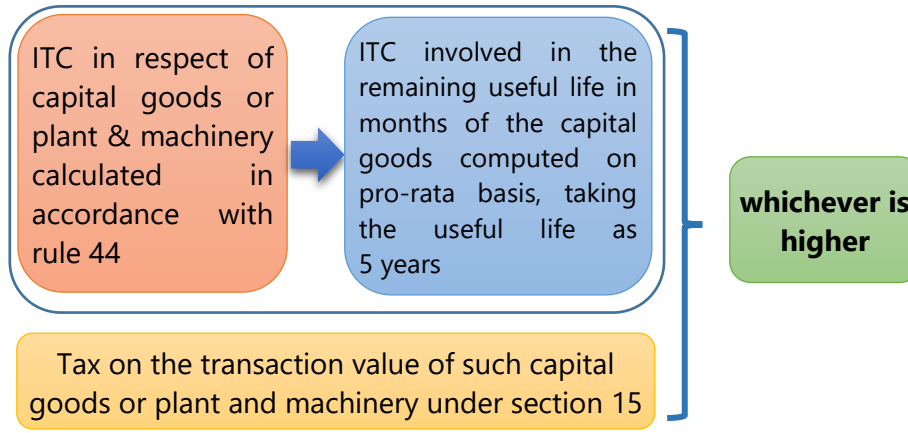


** Discussed in detail in Chapter-8: Input Tax Credit in this Module of Study Material*

***If tax invoices are not available, the ITC to be reversed will be based on the prevailing market price (MP) of such goods on the date of cancellation.*

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❑ **Amount of credit to be reversed in respect of CAPITAL GOODS OR PLANT & MACHINERY:**



example **(24)** Capital goods have been in use for 4 years, 6 month and 15 days. The useful remaining life in months = 5 months ignoring a part of the month.

ITC taken on such capital goods = C

ITC attributable to remaining useful life = C x 5/60

(iv) Other points about cancellation

❑ A person to whom a UIN has been granted under rule 17 cannot apply for cancellation of registration [Rule 20]

❑ The cancellation of registration will not affect liability of registered person to pay tax and other dues under the Act for any period prior to the date of cancellation[38] [Section 29(3)].

example **(25)** The proper officer cancelled the registration of Naman Associates on 11th October. The tax dues of Naman Associates for July-September quarter (determined by the proper officer on 16th December) are ₹ 50,000. The cancellation of registration of Naman Associates shall have no effect on his liability of tax dues of ₹ 50,000 even though the tax dues are determined after the cancellation of registration.

[38] *whether or not such tax and other dues are determined before or after the date of cancellation.*

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- The cancellation of registration under either SGST Act/UTGST Act shall be deemed to be a cancellation of registration under CGST Act [Section 29(4)].
- Once registration is cancelled by the tax authority, the taxpayer will be intimated about the same via SMS and email. Order for cancellation of registration will be issued and intimated to the primary authorized signatory by email and SMS.
- Taxpayer would not be allowed by the Common portal to file return for the period after date of cancellation mentioned in the cancellation order. However, he can submit returns of the earlier period (i.e. for the period before date of cancellation mentioned in the cancellation order for which registration was active).

(v) Revocation of cancellation of registration [Section 30 read with rule 23]

(A) Procedure for revocation of cancellation

- Where the registration of a person is cancelled *suo-motu* by the proper officer, such registered person, subject to the provisions of rule 10B, may apply for revocation of the cancellation to such proper officer, within a period of 90 days** from the date of the service of the order of cancellation of registration.

  Said period of 90 days may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner/Joint Commissioner, as the case may be, for a further period not exceeding 180 days.**
- Thus, a registered person, whose registration is cancelled by the proper officer on his own motion, may subject to provisions of rule 10B submit an application for revocation of cancellation of registration, in prescribed form, to such proper officer, within a period of 90 days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
- If the proper officer is satisfied that there are sufficient grounds for revocation of cancellation, he may revoke the cancellation of

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registration, by an order **within 30 days** of receipt of application and communicate the same to applicant.

- Otherwise, he may reject the revocation application. However, before rejecting the application, he has to first issue SCN to the applicant who shall furnish the clarification within 7 working days of service of SCN. The proper officer shall dipose the application (accept/reject the same) within 30 days of receipt of clarification.

(B) Where registration was cancelled for failure of registered person to furnish returns

Where registration was cancelled for failure of registered person to furnish returns, before applying for revocation, the person has to make good the defaults, i.e. the person needs to file such returns and pay any amount due as tax along with any amount payable towards interest, penalty and late fee in respect of the said returns. However, the registration may have been cancelled by the proper officer either from the date of order of cancellation of registration or from a retrospective date.

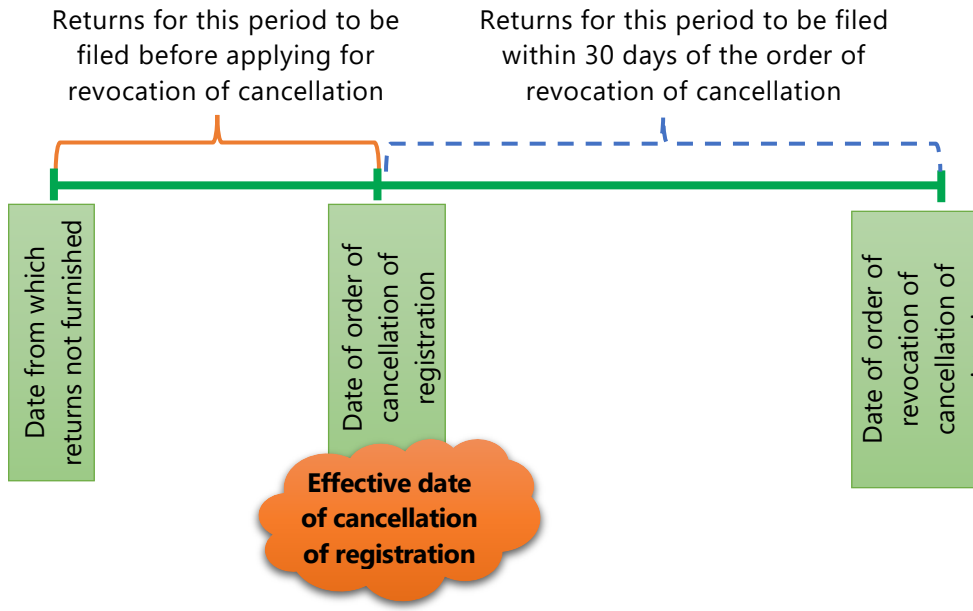
(1) Where the registration has been cancelled with effect from the date of order of cancellation of registration

As we have already seen that the common portal does not allow furnishing of returns for the period after the effective date of cancellation, but returns for the earlier period (i.e. for the period before date of cancellation mentioned in the cancellation order) can be furnished after cancellation.

Where the registration is cancelled with effect from the date of order of cancellation of registration, person applying for revocation of cancellation has to furnish all returns due till the date of such cancellation before the application for revocation can be filed and has to pay any amount due as tax, in terms of such returns along with any amount payable towards interest, penalties or late fee payable in respect of the said returns. However, since the portal does not allow to furnish returns for the period after the date of cancellation of registration, all returns due for the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of 30 days from the date of the order of revocation.

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(26) The registration of Naman Associates was cancelled by the proper officer by an order dated 1st June for its failure to furnish returns. The registration was cancelled with effect from 1st June itself. It applied for revocation of cancellation of registration and the order for revocation of cancellation of Naman Associates is 31st July. In this case, Naman Associates shall be required to furnish all the returns for the period from 1st June to 31st July within a period of 30 days from 31st July, i.e. by 30th August.

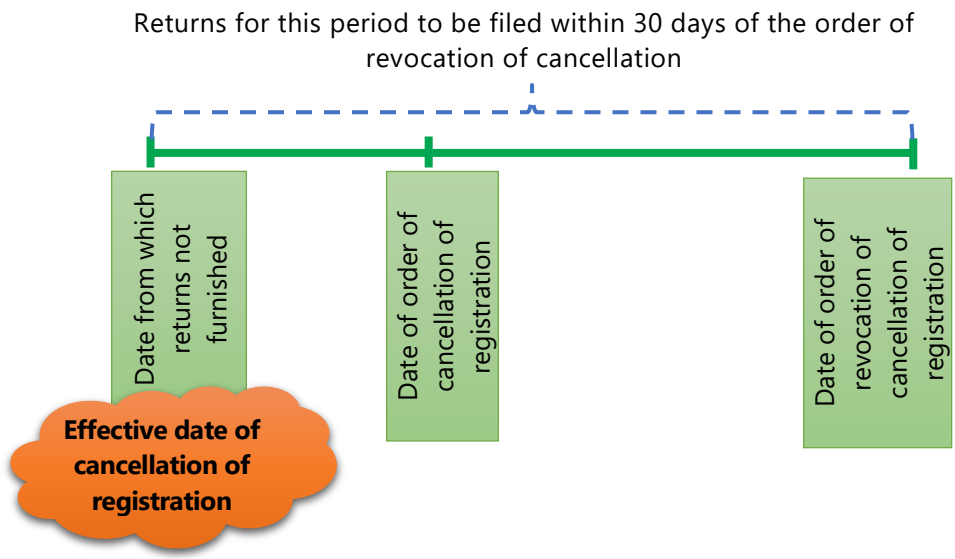


(2) Where the registration has been cancelled with retrospective effect

Where the registration has been cancelled with retrospective effect, it is not possible to furnish the returns before filing the application for revocation of cancellation of registration. In that case, the application for revocation of cancellation of registration is allowed to be filed, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.

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(27) The registration of Naman Associates was cancelled by the proper officer by an order dated 1st June for its failure to furnish returns. The registration was cancelled with effect from 1st January itself. It applied for revocation of cancellation of registration and the order for revocation of cancellation of Naman Associates is passed on 31st July. In this case, Naman Associates shall be required to furnish all the returns for the period from 1st January to 31st July within a period of 30 days from 31st July, i.e. by 30th August.



Points to be noted

UIN Holders (i.e. UN Bodies, Embassies and Other Notified Persons), GST Practitioner cannot apply for revocation of cancelled registration.

In case the registration is cancelled on the request of the taxpayer or his legal heir, one cannot apply for revocation of cancelled registration.

The revocation of cancellation of registration under the SGST Act/ UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under CGST Act

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LET US RECAPITULATE

Nature of registration

The registration in GST is PAN based and State specific.

One registration per State/UT.

However, a business entity having separate places of business in a State may obtain separate registration for each of its places of business .

GST identification number called "GSTIN" - a 15-digit number and a certificate of registration incorporating therein this GSTIN is made available to the applicant on the GSTN common portal.

Registration under GST is not tax specific, i.e. single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and cesses.

Persons liable to registration

Those who exceed threshold limit	•Threshold limit elaborated separately in the diagram below.
In case of transfer of business on account of succession, etc.	•**Transferee** liable to be registered from the date of succession of business
In case of amalgamation/ demerger by an order of High Court etc.	•**Transferee** liable to be registered from the date on which Registrar of Companies issues incorporation certificate giving effect to order of High Court etc.

Taxable Supplies + Exempt supplies + Exports + Inter State supplies = Aggregate Turnover

Aggregate Turnover will be computed on All-India basis for same PAN

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Applicable threshold limit

States with threshold limit of ₹ 10 lakh for supplier of goods and/or services	•Manipur, Mizoram, Nagaland and Tripura
States/UTs with threshold limit of ₹ 20 lakh for supplier of goods and/or services	•Arunachal Pradesh, Meghalaya, Sikkim, Uttarakhand, Puducherry and Telangana
States/UTs with threshold limit of ₹ 20 lakh for supplier of services/ both goods and services and ₹ 40 lakh for supplier of goods (Intra-State)	•Jammu and Kashmir, Assam, Himachal Pradesh, All other States

Compulsory registration in certain cases

- Persons making any inter-State taxable supply
- Casual taxable person who does not have a fixed place of business in the State or Union Territory from where he wants to make supply
- A person receiving supplies on which tax is payable by recipient on reverse charge basis
- Those e-commerce operators who are notified as liable for tax payment under section 9(5)
- Non-resident taxable persons who do not have a fixed place of business in India
- Persons who are required to deduct tax under section 51 (TDS)
- A person who supplies on behalf of some other taxable person (i.e. an Agent of some Principal)
- Suppliers other than notified under section 9(5) who supply through an e-commerce operator
- Every e-commerce operator who is required to collect tax at source
- Person/ class of persons notified by the Central/ State Government

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Persons not liable for registration

- Person engaged exclusively in supplying goods/ services/ both not liable to tax/ wholly exempt from tax
- Agriculturist limited to supply of produce out of cultivation of land
- Persons making only reverse charge supplies except supplier of metal scrap
- Persons making inter-State supplies of taxable services up to ₹ 20 lakh**
- Persons making inter-State taxable supplies of notified handicraft goods and notified hand-made goods up to ₹ 20 lakh**
- Casual Taxable Persons making inter-State taxable supplies of notified handicraft goods and notified hand-made goods up to ₹ 20 lakh**
- Persons making intra-State supplies of goods through an ECO with aggregate turnover not exceeding threshold limit and not making supply in more than one State/UT, with one enrolment no.
- Persons making supplies of services through an ECO [other than supplies specified under section 9(5)] with aggregate turnover up to ₹ 20 lakh**

****₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur & Nagaland**

Where and by when to apply for registration?

Person who is liable to be registered under section 22 or section 24	A casual taxable person or a non-resident taxable person	A person who makes a supply from the territorial waters of India
•in every such State/UT in which he is so liable •within 30 days from the date on which he becomes liable to registration	•in every such State/UT in which he is so liable •at least 5 days prior to the commencement of business	•in the coastal State/UT where the nearest point of the appropriate base line is located. •within 30 days from the date on which he becomes liable to registration

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Voluntary Registration and UIN

Voluntary Registration

- Person not liable to be registered under sections 22/24 may get himself registered voluntarily.

Unique Identification Number (UIN)

- In respect of supplies to some notified agencies of United Nations organisation, multinational financial institutions and other organisations, a UIN is issued.

Effective date of registration

Application submitted **within 30 days** of the applicant becoming liable to registration

- Effective date is the date on which the person becomes liable to registration

Application submitted after **30 days** of the applicant becoming liable to registration

- Effective date is date of grant of registration

Deemed registration

Deemed registration

Grant of registration/UIN under any SGST Act/ UTGST Act is deemed to be registration/UIN granted under CGST Act provided application for registration has not been rejected under CGST Act.	Rejection of application for registration/UIN under SGST Act/UTGST Act is deemed to be rejection of application for registration under CGST Act.

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Procedure for registration has been depicted by way of a diagram below:

Procedure for registration

Part I

Every person liable to get registered and person seeking voluntary registration shall, before applying for registration, declare his Permanent Account Number (PAN) and State/UT in **Part A of FORM GST REG-01** on GST Common Portal.

PAN is validated online by Common Portal from CBDT database and is also be verified through separate OTPs sent to the PAN linked mobile number and e-mail address.

Temporary Reference Number (TRN) is generated and communicated to the applicant on the validated mobile number and e-mail address.

Using TRN, applicant shall electronically submit application in Part B of application form, along with specified documents at the Common Portal.

Part B of application contains the details, such as, constitution of business, jurisdiction, option for composition, date of commencement of business, reason to obtain registration, address of PPoB and nature of activity carried out therein, details of APoB, details of bank account(s), details of authorized signatory, aadhaar authentication, etc.

On receipt of such application, an acknowledgement in the prescribed form shall be issued to the applicant electronically. A **Casual Taxable Person (CTP)** applying for registration gets a TRN for making an advance deposit of tax in his electronic cash ledger and an acknowledgement is issued only after said deposit.*

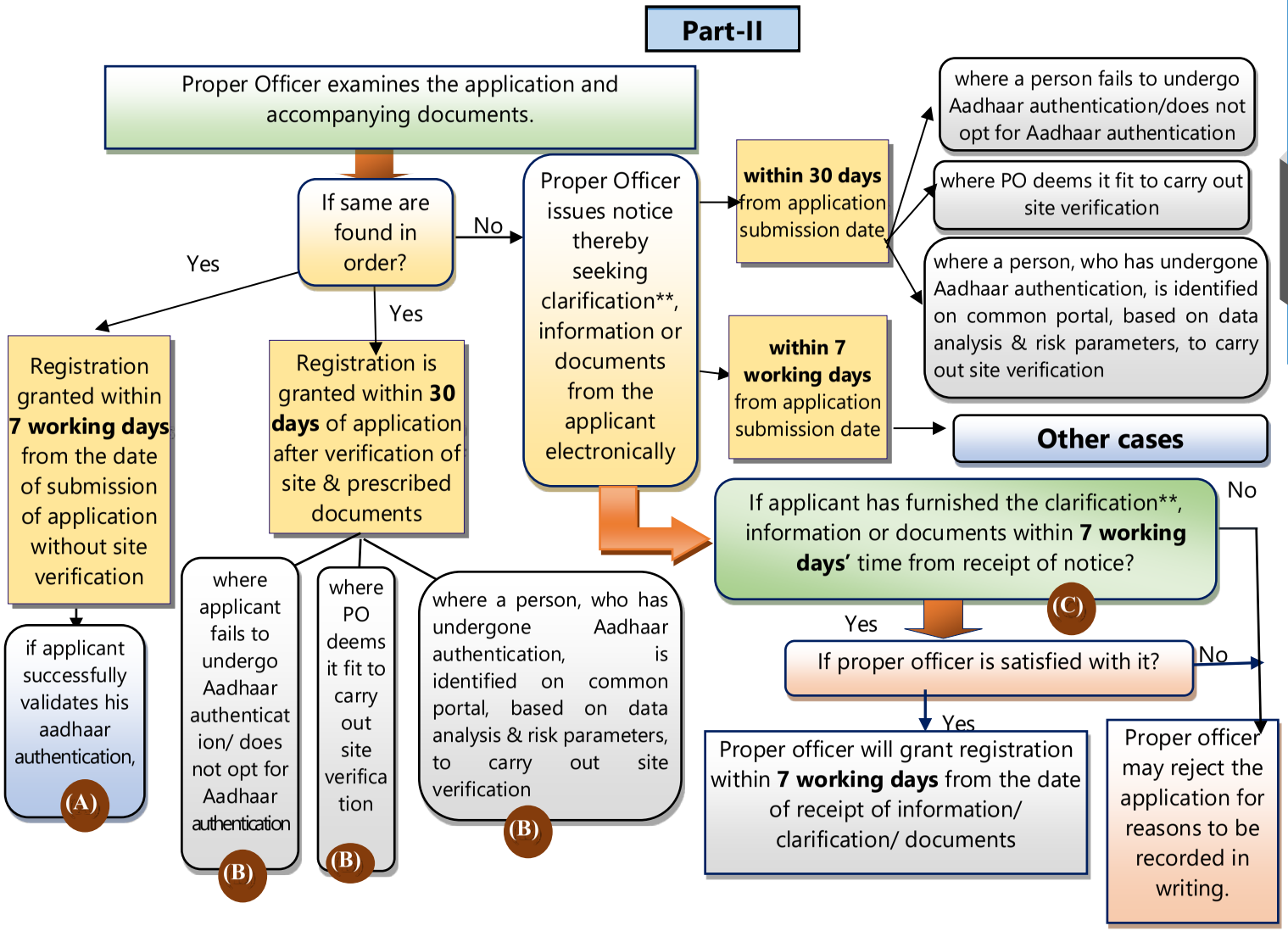
Application shall be forwarded to the Proper Officer.

The procedure after receipt of application by the Proper Officer is depicted in Part II.

***** *Discussed in detail in subsequent paras.*

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**Clarification includes modification/correction of particulars declared in the application for registration other than PAN, State Mobile No. & E-mail address.

Special procedure for registration of CTP and NRTP

Casual Taxable Person

A Casual taxable person is one who has a registered business in some State in India, but wants to effect supplies from some other State in which he is not having any fixed place of business.

Such person needs to register in the State from where he seeks to supply as a Casual taxable person.

Non-resident Taxable Person

A Non-Resident taxable person is one who is a foreigner and occasionally wants to effect taxable supplies from any State in India, and for that he needs GST registration.

Casual Taxable Person

Non-resident taxable person

GST law prescribes special procedure for registration, as also for extension of the operation period of such Casual or Non-Resident taxable persons.

They have to apply for registration at least 5 days in advance before making any supply.

Registration is granted to them or period of operation is extended only after they make advance deposit of the estimated tax liability.

Registration is granted to them for the period specified in the registration application or 90 days from the effective date of registration.

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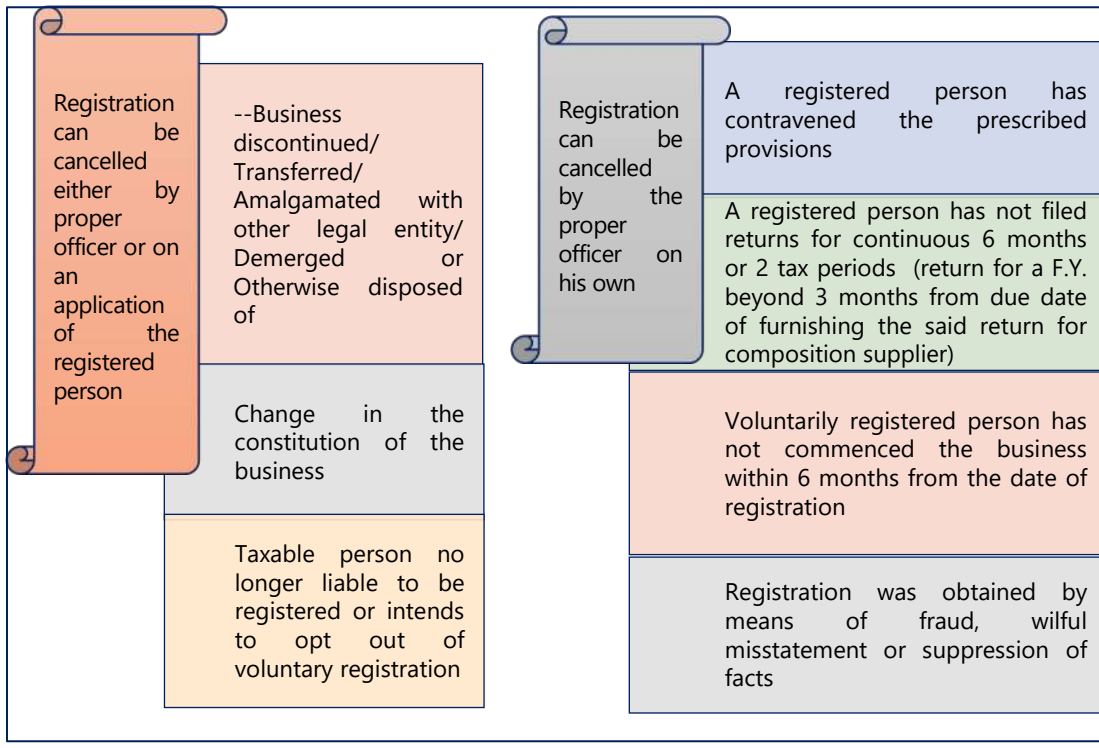
Amendment of Registration

Except for the changes in some core information in the registration application, a taxable person shall be able to make amendments without requiring any specific approval from the tax authority.

In case there is change in core fields of information, the taxable person will apply for amendment within 15 days of the event necessitating the change. The Proper Officer, then, will approve the amendment within the next 15 days.

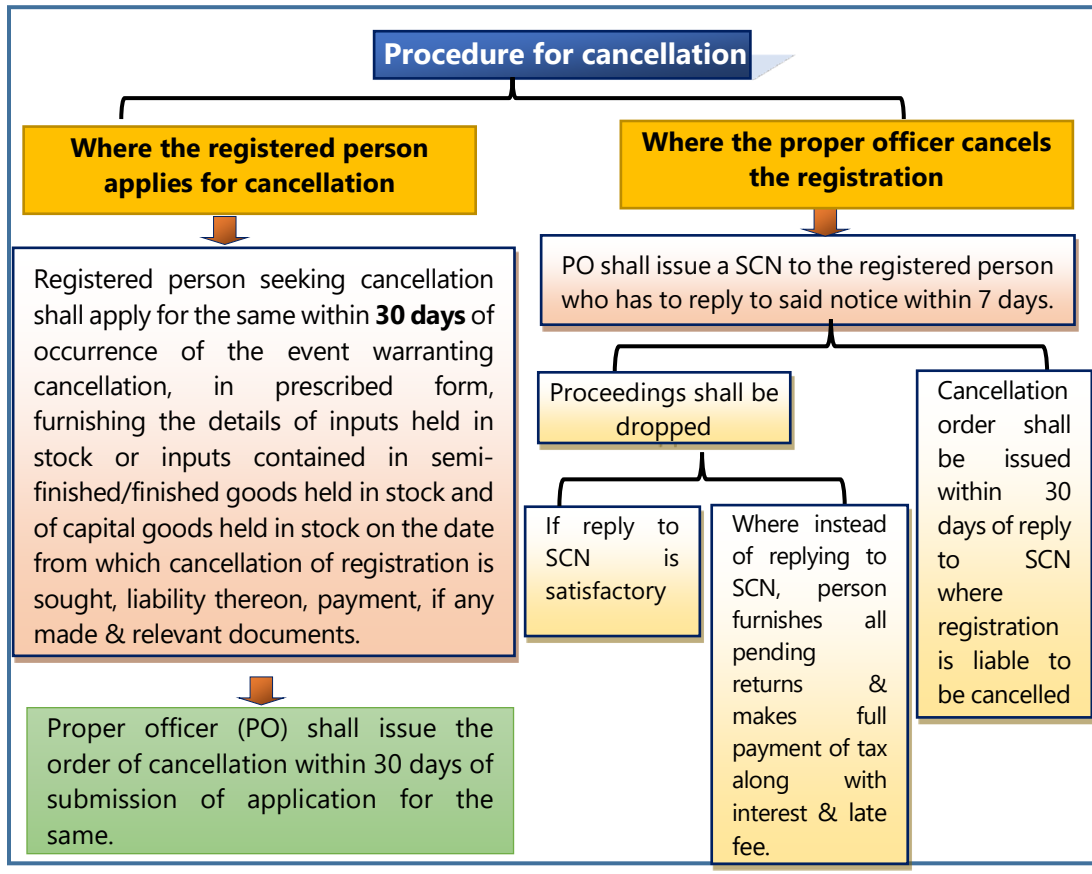
For changes in non-core fields, no approval of the Proper Officer is required, and the amendment can be affected by the taxable person on his own on the common portal.

Cancellation or suspension of registration and revocation of cancellation of registration



Once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, proper officer may suspend his registration during pendency of proceedings relating to cancellation of registration filed by such registered person.

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Revocation of cancellation

In case where registration is cancelled *suo-motu* by the proper officer, the taxable person can apply within 90 days (extendible by 180 days by Commissioner or officer authorised not below the rank of Additional/Joint Commissioner) of service of cancellation order, requesting the officer for revoking the cancellation ordered by him.

However, before so applying, the person has to make good the defaults (by filing all pending returns, making payment of all dues and so) for which the registration was cancelled by the officer.

If satisfied, the proper officer will revoke the cancellation earlier ordered by him.

However, if the officer concludes to reject the request for revocation of cancellation, he will first observe the principle of natural justice by way of issuing notice to the person and hearing him on the issue.

However, there shall be deemed revocation of cancellation upon furnishing of pending GST returns subject to the condition that the registration has not been cancelled by the proper officer under rule 22.

Revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.

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TEST YOUR KNOWLEDGE

1. *Determine the effective date of registration in following cases:*

   (a) *The aggregate turnover of Dhampur Footwear Industries of Delhi has exceeded the applicable threshold limit of ₹ 40 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.*

   (b) *Mehta Teleservices is an architect in Lucknow. Its aggregate turnover exceeds ₹ 20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.*

2. *In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.*

3. *State which of the following suppliers are liable to be registered:*

   (a) *Agents supplying taxable goods on behalf of some other taxable person and such agent's aggregate turnover does not exceed the applicable threshold limit during the financial year.*

   Note: Invoices are issued to customers in the name of agent.

   (b) *An agriculturist who is engaged exclusively in supply of produce out of cultivation of land and its aggregate turnover exceeds the applicable threshold limit during the financial year.*

4. *Pure Oils, Delhi has supplied machine oil and high-speed diesel in the month of April as per the details given in table below. Pure Oils is not yet registered.*

Sl. No.	*Particulars*	*Amount (₹)**
(i)	*Supply of machine oil in Delhi*	*15,00,000*
(ii)	*Supply of high speed diesel in Delhi*	*10,00,000*
(iii)	*Supply of machine oil made in Punjab by Pure Oils from its branch located in Punjab*	*10,00,000*

**excluding GST*

Determine whether Pure Oils is liable for registration.

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5. *What will be your answer if in question 4 above, in S.No. (ii), Pure Oils supplies the high speed diesel in Delhi in the capacity of an agent of Mixed Oils Ltd., (non-registered), where invoices to customers are issued in name of Pure Oils?*

6. *Examine whether the supplier of goods is liable to get registered in the following independent cases:-*

   (i) Raghav of Assam is exclusively engaged in intra-State taxable supply of readymade garments. His turnover in the current financial year (FY) from Assam showroom is ₹ 33 lakh. He has another showroom in Tripura with a turnover of ₹ 11 lakh in the current FY.

   (ii) Pulkit of Panjim, Goa is exclusively engaged in intra-State taxable supply of shoes. His aggregate turnover in the current financial year is ₹ 22 lakh.

   (iii) Harshit of Himachal Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current financial year is ₹ 24 lakh.

7. *Examine whether the supplier is liable to get registered in the following independent cases:-*

   (i) Ankit of Assam is exclusively engaged in intra-State supply of taxable services. His aggregate turnover in the current financial year is ₹ 25 lakh.

   (ii) Sanchit of Assam is engaged in intra-State supply of both taxable goods and services. His aggregate turnover in the current financial year is ₹ 30 lakh.

8. *What are the advantages of taking registration in GST?*

9. *Can a person without GST registration collect GST and claim ITC?*

10. *If a person is making taxable supplies from different States, with the same PAN number, can he operate with a single registration?*

11. *Can a person having multiple places of business in a State obtain separate registrations for each place of business?*

12. *Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?*

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13. *Can the Department, through the proper officer, suo-moto proceed to register a person under GST?*

14. *Whether the registration granted to any person is permanent?*

15. *Is it necessary for the UN bodies to get registration under GST?*

16. *What is the responsibility of the taxable person making supplies to UN bodies?*

17 *What is the validity period of the registration certificate issued to a casual taxable person and non-resident taxable person?*

18. *What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts?*

19 *Is there an option to take centralized registration for services under GST Law?*

20. *What could be the liabilities (in so far as registration is concerned) on transfer of a business?*

21. *At the time of registration, will the assessee have to declare all his places of business?*

22. *Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?*



ANSWERS

1. **(a)** Every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit [₹ 40 lakh in this case] in a finacial year [Section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*]. Since in the given case, the turnover of Dhampur Industries exceeded ₹ 40 lakh on 1st September, it becomes liable to registration on said date.

Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration [Section 25 read with rule 10]. Therefore, the effective date of registration is 1st September.

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(b) Since in the given case, the turnover of Mehta Teleservices exceeds the applicable threshold limit [₹ 20 lakh] on 25th October, it becomes liable to registration on said date.

Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th December.

2. A Permanent Account Number is mandatory to be eligible for grant of registration. One of the exceptions to this is a non-resident taxable person. A non-resident taxable person may be granted registration on the basis of other prescribed documents instead of PAN. He has to submit a self-attested copy of his valid passport along with the application duly signed or verified through electronic verification code by his authorized signatory who is an Indian Resident having valid PAN and application will be submitted in a different prescribed form [Section 25(6) & (7)].

3. **(a)** Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit in a financial year. However, as per section 24, a person making taxable supply of goods/services or both on behalf of other taxable persons whether as an agent or not is liable to be compulsorily registered even if its aggregate turnover does not exceed the applicable threshold limit during the financial year.

(b) As per section 23, an agriculturist who is engaged exclusively in supply of produce out of cultivation of land is not required to obtain registration even if his turnover exceeded the applicable threshold limit for registration.

4. As per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

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(c) ₹ 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes, fly ash bricks; fly ash aggregates; fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the rest of India.

As per section 2(6), aggregate turnover includes the aggregate value of:

(i) all taxable supplies,

(ii) all exempt supplies,

(iii) exports of goods and/or services and

(iv) all inter-State supplies of persons having the same PAN.

The above aggregate turnover is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

Section 9(2) provides that CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. As per section 2(47), exempt supply includes non-taxable supply. Thus, supply of high speed diesel in Delhi, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.

In the backdrop of the above-mentioned discussion, the aggregate turnover of Pure Oils for the month of April is computed as under:

S. No.	Particulars	Amount (in ₹)
(i)	Supply of machine oils in Delhi	15,00,000

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(ii)	*Add:* Supply of high speed diesel in Delhi	10,00,000
(iii)	*Add:* Supply of machine oil made by Pure Oils from its branch located in Punjab	10,00,000
	Aggregate Turnover	**35,00,000**

Pure Oils is making exclusive supply of goods and hence the threshold limit for registration would be ₹ 40,00,000. Since the aggregate turnover does not exceed ₹ 40,00,000, Pure Oils is not liable to be registered till April. However, if in remaining months of the financial year, its turnover exceeds the said limit, then it would be liable to be registered.

5. In case Pure Oils makes the supply in capacity of an agent of Mixed Oils Ltd.:

Section 24 provides that an agent who is engaged in making taxable supplying of goods on behalf of other taxable persons, shall be liable to obtain registration irrespective of the threshold turnover limit. However, in the present case, if Pure Oils supply high speed diesel on behalf of Mixed Oil Ltd. in Delhi as its agent where invoices to customers are issued in name of Pure Oils, it shall still not be liable to obtain registration in Delhi since section 24 comes into play only when agent or in other capacity is making taxable supply of goods on behalf of taxable persons (principal) whereas in the given case, Pure Oils is supplying non-taxable goods on behalf of Mixed Oils Ltd., who is not registered.

6. As per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(c) ₹ 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes, fly ash

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bricks; fly ash aggregates; fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.

In the light of the afore-mentioned provisions, the answer to the independent cases is as under:-

(i) Raghav is eligible for higher threshold limit of turnover for registration, i.e. ₹ 40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Raghav is engaged in supplying readymade garments from a Special Category State i.e. Tripura, the threshold limit gets reduced to ₹ 10 lakh. Thus, Raghav is liable to get registered under GST as his turnover has exceeded limit of ₹10 lakh. Further, he is required to obtain registration in both Assam and Tripura as he is making taxable supplies from both the States.

(ii) The applicable threshold limit for GST registration for Pulkit in the given case is ₹ 40 lakh as he is exclusively engaged in intra-State taxable supply of goods in Goa. Thus, he is not liable to get registered under GST as his turnover is less than the threshold limit.

(iii) Harshit being exclusively engaged in supply of pan masala is not eligible for higher threshold limit of ₹40 lakh. The applicable threshold limit for registration in this case is ₹20 lakh. Thus, Harshit is liable to get registered under GST.

7. As per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the rest of India.

(i) Though Ankit is dealing in Assam, he is not entitled for higher threshold limit for registration as the same is applicable only in case of exclusively supply of goods and he is exclusively engaged

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in providing services. Thus, the applicable threshold limit for registration in this case is ₹ 20 lakh and hence, Ankit is liable to get registered under GST.

(ii) Since Sanchit is engaged in supply of both taxable goods and services, the applicable threshold limit for registration in his case is ₹ 20 lakh. Thus, Sanchit is liable to get registered under GST as his turnover is more than the threshold limit.

8. Registration will confer following advantages to the business:

- ❑ Legally recognized as supplier of goods or services.
- ❑ Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- ❑ Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- ❑ Become eligible to avail various other benefits and privileges rendered under the GST laws.

9. No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

10. No. Every person who is liable to take a registration will have to get registered separately for each of the States from where he makes taxable supply(ies) provided his aggregate turnover exceeds applicable threshold limit in a financial year.

11. Yes. In terms of the proviso to sub-section (2) of section 25, a person havi.ng multiple places of buiness in a State may obtain a separate registration for each place of business, subject to such conditions as may be prescribed.

12. Yes. In terms of sub-section (3) of section 25, a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of the GST law, as are applicable to a registered person, shall apply to such person.

13. Yes. In terms of sub-section (8) of section 25, where a person who is liable to be registered under GST law fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under CGST Act, or

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under any other law for the time being in force, proceed to register such person in the manner as prescribed in the CGST Rules.

14. Yes, the registration certificate once granted is permanent unless surrendered, cancelled or suspended.

15. In terms of section 25(9), all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons as may be notified would be required to obtain a unique identification number (UIN) from the GST portal.

The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

16. The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices and treat such supplies as if supplies are made to another registered person (B2B).

17. In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a "casual taxable person" or a "non-resident taxable person" shall be valid for a period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

18. In such cases, the registration may be cancelled from such date, including any retrospective date, as may deem fit by the proper officer [Section 29(2)(e)].

19. No, the tax paper has to take separate registration in every State from where he makes taxable supply of services.

20. The transferee or the successor shall be liable to be registered with effect from the date of such transfer or succession and he will have to obtain a fresh registration with effect from the date of such transfer or succession [Section 22(3)].

21. Yes. The principal place of business and place of business have been separately defined under sections 2(89) & 2(85) respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

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22. Yes, as per section 29(3), the cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

Further, as per section 29(5), every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in prescribed manner.

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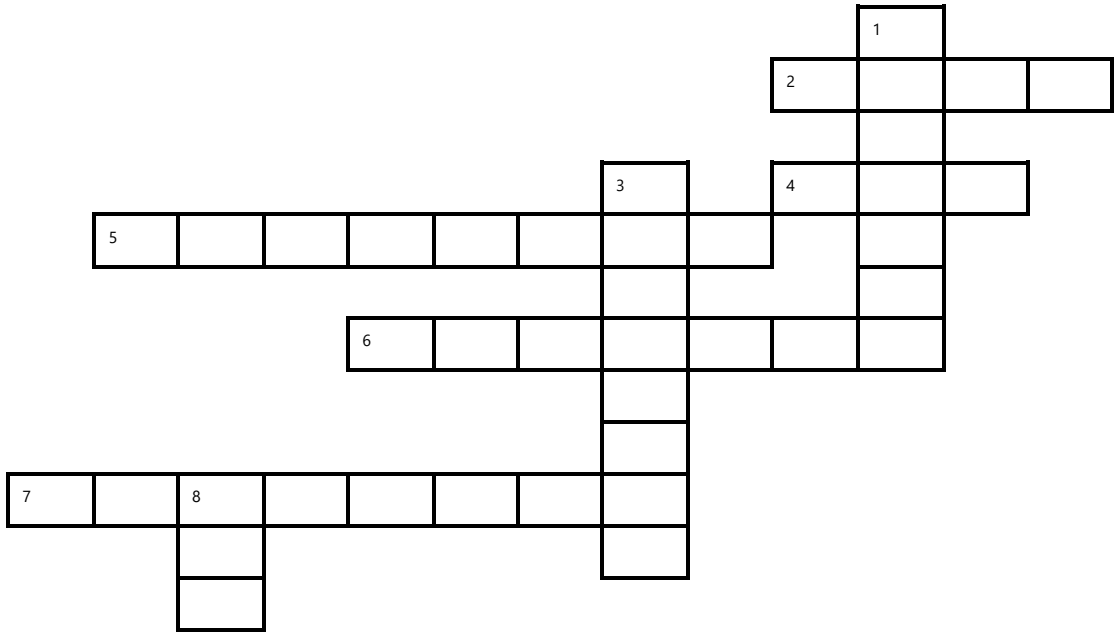


1. What is the treatment of exports while computing aggregate turnover?
2. What is the treatment of value of inward supplies on which tax is payable under reverse charge while computing aggregate turnover?
3. What is the applicable threshold limit for registration if the person is carrying out business of umbrellas and rain coats in Meghalaya?
4. What is the treatment of CGST and SGST while computing aggregate turnover?
5. What is the treatment of outward supplies taxable under reverse charge while computing 'aggregate turnover' of the supplier of such supplies?
6. State whether Mr. X engaged in making supplies of ice cream in Gujarat is required to obtain registration if his aggregate turnover in the financial year is ₹ 25 lakh.
7. What is the effective date of registration if application is submitted after 30 days of the applicant becoming liable to registration?

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ACROSS

2. An agriculturist to the extent of supply of produce out of cultivation of----------is not liable to registration.

4. Aggregate turnover to include total turnover of all branches (i.e. all GST registrations) under same ----------. (Acronym)

5. Inter-State supplies are----------while computing aggregate turnover.

6. --------person means a person who is registered or liable to be registered under section 22 or section 24

7. A person who has obtained more than one registration in one State shall, in respect of each such registration, be treated as---------persons.

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DOWNWARDS

1. Every supplier of goods is required to obtain registration in the State from where he makes the-------- supply, if his aggregate turnover exceeds specified threshold limit.

3. A business entity having its branches in multiple States will have to take-----State-wise registration for its branches in different States.

8. Proper officer can cancel registration on his own if registered person who is monthly return filer, has not furnished returns for a continuous period of---------- months.

Scan the following QR code for accessing the answers to Rapid Fire Quiz and Cross word puzzle of this chapter.



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CHAPTER 10

TAX INVOICE; CREDIT AND DEBIT NOTES



The section numbers referred to in the Chapter pertain to CGST Act, 2017, unless otherwise specified. Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

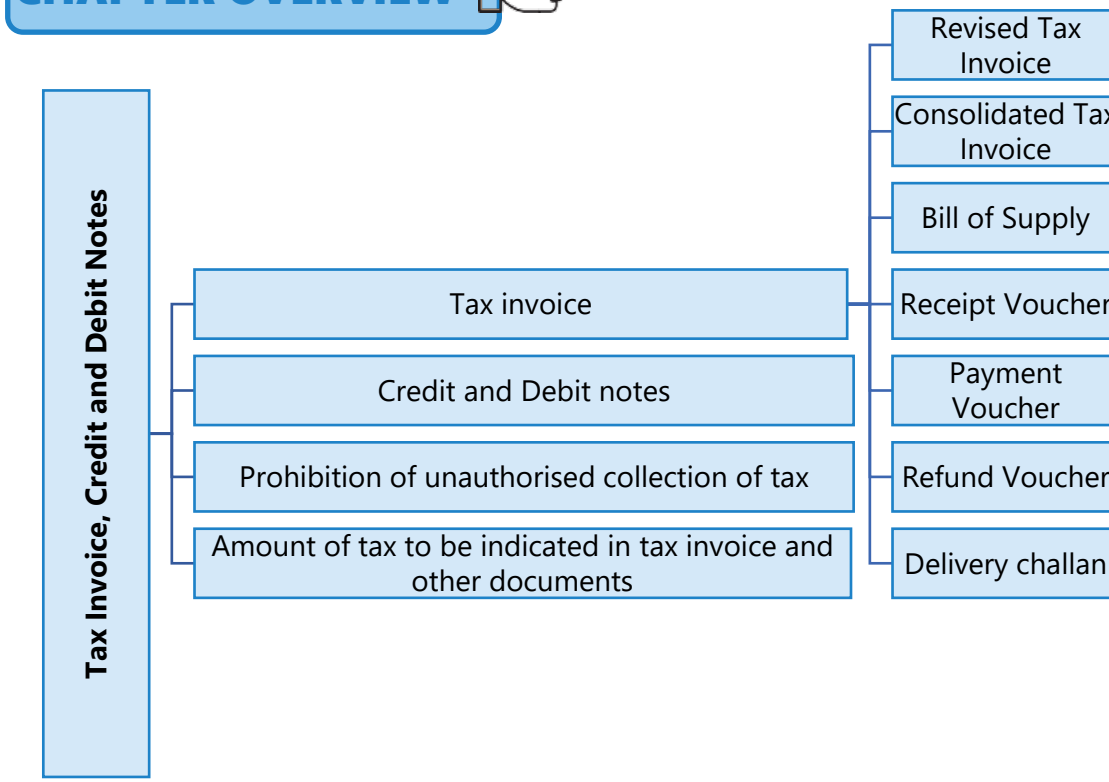
LEARNING OUTCOMES

This Chapter will equip you to –

- describe and analyse the provisions relating to tax invoice in case of taxable supply of goods and in case of taxable supply of services – time limit and manner of issuing the same.
- enumerate the particulars of a tax invoice.
- understand the provisions relating to e-invoicing.
- explain the provisions relating to revised tax invoice, bill of supply, receipt voucher, refund voucher, payment voucher, etc.
- identify the cases where no tax invoice is required to be issued and identify the suppliers of taxable service who are permitted to issue any document other than tax invoice.
- explain the provisions relating to transportation of goods without issuance of invoice.
- describe the provisions relating to issuance of credit and debit notes.
- explain the provisions relating to prohibition of unauthorised collection of tax.
- describe the provisions relating to amount of tax to be indicated in tax invoice and other documents.

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CHAPTER OVERVIEW



1. INTRODUCTION



An invoice is a commercial instrument issued by a supplier of goods/services to a recipient. It identifies both the parties involved, and lists, describes the goods sold/services supplied, quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and the delivery and payment terms(in case of supply of goods).



Invoicing is very crucial aspect for ensuring tax compliance under any indirect taxation system. In order to ensure transparency, issuance of invoice for every taxable transaction is a pre-requisite. In case of supply of goods or provision of services, an invoice is raised by the supplier of such goods or services

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to the recipient of the same. Tax invoice acts as a document evidencing the payment of the value of the goods or services or both as also the tax portion in the same. In certain cases, an invoice serves as a demand for payment and becomes a document of title when paid in full.

Under the GST regime, an "invoice" or "tax invoice" means the tax invoice referred to in section 31 of the CGST Act, 2017. This section mandates the issuance of an invoice or a bill of supply for every supply of goods or services.

Under GST law, a tax invoice is an important document. It not only evidences supply of goods or services, but is also an essential document for the recipient to avail Input Tax Credit (ITC). A registered person cannot avail input tax credit unless he is in possession of a tax invoice or a debit note.

The provisions relating to tax invoices, credit and debit notes are contained in Chapter VII - Tax Invoice, Credit and Debit Notes [Sections 31 to 34] of the CGST Act and Chapter-VI: Tax Invoice, Credit and Debit Notes [Rules 46 to 55A] of Central Goods and Services (CGST) Rules, 2017. State GST laws also prescribe identical provisions in relation to Tax Invoice; Credit and Debit Notes.

Before proceeding to understand the provisions of Tax Invoice, Credit and Debit Notes, let us first go through few relevant definitions.

Provisions of Tax invoice; Credit and Debit Notes under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

2. RELEVANT DEFINITIONS

- **Credit note:** means a document issued by a registered person under sub-section (1) of section 34 [Section 2(37)].
- **Debit note:** means a document issued by a registered person under sub-section (3) of section 34 [Section 2(38)].

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- **Continuous supply of goods:** means [Section 2(32)]:

a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis
under a contract
whether or not by means of a wire, cable, pipeline or other conduit, and
for which the supplier invoices the recipient on a regular or periodic basis and
includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify

- **Continuous supply of services:** means [Section 2(33)]:

supply of services which is provided, or agreed to be provided, continuously or on recurrent basis
under a contract
for a period exceeding 3 months with periodic payment obligations and
includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify

- **Document:** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 [Section 2(41)].
- **Exempt supply:** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply [Section 2(47)].
- **Invoice or tax invoice:** means the tax invoice referred to in section 31 *(discussed subsequently)* [Section 2(66)].
- **Quarter:** shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year [Section 2(92)].
- **Return:** means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder [Section 2(97)].

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3. TAX INVOICE [SECTION 31]

STATUTORY PROVISIONS

Section 31	Tax invoice
Sub-section	Particulars
(1)	*A registered person supplying taxable goods shall, before or at the time of,—* *(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or* *(b) delivery of goods or making available thereof to the recipient, in any other case* *issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed.* *Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.*
(2)	*A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed.* *Provided that the Government may, on the recommendations of the Council, by notification—* *(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;* *(b) subject to the condition mentioned therein, specify the categories of services in respect of which—* *(i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or* *(ii) tax invoice may not be issued.*

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(3)	*Notwithstanding anything contained in sub-sections (1) and (2)–* *(a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;* *(b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;* *(c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:* *Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;* *(d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;* *(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;* *(f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall* ***within the period as may be prescribed*** *issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;*

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	(g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier. ***Explanation—For the purposes of clause (f), the expression "supplier who is not registered" shall include the supplier who is registered solely for the purpose of deduction of tax under section 51.***
(4)	*In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.*
(5)	*Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—* *(a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;* *(b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;* *(c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.*
(6)	*In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.*
(7)	*Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.*
Explanation.—For the purposes of this section, the expression "tax invoice" shall include any revised invoice issued by the supplier in respect of a supply made earlier.	

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Section 31A	Facility of digital payment to recipient
	The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.



ANALYSIS

The provisions relating to Tax Invoice are provided under section 31 of the CGST Act as well as Chapter-VI: Tax Invoice, Credit and Debit Notes of Central Goods and Services (CGST) Rules, 2017. The provisions contained in these rules have been incorporated at the relevant places.



There is no format prescribed for the Tax Invoice. Only certain fields have been prescribed as mandatory fields.

A. TAX INVOICE ISSUED BY A SUPPLIER OF TAXABLE GOODS/ TAXABLE SERVICES

A tax invoice shall be issued by a registered person supplying taxable goods or taxable services or both. Such tax invoice shall show the prescribed particulars.

(i) Time limit for issuance of invoice [Sections 31(1), (2), (4) & (5) read with rule 47]

The time for issuing an invoice would depend on the nature of supply viz. whether it is a supply of goods or supply of services.

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A registered person supplying taxable goods shall issue a tax invoice, before or at the time of removal of goods (where supply involves movement of goods) or in any other case, before or at the time of delivery or making available the said goods to the recipient.



In case of supply of taxable services, tax invoice may be issued before or after the provision of services, but within the specified period.



Government may notify the categories of services in respect of which any other document issued in relation to supply shall be deemed to be a tax invoice or tax invoice may not be issued.

The Government may, on the recommendations of the Council, by notification, specify the categories of goods or services supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

In case of taxable supply of goods	In case of taxable supply of services
Invoice shall be issued before or at the time of,—	Invoice shall be issued **before or after** the provision of service, but within a period of **30 days*** from the date of supply of service. ***45 days** in case of an insurer or banking company or financial institution, including a non-banking financial company (NBFC)
(a) removal of goods for supply to the recipient, where the supply involves	

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movement of goods; or	**An insurer or a banking company or a financial institution, including NBFC, or a telecom operator, or any other class of supplier of services as may be notified by the Government, making taxable supplies of services between distinct persons as specified in section 25**
(b) delivery of goods or making available thereof to the recipient, in any other case.	may issue the invoice **before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made**

In case of continuous supply of goods	**In case of continuous supply of services**	
Where successive statements of accounts/ successive payments are involved, the invoice shall be issued before/at the time each such statement is issued or each such payment is received.	**Where**	**the invoice shall be issued**
	(a) due date of payment is ascertainable from the contract	on or before the **due date of payment**
	(b) due date of payment is not ascertainable from the contract	before or at the time when the **supplier** of service **receives the payment**
	(c) payment is linked to the completion of an event	on or before the **date of completion of that event**.

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(1) Ritu Manufacturers, Delhi supplies goods to Prakhar Electronics, Haryana. The goods were removed from its factory in Delhi on 23rdSeptember.Ritu Manufacturers needs to issue a tax invoice on or before 23rd September.

(2) Katyani Security Services Ltd. provides security services to Royal Jewellers for their Jewellery Exhibition to be organized on 5th October. Katyani Security Services Ltd. needs to issue a tax invoice within 30 days of supply of security services, i.e. on or before 4th November.

(ii) Where supply of services ceases before its completion [Section 31(6)]

In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.



(iii) Goods sent on sale or return basis [Section 31(7)]

Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued:

(i) before/at the time of supply

or

(ii) 6 months from the date of removal

whichever is earlier.



(iv) Particulars of a tax invoice [Sections 31(1) & (2) read with rule 46]

As discussed earlier, there is no format prescribed for an invoice, but rules make it mandatory for an invoice to have the following fields (only applicable fields are to be filled):

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Name, address and GSTIN of the supplier;	
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets/numerals/special characters hyphen or dash and slash, and any combination thereof, unique for a FY;	
Date of its issue;	
If recipient is registered- Name, address and GSTIN or UIN of recipient	
If recipient is unregistered and value of supply is	**Particulars of invoice**
₹ 50,000 or more	Name and address of the recipient and the address of delivery, along with the name of State and its code
less than ₹ 50,000	unregistered recipient may still request the aforesaid details to be recorded in the tax invoice
In cases involving supply of online money gaming or in cases where any taxable service is supplied by or through an ECO to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the **name of the State of the recipient and the same shall be deemed to be the address on record of the recipient[1].**	
HSN code for goods or services;	
Description of goods or services;	

[1] *This provision is also applicable in cases where any taxable service is supplied by a supplier of OIDAR services to a recipient who is unregistered. However, the provisions relating to OIDAR services are discussed at the Final level.*

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Quantity in case of goods and unit or Unique Quantity Code thereof;
Total value of supply of goods or services or both;
Taxable value of supply of goods or services or both taking into account discount or abatement, if any;
Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
Place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
Address of delivery where the same is different from the place of supply;
Whether the tax is payable on reverse charge basis; and
Signature or digital signature of the supplier or his authorized representative (not required in case of issuance of an electronic invoice in accordance with the provisions of the Information Technology (IT)Act, 2000).
Quick Response code, having embedded Invoice Reference Number (IRN) in it, in case e-invoice has been issued[2]

Note: The taxpayers exempted from the mandatory requirement of e-invoicing *(discussed subsequently)* are required to provide a declaration on the tax invoice stating that though their aggregate turnover exceeds the notified aggregate turnover for e-invoicing, they are not required to prepare an e-invoice.

[2] *in the manner prescribed under rule 48(4)*

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(v) Number of HSN digits required on tax invoice and class of registered person not required to mention HSN [Rule 46]

Board may, on the recommendations of the Council, by notification, specify:

(i) the number of digits of Harmonised System of Nomenclature (HSN) code for goods or services that a class of registered persons shall be required to mention; or

(ii) a class of supply of goods or services for which specified number of digits of HSN code shall be required to be mentioned by all registered taxpayers; and

(iii) the class of registered persons that would not be required to mention the HSN code for goods or services.

This provision is also applicable to Bill of Supply *[The concept of Bill of Supply is discussed in subsequent paras]*.

In view of the above powers, following has been notified vide *Notification No. 12/2017 CT dated 28.06.2017* as amended:

S.No.	Annual Turnover (AT) in the preceding FY	Number of Digits of HSN Code
1.	AT ≤₹ 5 crores	For B2B supply - 4 For B2C supply – 4 (optional)*
2.	AT >₹ 5 crores	For B2B supply and B2C supply – 6

As mentioned above, a registered person having aggregate turnover up to ₹ 5 crores in the previous financial year has been exempted from the requirement of mentioning the HSN Code in the manner specified in above table in a tax invoice issued by him under the said rules* **in respect of supplies made to unregistered persons.

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(vi) Manner of issuing the invoice [Sections 31(1) & (2) read with rule 48]

In case of taxable supply of goods	In case of taxable supply of services
Invoice shall be prepared in TRIPLICATE	Invoice shall be prepared in **DUPLICATE**
	
Original copy → ORIGINAL FOR RECIPIENT Duplicate copy → DUPLICATE FOR TRANSPORTER Triplicate copy → TRIPLICATE FOR SUPPLIER	Original copy → ORIGINAL FOR RECIPIENT Duplicate copy → DUPLICATE FOR SUPPLIER

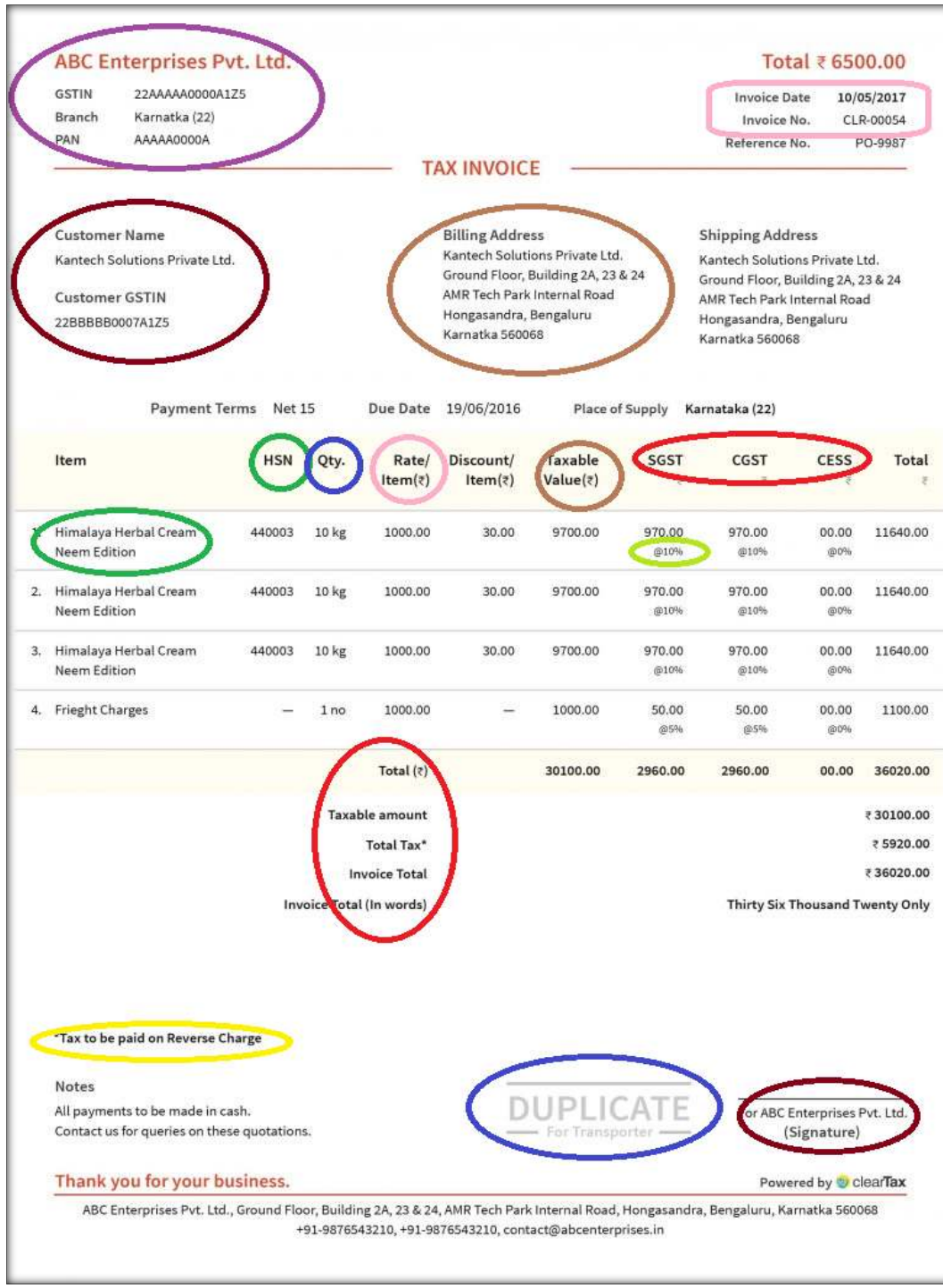
The serial number of invoices issued during a tax period shall be furnished electronically [through the Common Portal – www.gst.gov.in], in FORM GSTR-1 [Details of outward Supplies of goods or services] or GSTR1A.

Key points from aforesaid discussion have been summarized as follows:

1. All GST taxpayers are free to design their own Tax Invoice Format.
2. The law requires that only certain fields as mandatory fields in the Tax Invoice. The same have been listed under heading (iv) above. The mandatory fields have also been circled in the following Sample Tax Invoice.
3. The time period for issuance of invoice is different for goods and services. For goods, it is any time before or at its delivery and for services, it is within 30 days from the date of supply of services.

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Sample Tax Invoice



ABC Enterprises Pvt. Ltd.

GSTIN 22AAAAA0000A1Z5
Branch Karnatka (22)
PAN AAAAA0000A

Total ₹ 6500.00

Invoice Date 10/05/2017
Invoice No. CLR-00054
Reference No. PO-9987

TAX INVOICE

Customer Name
Kantech Solutions Private Ltd.

Customer GSTIN
22BBBBB0007A1Z5

Billing Address
Kantech Solutions Private Ltd.
Ground Floor, Building 2A, 23 & 24
AMR Tech Park Internal Road
Hongasandra, Bengaluru
Karnatka 560068

Shipping Address
Kantech Solutions Private Ltd.
Ground Floor, Building 2A, 23 & 24
AMR Tech Park Internal Road
Hongasandra, Bengaluru
Karnatka 560068

Payment Terms Net 15 Due Date 19/06/2016 Place of Supply **Karnataka (22)**

	Item	HSN	Qty.	Rate/ Item(₹)	Discount/ Item(₹)	Taxable Value(₹)	SGST ₹	CGST ₹	CESS ₹	Total ₹
1.	Himalaya Herbal Cream Neem Edition	440003	10 kg	1000.00	30.00	9700.00	970.00 @10%	970.00 @10%	00.00 @0%	11640.00
2.	Himalaya Herbal Cream Neem Edition	440003	10 kg	1000.00	30.00	9700.00	970.00 @10%	970.00 @10%	00.00 @0%	11640.00
3.	Himalaya Herbal Cream Neem Edition	440003	10 kg	1000.00	30.00	9700.00	970.00 @10%	970.00 @10%	00.00 @0%	11640.00
4.	Frieght Charges	—	1 no	1000.00	—	1000.00	50.00 @5%	50.00 @5%	00.00 @0%	1100.00
				Total (₹)		30100.00	2960.00	2960.00	00.00	36020.00

Taxable amount	₹ 30100.00
Total Tax*	₹ 5920.00
Invoice Total	₹ 36020.00
Invoice Total (In words)	Thirty Six Thousand Twenty Only

*Tax to be paid on Reverse Charge

Notes
All payments to be made in cash.
Contact us for queries on these quotations.

DUPLICATE
For Transporter

For ABC Enterprises Pvt. Ltd.
(Signature)

Thank you for your business.

Powered by clearTax

ABC Enterprises Pvt. Ltd., Ground Floor, Building 2A, 23 & 24, AMR Tech Park Internal Road, Hongasandra, Bengaluru, Karnatka 560068
+91-9876543210, +91-9876543210, contact@abcenterprises.in

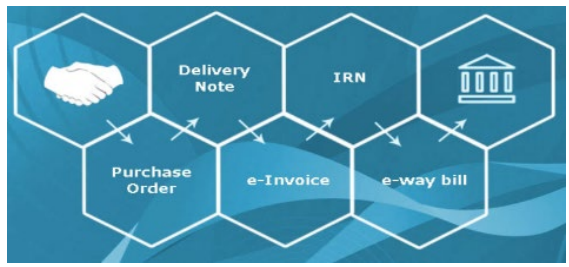
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E-invoicing

'E-invoicing' has been introduced for reporting of business to business (B2B) invoices to GST System for certain notified category of taxpayers.



All registered businesses with an aggregate turnover (based on PAN) in any preceding financial year from 2017-18 onwards greater than ₹ 5 crore (hereinafter referred to as 'notified persons') will be required to issue e-invoices. E-invoicing is not voluntary; only notified persons are enabled to report invoices on IRP (Invoice Registration Portal).



Before we proceed further, let us first understand what is 'e-invoicing'? E-invoicing is not generation of invoice by a Government portal. Taxpayers will continue to create their GST invoices on their own Accounting/Billing/ERP Systems as per e-invoice scheme. These invoices will then be reported to IRP. On such reporting, IRP will generate a unique 'Invoice Reference Number (IRN)', digitally sign it and return the e-invoice to the supplier. A GST e-invoice will be valid only with a valid IRN.

Presently, invoices, credit notes and debit notes, when issued by notified persons (to registered persons (B2B) or for the purpose of exports) are covered under e-invoice. Though different documents are covered, for ease of reference and understanding, the system is referred as 'e-invoicing'.



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Advantages of e-invoicing

E-invoice has many advantages for businesses. One such advantage is auto-reporting of invoices into GST return and auto-generation of e-way bill[3] (wherever required). Under e-invoicing, business has to report the B2B invoice data only once in the e-invoice form and the same is reported in multiple forms (GSTR-1, e-way bill etc.). E-way bill can be auto-generated using e-invoice data. GSTR-1 can also be auto-populated with the e-invoice data. It will become part of the business process of the taxpayer.

Consequently, there will be a substantial reduction in transcription errors as same data will get reported to tax department as well as to the buyer to prepare his inward supplies (purchase) register. On receipt of information through GST System, buyer can reconcile the same with his Purchase Order.



Thus, it will facilitate standardisation and inter-operability leading to reduction of disputes among transacting parties, improve payment cycles, reduction of processing costs and thereby greatly improving overall business efficiency.

Further, since a complete trail of B2B invoices is available with the Department, it will enable the system-level matching of input tax credit and output tax thereby reducing the tax evasion.

Last but not the least, e-invoicing will eliminate the fake invoices. Claiming fictitious input tax credit (ITC) by raising fake invoices is also one of the biggest challenges currently faced by tax-authorities. The e-invoice system will help to curb the actions of unscrupulous taxpayers and reduce the number of fraud cases as the tax authorities will have access to data in real-time.

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[3] *The provisions relating to e-way bill have been discussed in Chapter 12: E-way bill in this Module of the Study Material.*

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E-invoicing statutory provisions

Rule 48(4) stipulates that the e-invoice shall be prepared by notified class of registered persons, by uploading such particulars as contained in Form GST INV-01 on the Common GST Electronic Portal[4]and obtain an IRN (Invoice Reference Number), in prescribed manner and subject to prescribed conditions and restrictions.

However, the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of e-invoice under rule 48(4) for a specified period, subject to such conditions and restrictions as may be specified in the said notification.

Every invoice, issued by above persons, in any manner other than the manner specified in rule 48(4) shall not be treated as an invoice. Where e-invoicing is applicable, there is no need of issuing invoice copies in triplicate/duplicate.



Class of persons notified to mandatorily issue e-invoice

In view of said powers, a registered person (except specified class of persons[5]), whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 5 crore, has been notified as class of persons who shall prepare e-invoice in respect of B2B supplies (supply of goods or services or both to a registered person) and for exports[6].Thus, presently, such notified

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[4]Ten dedicated Invoice Reference Portals have been notified as Common Goods and Service Tax (GST) Electronic Portal for the purpose of preparing e-invoice. These portals are enlisted in subsequent paras.

[5]Special Economic Zones and insurer or banking company or financial institution including NBFC, GTA, supplier of passenger transportation service, person supplying services by way of admission to exhibition of cinematograph films in multiplex screens, a Government Department and a local authority.

[6] Notification No. 13/2020 CT dated 21.03.2020 as amended

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persons are not required to report B2C invoices on IRP. However, reporting of B2C invoices will be brought under e-invoice in the next phase. Further, e-invoicing is also not applicable to invoices issued by Input Service Distributor (ISD)[7].

If the invoice issued by a notified person is in respect of supplies made by him, tax on which is payable under reverse charge under section 9(3), e-invoicing is applicable.



(3) A taxpayer (say a firm of advocates) having aggregate turnover in a FY of more than ₹ 5 crore is supplying services to a company (who will be discharging tax liability as recipient under reverse charge mechanism), such invoices have to be reported by said tax payer (since it is a notified person) on IRP.

On the other hand, where specified category of supplies are received by notified person from unregistered persons [attracting reverse charge under section 9(4)] or through import of services, e-invoicing doesn't arise/ not applicable. E-invoicing is also not applicable in case of import of goods (Bills of Entry).

Exemption from e-invoicing

Following entities are exempt from the mandatory requirement of e-invoicing:

- Special Economic Zone units**
- Insurer or banking company or financial institution including NBFC
- GTA supplying services in relation to transportation of goods by road in a goods carriage
- Supplier of passenger transportation service
- Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- a Government Department and a local authority

[7] *Provisions relating to ISD have been discussed at Final level.*

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Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds **₹ 5 crore** in any preceding financial year from 2017-18 onwards.

Further, the above taxpayers exempted from the mandatory requirement of e-invoicing are required to provide a **declaration as below** that invoice is not required to be issued in the manner specified under rule 48(4), in all cases where an invoice is issued, other than in the manner so specified under the said rule 48(4), by the taxpayer having aggregate turnover in any preceding financial year from 2017-18 onwards more than the aggregate turnover as notified under rule 48(4) [*presently its* ₹ 5 crore]-

"I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule."

**It is important to note here that only SEZ units and not SEZ developers are exempt from issuing e-invoices. Thus, SEZ developers whose turnover exceeds ₹ 5 crore in any preceding financial year from 2017-18 onwards are mandatorily required to issue e-invoices. Further, in case of supplies made by notified persons to SEZ units, e-invoices need to be issued.



(4) Maharaja Private Limited has an SEZ unit and a regular DTA unit (both having same PAN). The aggregate total turnover of Maharaja Private Limited is more than ₹ 5 crore (considering both the GSTINs). However, the turnover of DTA unit is ₹2.5 crore for preceding financial year.

In this scenario, SEZ unit is exempt from e-invoicing. However, e-invoicing will be applicable to DTA Unit because the aggregate turnover of the legal entity in this case is >₹ 5 crore. The applicability is based on annual aggregate turnover on the common PAN.

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It has been clarified[8] that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity**.**



(5) A banking company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice in terms of *Notification No. 13/2020 CT dated 21.03.2020*, for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.

How e-invoice is generated?

The taxpayer first prepares and generates his invoice using his own ERP/accounting/billing system or manual system[9].The invoice must conform to the e-invoice schema (standard notified format - *discussed in detail subsequent paras*) and must have the mandatory parameters.

The details of this invoice are uploaded/reported by the taxpayer to the Invoice Registration Portal (IRP). This way taxpayer registers his supply transaction on IRP.

On uploading, IRP returns the e-invoice with a unique 'Invoice Reference Number (IRN)' (explained in detail subsequent paras) after digitally signing the e-invoice and adding a QR Code (Quick Response Code). Then, the supplier shares the e-invoice with the receiver (along with QR Code).

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[8] *Circular No. 186/18/2022 GST dated 27.12.2022*

[9] *For entities not having their own ERP/Software solutions, they can use the free offline utility ('bulk generation tool') downloadable from the e-invoice portal. Through this, invoice data can be easily reported to IRP and obtain IRN/signed e-invoice*

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08/12/2019 1:40PM

e-Invoice System

Schema version: 1.0
Tax scheme: GST

Original For Recipient

e-Invoice

1. GSTIN 05AAACG2207L1ZY
2. Name GSTN LTD
3. Address GODREJ, VIKHROLI, Mumbai, Maharashtra, 400076
4. Serial No. of Invoice GSTN001
5. Date of Invoice 06/12/2019
6. IRN No. 05AAACG2207L1ZY/GSTN001/2019-20

Dispatch from:05AAACG2207L1ZY, GSTN LTD
Address: GODREJ, VIKHROLI, Mumbai
State: Maharashtra
Pincode: 400076

Details Of Receiver(billed to)	
Name	ABC INDIA LTD
Address	Mumbai
Pin Code	400011
State	Maharashtra
State Code (Place of supply)	MH
GSTIN/Unique ID	05AAACG2314E1ZD

Details Of Consignee(Shipped to)	
Name	ABCINDIA LTD
Address	Mumbai
Pin Code	400011
State	Maharashtra
State Code (Place of supply)	MH
GSTIN/Unique ID	05AAACG2140A1ZL

Sample e-Invoice

Supply type: Outward
Transaction mode: Tax Invoice

S.No.	Description of supply / Item description	HSN Code	Quantity	Rate per unit of quantity	GST rate (aggregate of CGST+SGST/IGST)	Taxable Value	CGST		SGST		IGST		CESS	
							%	Amount	%	Amount	%	Amount	%	Amount
1	LAPTOP	8703	2.00	50000.00	18.00	100000.00	9.00	9000.00	9.00	9000.00	0.00	0.00		0.00
					Total	100000.00		9000.00		9000.00		0.00		

Total Invoice Value(In figure): 118000.00
Amount of Tax subject to Reverse Charges : No

Payee Information:
Payee name: KPMG
Account number:
payment mode: Cash
IFSC code:

Total Taxable Amount 100000.00
Total Tax Amount 18000.00

Final Amount 118000.00

Amount paid in advance 10000.00
Amount outstanding 98000.00

Remarks 1

Remarks 2

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How e-invoice data is consumed by GST System for generation of e-way bill or populating relevant parts of GST Returns?

On successful reporting of invoice details to IRP, the invoice data (payload) including IRN, will be saved in GST System.

The GST system will auto-populate them into GSTR-1 of the supplier and GSTR-2A of respective receivers. IRN and IRN date will also be shown along with source marked as 'e-invoice' (except where such details were modified/re-uploaded by taxpayer).

The e-invoice schema *(discussed subsequently)* includes parameters e.g. 'Transporter ID' and 'Vehicle Number', etc. that are required for creating and generating e-way bills. These can be entered if available with seller, at the time of generation of e-invoice so that e-way bill can be created using this data without any further requirement of data entry by the user. The e-invoice reporting software already allows reporting of e-invoice and generation of e-way bill with same data.

Cancellation/ amendment of reported invoice

Where needed, the seller can **cancel IRN** for an e-invoice already reported **by reporting it on IRP** within specified time[10].

Amendment of e-invoice already uploaded on IRP will be done only on GST portal (while filing GSTR-1). Amendment of invoices is not possible through the IRP.

Implications for businesses

As apparent from the above discussion, e-invoicing does not mean that the invoice needs to be prepared/ generated on the Government portal. It is only intimating the Government portal that invoice has been issued to the buyer, by registering that particular invoice on the Government portal. Consequently, businesses will continue to issue invoices as they were doing earlier. Necessary changes on account of e-invoicing requirement (i.e. to enable reporting of invoices to IRP and obtain IRN), be made by ERP/Accounting and Billing Software providers in their respective software. They need to get the updated version having this facility.

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[10]*However, if the connected e-way bill is active or verified by officer during transit, cancellation of IRN will not be permitted.*

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Important terms

E-invoice Schema

Businesses use various accounting/billing software, each generating and storing invoices in their own electronic formats. These different formats are neither understood by GST System nor by the systems of suppliers and receivers.



(6) An invoice generated by SAP system cannot be read by a machine which is using 'Tally' system, unless a connector is used. With more than 300 accounting/billing software products, there was no way to have connectors for all.

In this scenario, 'e-invoicing' was introduced aiming at machine-readability and uniform interpretation. To ensure this complete 'inter-operability' of e-invoices across the entire GST eco-system, an invoice standard is a must. By this, e-invoices generated by one software can be read by any other software, thereby eliminating the need of fresh/manual data entry. Since, there was no such standard for e-invoice available earlier, as a first step, a standard format for e-invoice has been finalized.

This uniform standard format (containing specified fields) applicable for all the businesses across the country is known as 'e-invoice schema'. It is notified as **Form GST INV-1**. E-invoice schema mandates what particulars shall be reported in electronic format to IRP. Invoice details in prescribed schema to be reported to IRP in JSON format (JavaScript Object Notation). 'JSON' can be understood as a common language for systems/machines to communicate between each other and exchange data.

Invoice Registration Portal (IRP)

IRP is the website for uploading/reporting of invoices by the notified persons. Following IRPs have been notified for the purpose of preparation of the e-invoice:

www.einvoice1.gst.gov.in
www.einvoice2.gst.gov.in
www.einvoice3.gst.gov.in
www.einvoice4.gst.gov.in
www.einvoice5.gst.gov.in
www.einvoice6.gst.gov.in
www.einvoice7.gst.gov.in
www.einvoice8.gst.gov.in
www.einvoice9.gst.gov.in
www.einvoice10.gst.gov.in

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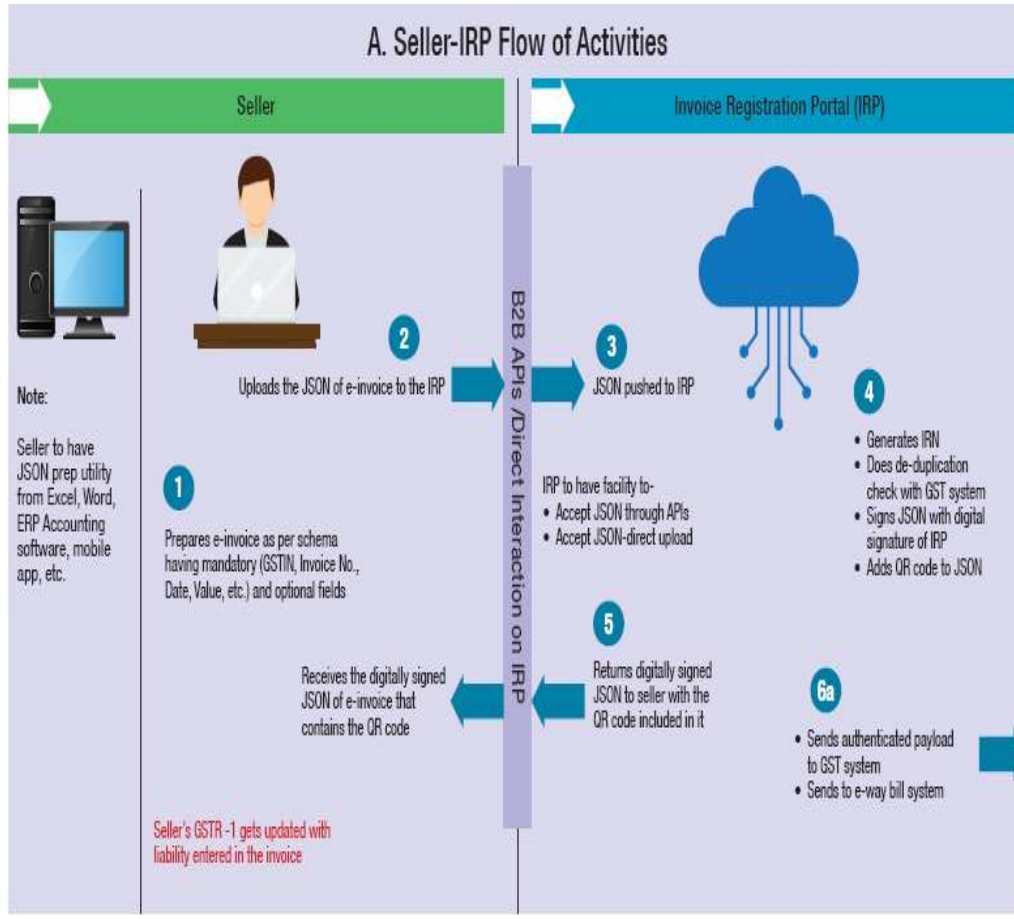
Invoice Reference Number

As seen earlier, GST invoice will be valid only with a valid IRN. IRN is different from invoice number. Invoice no. (e.g. ABC/1/2019-20) is assigned by supplier and is internal to business. Its format can differ from business to business and also governed by relevant GST rules. IRN, on other hand, is a unique reference number (hash) generated and returned by IRP, on successful registration of e-invoice. IRN is a unique 64-character hash, e.g.

35054cc24d97033afc24f49ec4444dbab81f542c555f9d30359dc75794e06bbe

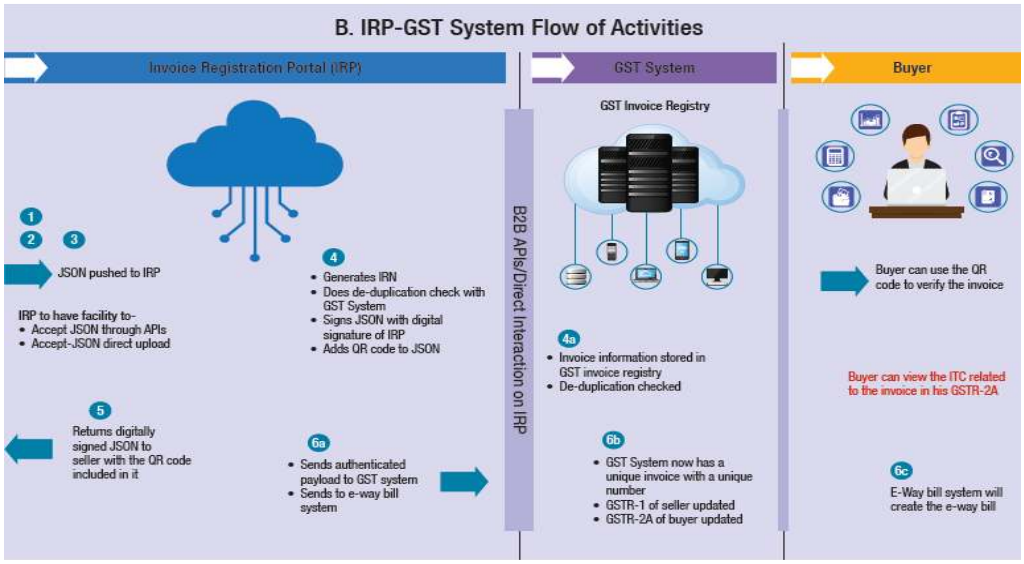
The overall workflow of e-invoice generation, its reporting/registration and receipt of confirmation is depicted below:

A. Interaction between the business (supplier) and the Invoice Registration Portal (IRP).



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B. Interaction between the IRP and the GST/E-Way Bill Systems and the Buyer.



Other points:

- ❑ The e-invoicing system is also available for the E-Commerce Operators (ECO) to report the invoices to the Invoice Registration portal, generated by them on behalf of the suppliers.
- ❑ Bulk uploading of invoices to IRP is also possible[11].
- ❑ CBIC has clarified[12] that **there is no requirement to carry the physical copy of tax invoice in cases where e-invoice has been generated by the supplier.** Whenever e-invoice has been generated, production of the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.

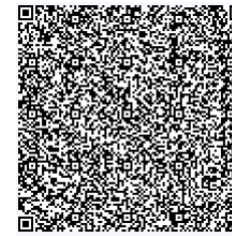
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[11] Discussion on e-invoicing is primarily based on the relevant rules, notifications and FAQS on e-invoicing hosted on GSTN website.

[12] Circular No. 160/16/2021 GST dated 20.09.2021

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Quick Response (QR) code



Upon successful registration of invoice on IRP, it will return a signed e-invoice to the supplier with IRN and QR Code. IRN is embedded in the QR Code which shall be extracted and printed on the invoice. The QR code enables quick view, validation and access of the invoices from the GST system from hand-held devices. The digitally signed QR code will have a unique IRN which can be verified on the central portal as well as by an offline app by the officer. **This will be helpful for tax officers checking the invoice offline on the roadside where internet may not be available all the time.**

The QR code consists of the following e-invoice parameters:

- GSTIN of supplier
- GSTIN of recipient
- Invoice number as given by supplier
- Date of generation of invoice
- Invoice value (taxable value and gross tax)
- Number of line items
- HSN code of main item (the line item having highest taxable value)
- Unique Invoice Reference Number (hash)
- Date of generation of IRN

E-invoicing applicable to Government Departments/PSUs etc. registered solely for the purpose of deduction of tax at source as per provisions of section 51

- The issue which arose for consideration was whether e-invoicing is applicable for supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/ Government agencies/ local authorities/ PSUs which are registered solely for the purpose of deduction of TDS as per provisions of section 51.

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- It is clarified that Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct TDS under section 51, are liable for compulsory registration in accordance with section 24(vi).
- Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of TDS as per provisions of section 51, are to be treated as registered persons under the GST law as per provisions of section 2(94).
- Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc. under rule 48(4)[13].

Dynamic QR code on B2C invoices

All B2C invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 500 crores will have a QR code.

Sixth proviso to rule 46 has empowered the Government to specify that the tax invoice shall have Quick Response (QR) code. Resultantly, it has been notified[14] that invoice issued by a registered person [except specified class of persons *(discussed subsequently)*], whose aggregate turnover in a financial year exceeds ₹ 500 crores, in respect of B2C supplies (supply of goods or services or both to an unregistered person) shall have Dynamic QR code.

A Dynamic Quick Response (QR) code made available to buyer by such registered person through digital display (with payment cross-reference) shall be deemed to be having QR code. **The purpose of this provision is to enable and encourage digital payments where buyer can scan the dynamic QR code and make payment from mobile wallet directly.**

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[13] *Circular No. 198/10/2023 GST dated 17.07.2023*
[14] *Notification No. 14/2020 CT dated 21.03.2020*

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Today, many shops have static QR code at the payment counter which is scanned by the buyer, but the buyer has to enter the amount to be paid to the shop in the mobile payment App. The dynamic QR code, on the other hand, will have the payment details and thus 'scan and pay' in one go is possible.

This has no relevance or applicability to the e-invoicing in respect to B2B supplies by notified class of taxpayers. Dynamic QR Code will be generated by the seller himself either on the Point of Sale (PoS) machine or the invoice issued.

Dynamic QR Code in case of an invoice, issued to a person having a UIN

Any person, who has obtained a Unique Identity Number (UIN), is not a "registered person" as per the definition of registered person provided in section 2(94)[15]. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.

Non-applicability of requirement of Dynamic QR code

Dynamic QR code is not applicable to an invoice issued to an unregistered person by following suppliers:

(i) Insurer or banking company or financial institution including NBFC

(ii) Goods transport agency supplying services in relation to transportation of goods by road in a goods carriage

(iii) Supplier of passenger transportation service

(iv) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens

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[15] *A registered person means a person who is registered under section 25 but does not include a person having a Unique Identity Number [Section 2(94)].*

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(v) Supplier of online information and database access or retrieval (OIDAR) services[16].

No Dynamic QR code in case of exports: As regards the supplies made for exports, though such supplies are made by a registered person to an unregistered person, however, since e-invoices are required to be issued in respect of supplies for exports treating them as B2B supplies, Dynamic QR code requirement will not be applicable to them.

Parameters/ details to be captured in the Dynamic QR Code

Dynamic QR Code, *inter-alia*, shall contain the following information: -

- ❑ Supplier GSTIN number
- ❑ Supplier UPI ID
- ❑ Payee's Bank A/c number and IFSC
- ❑ Invoice number & invoice date,
- ❑ Total invoice value and
- ❑ GST amount along with breakup i.e. CGST, SGST, IGST, Cess, etc.

Further, Dynamic QR Code should be such that it can be scanned to make a digital payment.

The purpose of dynamic QR Code is to enable the recipient/ customer to scan and pay the amount to be paid to the merchant/ supplier in respect of the said supply. If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be deemed to have complied with Dynamic QR Code requirements.

[16]*The provisions relating to OIDAR services have been discussed at the Final level.*

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B. SPECIAL CASES

(i) Revised Tax Invoice [Section 31(3)(a) read with rule 53]

When issued?

- Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Such invoices shall be issued against the invoices already issued during said period.

> *For the purposes of section 31, the expression **"tax invoice"** shall include any **revised invoice** issued by the supplier in respect of a supply made earlier [Explanation to section 31].*

- **Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration.** The words "Revised Invoice" shall be indicated prominently on such invoices.
- This provision is necessary, as a person who becomes liable for registration has to apply for registration within 30 days of becoming liable for registration. When such an application is made within the stipulated time period and registration is granted, the effective date of registration is the date on which the person became liable for registration.
- Thus, there would be a time lag between the date of grant of certificate of registration and the effective date of registration. For supplies made by such person during this intervening period, the law enables the issuance of revised invoice(s), so that ITC can be availed by the recipient on such supplies.



Revised Tax Invoices to be issued in respect of taxable supplies effected during this period

Effective date of registration | **Date of issuance of certificate of registration**

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(7) Sarabhai Private Ltd. commenced business of supply of goods on 1st April in Delhi. Its turnover exceeded the applicable threshold limit on 3rd September. Thus, it became liable to registration on 3rd September. It applied for registration on 29th September and was granted registration certificate on 5th October. Since it applied for registration within 30 days of becoming liable to registration, registration granted is effective from 3rd September. Sarabhai Private Ltd. may issue Revised Tax Invoices on or before 5th November in respect of taxable supplies effected between 3rd September and 5th October.

Consolidated Revised Tax Invoices in certain cases

A registered person may issue a Consolidated Revised Tax Invoice in respect of all taxable supplies made to an unregistered recipient **during such period**.

However, **in case of inter-State supplies** where the value of supply does not exceed ₹ 2.5 Lakh, a consolidated revised invoice may be issued separately in respect of all unregistered recipients located in a State.

Thus, a revised/ consolidated revised invoice may be issued within one month from the date of registration as follows:

- **For each inter-State B2C taxable supply upto ₹ 2,50,000:** State-wise consolidated revised invoice
- **For each inter-State B2C taxable supply more than ₹ 2,50,000:** Recipient wise revised invoice
- **For all intra-State B2C taxable supplies irrespective of the amount:** Consolidated revised invoice

Particulars of Revised Tax Invoice

Name, address and GSTIN of the supplier;
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY;
Date of issue of the document;
Name, address and GSTIN or UIN, if registered, of the recipient;

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Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
Signature/digital signature of the supplier/his authorized representative.

ILLUSTRATION 1

Luv & Kush Pvt. Ltd. of Meghalaya engaged in the supply of gifts items and repair services, provides you the following details:-

S. No.	Particulars	Date
1.	Commencement of the business of supplying goods and services	1st August
2.	Turnover exceeds ₹ 10,00,000 on	15th August
3.	Turnover exceeds ₹ 20,00,000 on	5th September
4.	Application for registration made on	28th September
5.	Registration certificate granted on	6th October

The company seeks your advice as to how it should raise revised tax invoices for supplies made. Is there any specific provision for issuance of revised tax invoices to unregistered customers? Explain.

ANSWER

A supplier of both goods and services whose aggregate turnover in a financial year exceeds ₹ 20 lakh in a State/UT [₹ 10 lakh in specified Special Category States] is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit of ₹ 20 lakh/ ₹ 10 lakh) in terms of section 22. Since Meghalaya is not a specified Special Category State, applicable threshold limit is ₹ 20 lakh.

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Further, where the application is submitted within said period, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

Every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, may issue revised tax invoices within 1 month from the date of issuance of registration certificate in respect of taxable supplies effected during this period i.e. from the effective date of registration till the date of issuance of registration.

Since Luv & Kush Pvt. Ltd. has made the application for registration within 30 days of becoming liable for registration, the effective date of registration becomes the date on which the company becomes liable to registration i.e. 5th September.

Thus, Luv & Kush Pvt. Ltd. may issue revised tax invoices against the invoices already issued during the period between effective date of registration (5th September) and the date of issuance of registration certificate (6th October), within 1 month from 6th October.

Further, Luv & Kush Pvt. Ltd may issue a consolidated revised tax invoice in respect of all taxable supplies made to unregistered dealers during such period. However, in case of inter-State supplies where the value of supply does not exceed ₹ 2.5 Lakh, a consolidated revised invoice may be issued separately in respect of all unregistered recipients located in a State.

(ii) No Tax Invoice required to be issued if value <₹ 200 – A consolidated Tax Invoice can be issued [Section 31(3)(b) read with fourth proviso to rule 46]



A registered person may not issue a Tax Invoice if:

(i) Value of the goods/services/both supplied<₹ 200,

(ii) the recipient is unregistered; and

(iii) the recipient does not require such invoice.

Instead such registered person shall issue a **Consolidated Tax Invoice** for such supplies at the close of each day in respect of all such supplies.

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Thus, small taxpayers, like small retailers, doing a large number of small transactions for upto a value of ₹ 200 per transaction to unregistered customers need not issue invoice for every such transaction. They can issue one consolidated invoice at the end of each day for all transactions done during the day. However, they need to issue an invoice when the customer demands.



However, this option is not available to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens.

Above provision is also applicable to Bill of Supply.

ILLUSTRATION 2

Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S. No.	Recipient of supply	Amount (₹)
1.	Raghav Traders - a registered retail dealer	190
2.	Dhruv Enterprises – an unregistered trader	358
3.	Gaurav – a painter [unregistered]	500
4.	Oberoi Orphanage –an unregistered entity	188
5.	Aaradhya – a student [unregistered]	158

None of the recipients require a tax invoice [Raghav Traders being a composition dealer].

Determine in respect of which of the above supplies, Jain & Sons may issue a Consolidated Tax Invoice instead of Tax Invoice, at the end of the day.

ANSWER

In the given illustration, Jain & Sons can issue a Consolidated Tax Invoice only with respect to supplies made to Oberoi Orphanage [worth ₹188] and Aaradhya [worth ₹158] as the value of goods supplied to these recipients is less than ₹200 as also these recipients are unregistered and don't require a tax invoice.

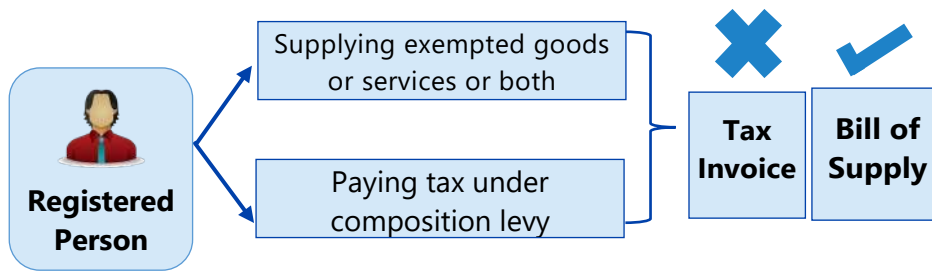
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As regards the supply made to Raghav Traders, although the value of goods supplied to it is less than ₹200, Raghav Traders is registered under GST. So, Consolidated Tax Invoice cannot be issued.

Consolidated Tax Invoice can also not be issued for supplies of goods made to Dhruv Enterprises and Gaurav although both of them are unregistered. The reason for the same is that the value of goods supplied is not less than ₹ 200.

(iii) Bill of Supply [Section 31(3)(c) read with rule 49]

Section 31(3)(c) stipulates that a registered person supplying exempted goods or services or both or a registered person paying tax under composition levy, shall issue a bill of supply instead of a tax invoice[17].Person opting for composition levy shall mention the words **"composition taxable person, not eligible to collect tax on supplies"** at the top of the bill of supply issued by him[18].



Particulars of Bill of Supply



A registered person opting for the composition levy does not collect tax from the recipient on outward supplies made by him. Similarly, in case of a registered person supplying exempted goods and/or services, no tax implications are there. Recipients should not expect Tax Invoice from such suppliers as they cannot issue tax invoice.

Since no tax is collected from the recipient by a registered person opting for the composition levy and a registered person supplying exempted goods

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[17]Order No. 3/2019 CT dated 08.03.2019 has stipulated that a person paying tax under Notification No. 2/2019 will also issue a bill of supply instead of tax invoice.

[18] Fourth proviso to rule 49 stipulates that the Bill of supply shall have a Quick Response Code. However, the same is not yet made effective.

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and/or services, Bill of Supply issued by such persons does not contain the details pertaining to rate of tax and amount of tax. Further, value to be mentioned in the Bill of Supply is not also taxable value.

Name, address and GSTIN of the supplier;
A consecutive serial number not exceeding 16 characters, in one or more multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash and any combination thereof, unique for a FY;
Date of its issue;
Name, address and GSTIN or UIN, if registered, of the recipient;
HSN Code for goods or services;
Description of goods or services or both;
Value of supply of goods or services or both taking into account discount/ abatement, if any; and
Signature/ digital signature of supplier/his authorized representative. However, signature or digital signature of the supplier or his authorized representative shall not be required in the case of issuance of an electronic bill of supply in accordance with the provisions of the Information Technology Act, 2000.

Note: Any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as bill of supply for the purposes of the Act.



(8) Patel & Sons is a manufacturer of goods who has opted for composition levy under section 10(1) and 10(2). It will issue a Bill of Supply to the buyers of goods and not the tax invoice.

Invoice-cum-bill of supply [Rule 46A]

Where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies. Rule 46A is notwithstanding anything contained in rule 46 or rule 49 or rule 54 of CGST Rules. The said

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single "invoice-cum-bill of supply" shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49.

(iv) Receipt Voucher [Section 31(3)(d) read with rule 50]

A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a Receipt Voucher evidencing receipt of such payment.

Particulars of Receipt Voucher

Name, address and GSTIN of the supplier;
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY
Date of its issue;
Name, address and GSTIN or UIN, if registered, of the recipient;
Description of goods or services;
Amount of advance taken;
Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;
Whether the tax is payable on reverse charge basis; and
Signature/digital signature of supplier/his authorized representative

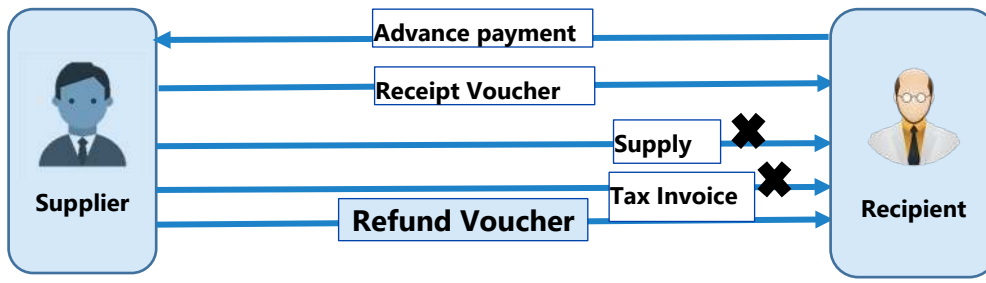
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Where at the time of receipt of advance, rate of tax and/or nature of supply is not determinable

Where at the time of receipt of advance -	
(i) rate of tax is not determinable	tax shall be paid at the rate of **18%**
(ii) nature of supply is not determinable	same shall be treated as **inter-State supply**

(v) Refund Voucher [Section 31(3)(e) read with rule 51]

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a **Receipt Voucher**, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a **Refund Voucher** against such payment.



Particulars of Refund Voucher

Name, address and GSTIN of the supplier;
A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY;
Date of its issue;
Name, address and GSTIN or UIN, if registered, of the recipient;

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Number and date of Receipt Voucher issued
Description of goods/services in respect of which refund is made
Amount of refund made
Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess)
Amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess)
Whether the tax is payable on reverse charge basis; and
Signature/digital signature of supplier/his authorized representative

(vi) Invoice and Payment Voucher [Section 31(3)(f) & (g) read with rule 46, *rule 47A* and rule 52]



The recipient is liable to pay tax on reverse charge basis where he receives supply of such goods/services/both which are notified for reverse charge purposes under section 9(3). Such supplies can be received from a registered or an unregistered supplier.

Further, a builder/promoter is required to pay GST on reverse charge basis under section 9(4) in one or more of the following cases:

(i) A builder/promoter must purchase 80% of inputs and input services used in supplying the service from registered persons. In case of shortfall, he's required to pay tax under reverse charge on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

(ii) Where cement is received from an unregistered person, promoter/builder has to pay tax on supply of such cement on reverse charge basis and

(iii) GST on capital goods purchased from unregistered person is payable by the promoter on reverse charge basis.

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Invoice to be issued by recipient if he is liable to pay tax under section 9(3)/(4) and receives supplies from an unregistered person

A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall ***within the period as may be prescribed*** issue an **invoice** in respect of goods or services or both **received by him from the supplier who is not registered on the date of receipt of goods or services or both.**

Thus, invoice to be issued by recipient within the prescribed time if he is liable to pay tax under section 9(3)/(4) and receives supplies from an unregistered person

Further, the time limit for issuing tax invoice in case of reverse charge mechanism supplies has been prescribed in rule 47A.

Rule 47A provides that where an invoice referred to in rule 46 is required to be issued under clause (f) of section 3(3) by a registered person, who is liable to pay tax under section 9(3)/9(4), he shall issue the said invoice within a period of 30 days from the date of receipt of the said supply of goods and/or services, as the case may be.



Invoice to be issued within a period of 30 days from the date of receipt of the said supply

Thus, invoice to be issued within a period of 30 days from the date of receipt of the said supply of goods and/or services, as the case may be.

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Payment voucher to be issued by recipient at the time of making payment if he is liable to pay tax under section 9(3)/(4)



Besides, a registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue a **Payment Voucher** at the time of making payment to the supplier.

Particulars of Payment Voucher

Name, address and GSTIN of the supplier if registered;
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash and any combination thereof, unique for a FY
Date of its issue;
Name, address and GSTIN of the recipient;
Description of goods or services;
Amount paid;
Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
Amount of tax payable in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and
Signature/digital signature of supplier/his authorized representative

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(vii) Supplier permitted to issue any document other than tax invoice [Section 31(2) and proviso to section 31(1) read with rules 54 and 55]



Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—

(a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(b) tax invoice may not be issued.

Following suppliers may issue a tax invoice, but they are also permitted to issue any other document in lieu of tax invoice, by whatever name called:

Supplier of taxable service	Document in lieu of the tax invoice	
	Optional information	Mandatory information
Insurer/Banking company/Financial institution, including NBFC	❑ Serial number (It is not mandatory for a bank/insurance company to serially number the invoices/document). ❑ Address of the recipient of taxable service.	Other information (other than serial no. and address of recipient) as prescribed for a Tax Invoice, under rule 46. A customer may avail numerous services from the bank / insurer in a given tax period. Such entities may issue a consolidated tax invoice/ statement/ advice, any other document in lieu thereof, by whatever name called may be issued/ made available,

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		physically/ electronically, for supply of services made during a month at the end of the month. However, the signature or digital signature of the supplier/his authorised representative shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the Information Technology Act, 2000.
Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a **goods carriage**		Gross weight of the consignment Name of the consignor and the consignee Registration number of goods carriage in which the goods are transported Details of goods transported Details of place of origin and destination GSTIN of the person liable for paying tax

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		whether as consignor, consignee or GTA
		Other information as prescribed for a tax invoice, under rule 46
Supplier of **passenger transportation service**	❑ Serial number ❑ Address of the recipient of taxable service	Tax invoice shall include ticket in any form, by whatever name called.
		Other information (other than serial no. and address of recipient) as prescribed for a tax invoice, under rule 46. However, signature or digital signature of the supplier or his authorized representative shall not be required in the case of issuance of ticket in accordance with the provisions of the Information Technology Act, 2000.
Registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens	Details of recipient of service	Supplier is required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice.
		Other information (other than details of recipient of service) as prescribed for a tax invoice, under rule 46.

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		However, supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure.


It is important to note here that keeping in view the large number of transactions in banking, insurance and passenger transportation sector, taxpayers need not mention the address of the customer and the serial number in their invoices.

Delivery challan

Rule 55 specifies the cases where at the time of removal of goods for transportation, goods can be removed on delivery challan and invoice may be issued after delivery. These are provided in the following table:

Nature of supply[19]	Deliver challan to be issued	Particulars of Delivery Challan
(1) Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known, **(2)** Transportation of goods for reasons other than by way of supply, or	• serially numbered not exceeding 16 characters • in one or multiple series • at the time of removal of goods for transportation	Date and number of the delivery challan Name, address and GSTIN of the consigner, if registered Name, address and GSTIN or UIN of the consignee, if registered HSN code and description of goods, Quantity (provisional, where the exact quantity being supplied is not known)

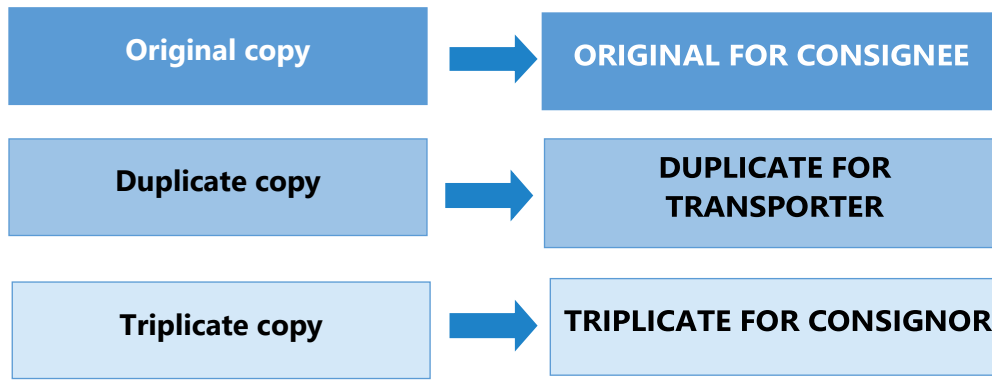
[19] *It may be noted that delivery challan is to be issued in case of transportation of goods for job work also. The provisions relating to job work will be discussed at Final level.*

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(3) Such other supplies as may be notified by the Board		Taxable value
		Tax rate and tax amount – central tax, state tax, integrated tax, union territory tax or cess, where the transportation is for supply to the consignee
		Place of supply, in case of inter-state movement
		Signature

A. Delivery challan in Triplicate

The delivery challan shall be prepared in TRIPLICATE, in case of supply of goods, in the following manner:



B. Declaration in E-way Bill

Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in E-Way Bill.

C. Tax invoice to be issued after delivery of goods

Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

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D. Goods transported in SKD/CKD conditionor in batches or lots

Where the goods are being transported in a semi knocked down or completely knocked down condition or in batches or lots,

(a) the supplier shall issue the complete invoice before dispatch of the first consignment;

(b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;

(c) Copies of the corresponding delivery challan shall accompany each consignment along with a duly certified copy of the invoice; and

(d) the original copy of the invoice shall be sent along with the last consignment.

Goods may be moved within the State/from the State of registration to another State for supply on approval basis and art works may be sent by artists to galleries for exhibition on delivery challan along with e-way bill wherever applicable

Suppliers of jewellery etc. who are registered in one State may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply.

Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. Such goods are also carried within the same State for the purposes of supply.

In view of relevant provisions of rule 55, it is clarified that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods.

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For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified *[Circular No. 10/10/2017 GST dated 18.10.2017]*.

Likewise, in case where artists supply art works in different States - other than the State in which they are registered as a taxable person and if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply, it is clarified that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work *[Circular No. 22/22/2017 GST dated 21.12.2017]*.

4. CREDIT AND DEBIT NOTES [SECTION 34]

STATUTORY PROVISIONS

Section 34	***Credit and Debit Notes***
Sub-section	***Particulars***
(1)	*Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.*
(2)	*Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than the 30th day of November following the end of the financial year in which such supply was*

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	made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed. *Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.*
(3)	*Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year containing such particulars as may be prescribed.*
(4)	*Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.*
	Explanation––For the purposes of this Act, the expression "debit note" shall include a supplementary invoice.



ANALYSIS

(i) Issuance of Credit Note: During the course of trade or commerce, after the invoice has been issued, there can be situations like:

- The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
- The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is less than what has been declared in the tax invoice.

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- The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value
- Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as **credit note** to the recipient. Once the credit note has been issued, the tax liability of the supplier will reduce.

The credit note is a convenient and legal method by which the value of the goods or services in the original tax invoice can be amended or revised. The issuance of the credit note easily allows the supplier to decrease his tax liability in his returns without requiring him to undertake any tedious process of refunds.

Section 34(1) provides that where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that/those tax invoice(s) is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing the prescribed particulars.

Secondary discounts

It is important to note that credit note(s)are not permitted to be issued in case secondary discounts[20]are allowed by the supplier since the tax liability of the supplier does not get reduced in such case. However, supplier can issue financial/ commercial credit note(s) to reduce the value of supply payable by the recipient to the supplier *[Circular 92/11/2019 GST dated 07.03.2019]*.

[20] Secondary discounts are the discounts which are not known at the time of supply/are offered after the supply is already over. These discounts are not excluded from the value of supply since conditions laid down in section 15(3)(b) are not satisfied. Provisions of section 15 have been discussed in detail in Chapter 7- Value of Supply of Module-1 of this Study material.

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(ii) Issuance of Debit Note: There can be situations when after the invoice has been issued:

- The supplier has erroneously declared a value which is less than the actual value of the goods or services or both provided.
- The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is more than what has been declared in the tax invoice.
- Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as **debit note** to the recipient.

Section 34(3) provides that where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year containing the prescribed particulars.

> ***Debit note*** *shall include a supplementary invoice.*

The issuance of a debit note/supplementary invoice creates additional tax liability. The treatment of a debit note/supplementary invoice is identical to the treatment of a tax invoice as far as returns and payment are concerned.

The debit note/supplementary invoice is a convenient and legal method by which the value of the goods and/or services in the original tax invoice can be enhanced. The issuance of the debit note allows the supplier to pay his enhanced tax liability in his returns without requiring him to undertake any other tedious process.

(iii) Details of Debit Note/Credit Note to be declared in return

I. Credit Note:

Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than:



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(i) 30th November following the end of the financial year in which such supply was made,

or

(ii) the date of furnishing of the relevant annual return,

whichever is earlier.

The tax liability shall be adjusted in such manner as may be prescribed. However, no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

II. Debit Note:

Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued. The tax liability shall be adjusted in such manner as may be prescribed.

III. Particulars of the Debit and Credit Notes [Rule 53(1A)]

There is no prescribed format, but credit and debit note issued by a supplier must contain the following particulars, namely:–

Name, address and GSTIN of the supplier.
Nature of the document.
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY.
Date of issue of the document.
Name, address and GSTIN or UIN, if registered, of the recipient.
Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered.
Serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply.

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Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient
Signature/digital signature of the supplier/his authorized representative.

ILLUSTRATION 3

Kartik & Co., a registered supplier under GST, provides the following information regarding various tax invoices issued by it during the month of March:

(i) Value of supply charged in invoice no. 1 was ₹2,50,000 against the actual taxable value of ₹2,30,000.

(ii) Tax charged in invoice no. 4 was ₹32,000 against the actual tax liability of ₹68,000 due to wrong HSN code being chosen while issuing invoice.

(iii) Value charged in invoice no. 8 was ₹3,20,000 as against the actual value of ₹4,20,000 due to wrong quantity considered while billing.

Kartik & Co. asks you to answer the following:

(1) Who shall issue a debit/credit note under the CGST Act, 2017 in each of the above circumstances?

(2) Whether debit note or credit note has to be issued in each of the above circumstances?

(3) What is the maximum time-limit available for declaring the credit note in the GST Return?

ANSWER

(1) The debit/credit note shall be issued by the registered person who has supplied the goods and/or services, i.e. Kartik & Co. in all the cases.

(2) Yes, debit/credit note need to be issued in each of the circumstances as under:

(i) A credit note is required to be issued as the taxable value in invoice no. 1 exceeds the actual taxable value.

(ii) A debit note is required to be issued as the tax charged in the invoice no. 4 is less than the actual tax payable.

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(iii) A debit note is required to be issued as the value of supply charged in the invoice no. 8 is less than the actual value.

(3) The details of the credit note cannot be declared later than **30th November** following the end of the financial year in which such supply was made or the date of furnishing of the relevant annual return, whichever is earlier.

5. PROHIBITION OF UNAUTHORISED COLLECTION OF TAX [SECTION 32]

A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.



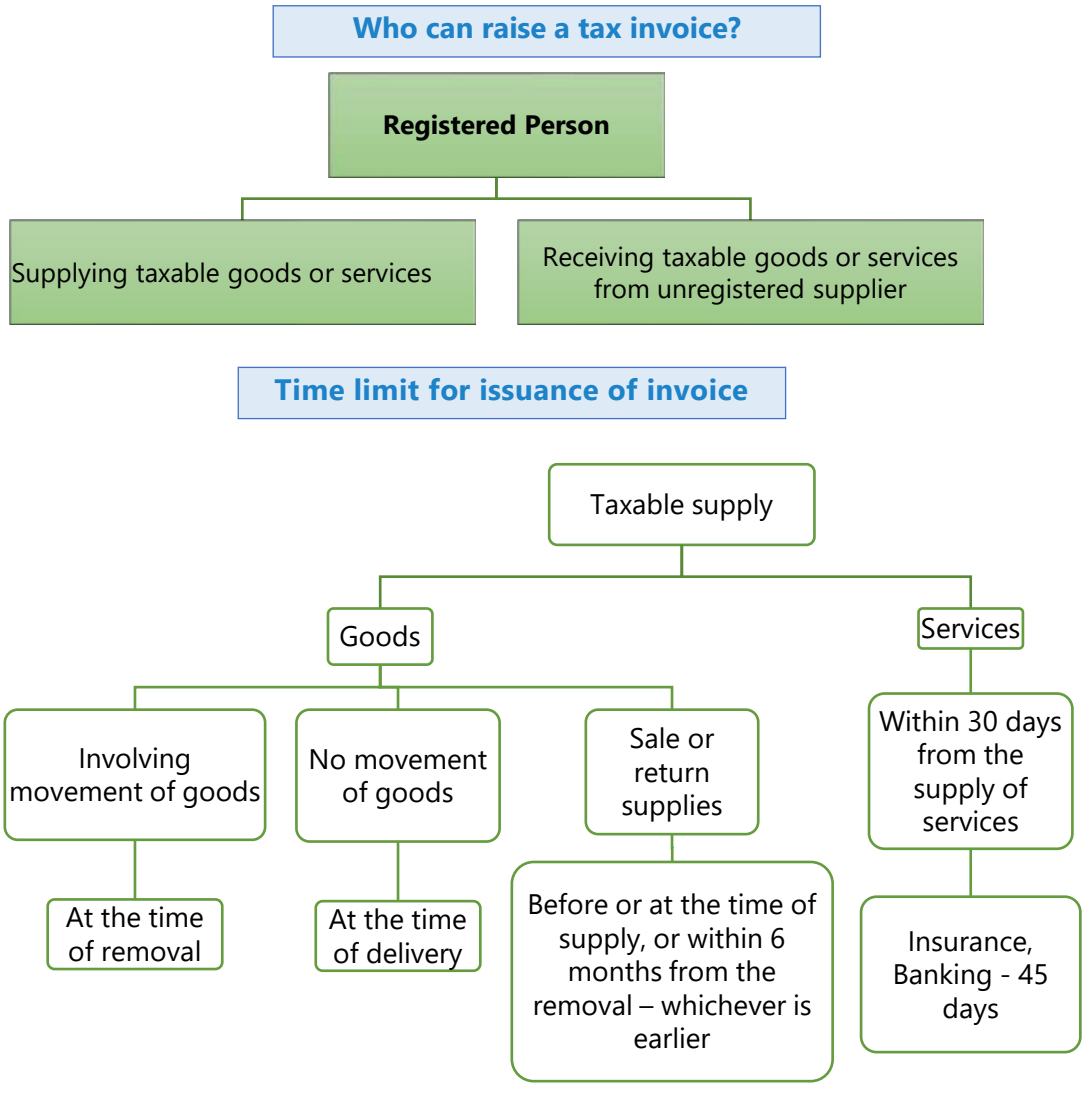
(9) Rujuta is engaged in providing grooming services. She is not registered under GST law as her turnover is below the threshold limit. Rujuta cannot collect tax on the grooming services provided by her as a person who is not a registered person cannot collect any amount by way of tax under GST law in respect of any supply of goods or services or both.

6. AMOUNT OF TAX TO BE INDICATED IN TAX INVOICE AND OTHER DOCUMENTS [SECTION 33]

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

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LET US RECAPITULATE



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In case of continuous supply of goods	•before/at the time each successive statements of accounts is issued or each successive payment is received

In case of continuous supply of services		
	due date of payment is ascertainable from the contract	on/before due date of payment
	not so ascertainable	before/at the time of receipt of payment
	payment is linked to the completion of an event	on/before the date of completion of that event

Important contents of tax invoice

Name, address & GSTIN of supplier	Consecutive Serial Number & date of issue	Name, address & GSTIN of recipient, if registered	Name & address of recipient alongwith delivery address , name & State code, if not registered
HSN	Description of goods or services	Quantity in case of goods	Total Value of supply
Taxable Value of supply	Tax rate – Central tax & State tax or Integrated tax, cess	Amount of tax charged	Place of supply
Address of delivery where different than place of supply	Tax payable on reverse charge basis	Signature of supplier or authorised signatory - not req. if e-invoice issued as per IT Act, 2000	QR code having embedded IRN in it - in case if e-invoice issued

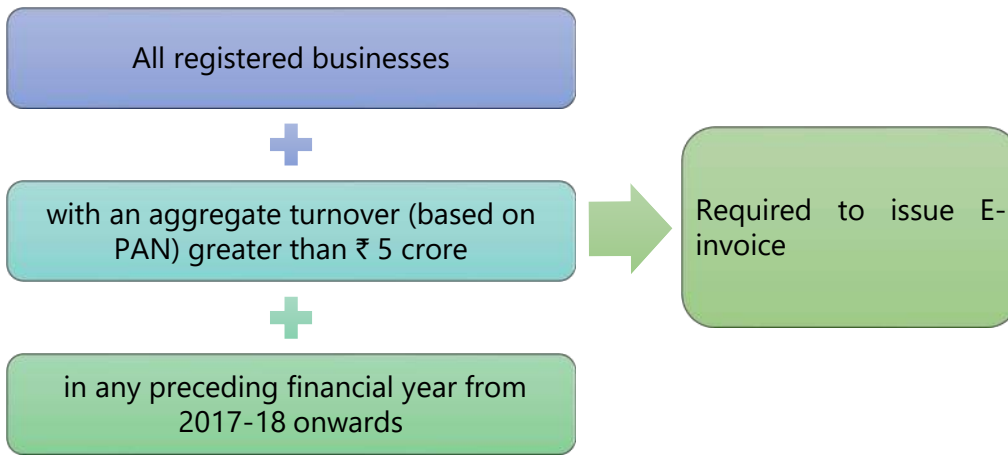
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Manner of issuing the invoice

Supply of Goods	Supply of services
Triplicate	**Duplicate**
Original copy for recipient Duplicate copy for transporter; and Triplicate copy for supplier	Original copy for recipient; and Duplicate copy for supplier
The serial number of invoices issued during a month / quarter shall be furnished electronically in FORM GSTR-1.	

E-invoicing

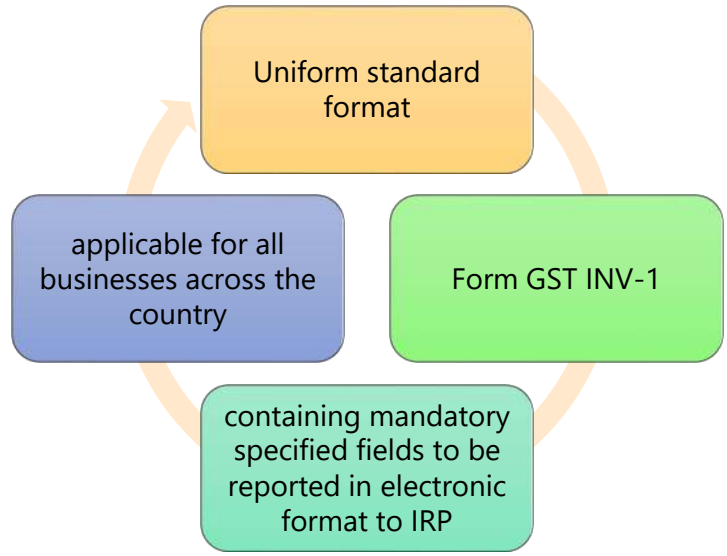
A. Class of persons mandatorily required to issue e-invoice [Notified Taxpayers]



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B. Important terms

E-invoice schema



Invoice Registration Portal [IRP]

website
for uploading or reporting of invoices
by notified persons

Invoice Reference Number [IRN]

Unique reference number

generated and returned by IRP

on successful registration of e-invoice

GST invoice will be valid only with a valid IRN

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C. Advantages of e-invoicing

- Auto-reporting of invoices into GST return
- Auto-generation of e-way bill
- Substantial reduction in transcription errors
- Early payment
- Cost reduction
- Improved efficiency of business
- Reduction of tax evasion
- Elimination of fake invoices

D. Situations in which e-invoices are applicable

Supply of goods and/or services to a registered person by notified person [B2B supplies]	•Applicable
Exports by notified persons	•Applicable
B2C supplies by notified persons	•Not applicable
Invoices issued by Input Service Distributor	•Not applicable
Supplies made by notified person, tax on which is payable under reverse charge under section 9(3)	•Applicable
Where specified category of supplies are received by notified persons from unregistered persons [attracting reverse charge under section 9(4)] or through import of services	•Not applicable
Import of goods (Bills of Entry)	•Not applicable

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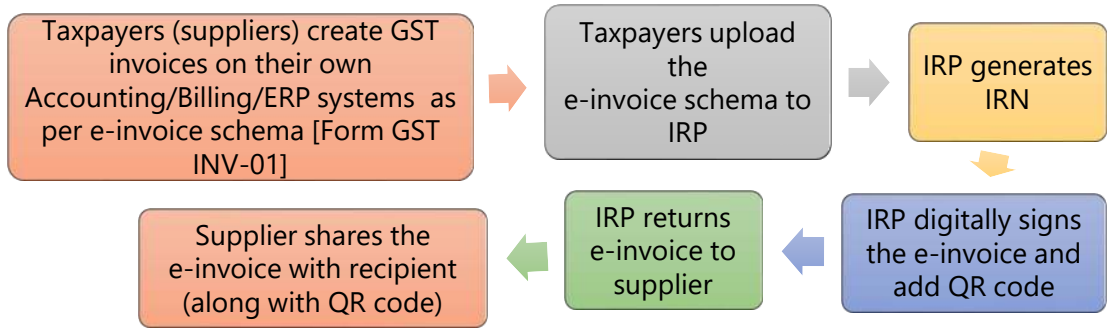
E. No requirement of issuing invoice copies in triplicate/duplicate

Where e-invoicing is applicable → No need of issuing invoice copies in triplicate/duplicate

F. Exemption from e-invoicing

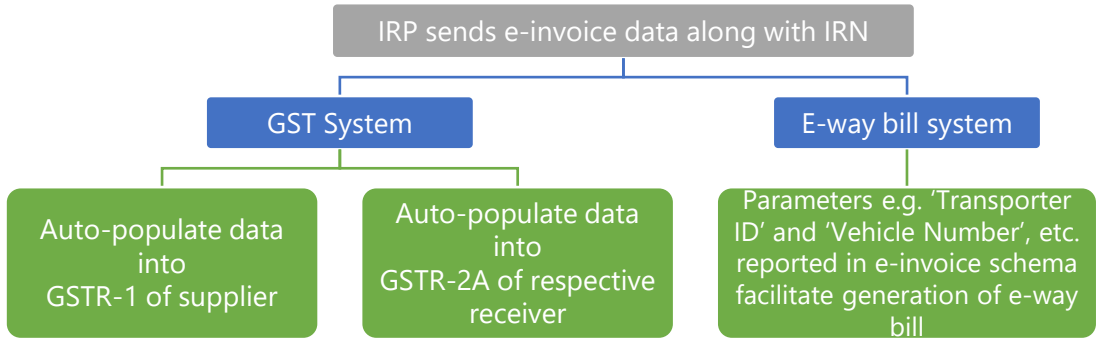
- Special Economic Zone units
- Insurer/banking company/financial institution including NBFC
- GTA supplying services in relation to transportation of goods by road in a goods carriage
- Supplier of passenger transportation service
- Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- Government Department and local authority

G. Overall work flow of e-invoice

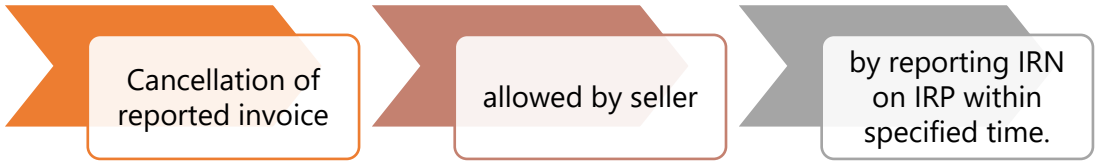


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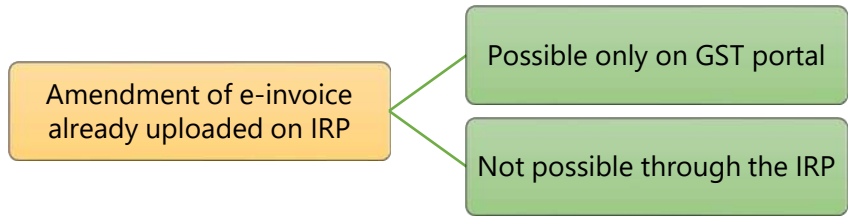
H. Generation of e-way bill/populating relevant parts of GST return through e-invoicing data



I. Cancellation of reported invoice



J. Amendment of reported invoice



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Revised Tax Invoice

Revised Tax Invoices to be issued in respect of taxable supplies effected during this period

Effective date of registration — **Date of issuance of certificate of registration**

Consolidated Revised Tax Invoice (CRTI) may be issued in respect of taxable supplies made to an **unregistered recipient** during this period

In case of Inter-State supplies, where the value of a supply does not exceed ₹ 2,50,000, a **CRTI** may be issued separately in respect of all unregistered recipients located in a State.

Consolidated Tax Invoice

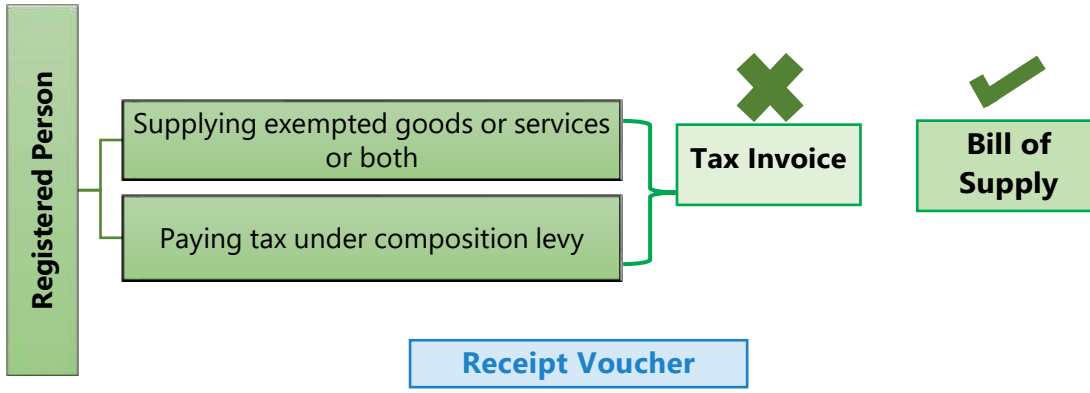
Tax invoice is not required to be issued

- Value of supply < ₹200
- Recipient is unregistered
- Recipient does not require such invoice

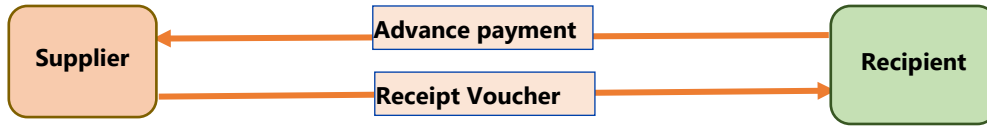
Consolidated Tax Invoice shall be issued for such supplies at the close of each day in respect of all such supplies

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Bill of Supply



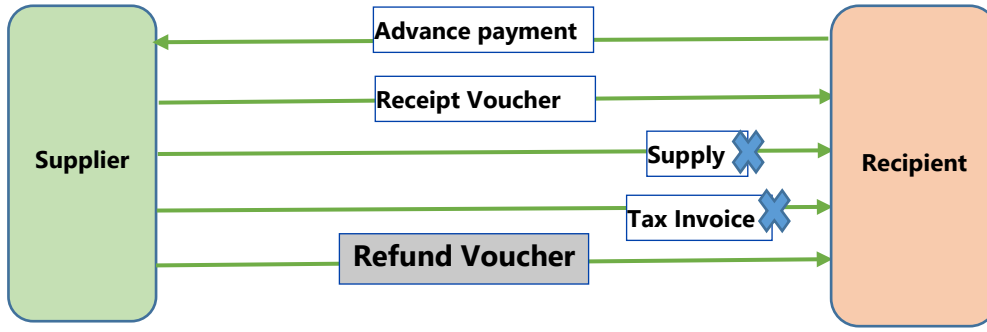
Receipt Voucher



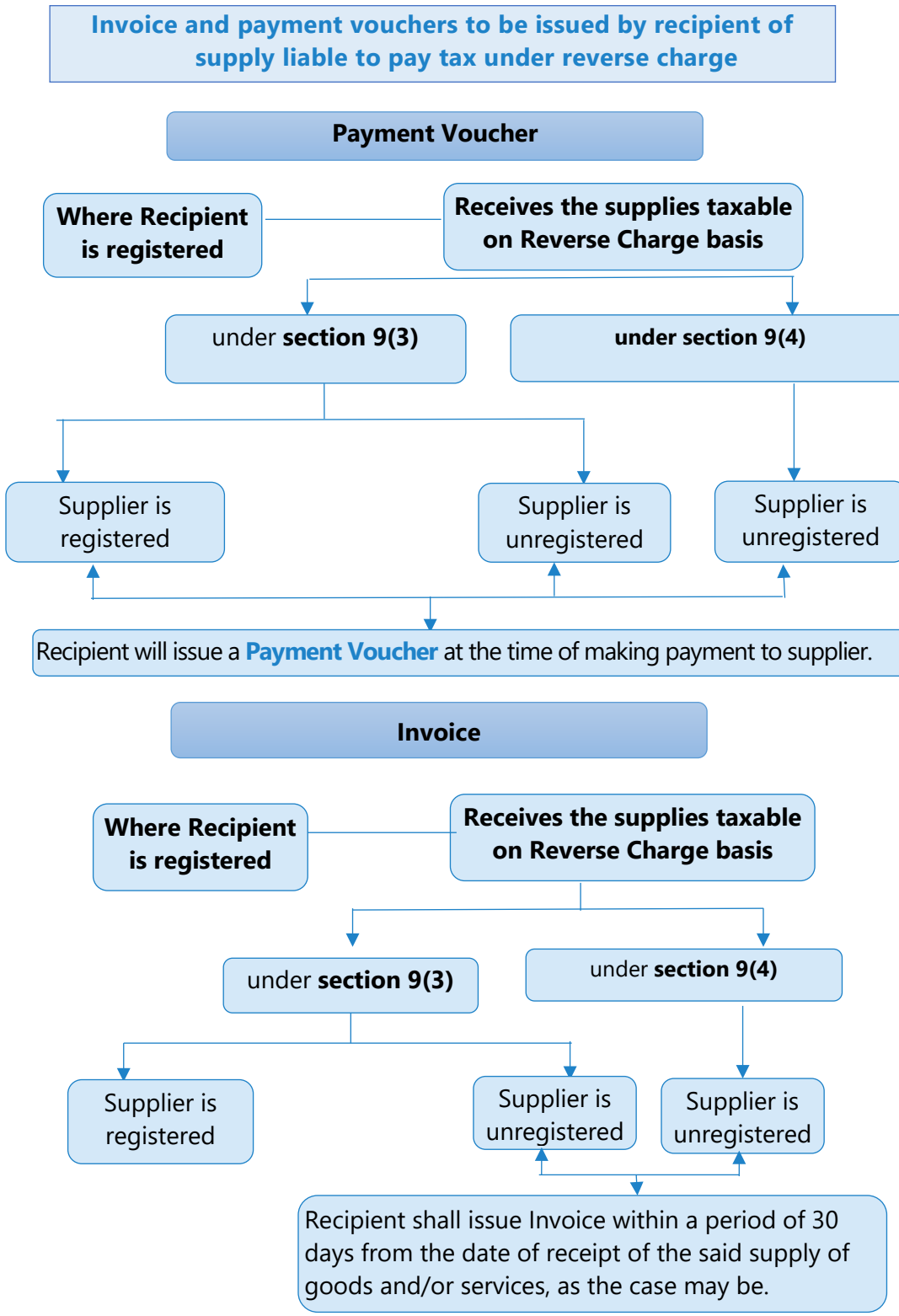
Where at the time of receipt of advance, rate of tax/ nature of supply is not determinable

Where at the time of receipt of advance	
(i) rate of tax is not determinable	tax shall be paid at the rate of **18%**
(ii) nature of supply is not determinable	same shall be treated as **inter-State supply**

Refund Voucher



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Credit Notes

Where one or more tax invoices have been issued for supply of any goods or services or both

Taxable value in invoice > Taxable value in respect of such supply

Tax charged in invoice > Tax payable in respect of such supply

OR

where the goods supplied are returned by the recipient

OR

where goods or services or both supplied are found to be deficient

Registered Supplier of goods or services or both → **may issue** one or more credit notes for supplies made in a FY → **Recipient of goods or services or both**

Debit Notes

Where one or more tax invoices have been issued for supply of any goods or services or both

Taxable value in invoice < Taxable value in respect of such supply

Tax charged in invoice < Tax payable in respect of such supply

Registered Supplier of goods or services or both → may issue one or more debit notes for supplies made in a FY → **Recipient of goods or services or both**

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TEST YOUR KNOWLEDGE

1. Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September for supply to Prakash Entrepreneurs. Determine the date by which tax invoice must be issued by Sultan Industries Ltd. under GST law.

2. MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

3. The aggregate turnover of Sangri Services Ltd., Delhi, exceeded ₹ 20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.

4. Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.

5. Royal Fashions, a registered supplier of designer outfits in Delhi, decides to exhibit its products in a Fashion Show being organised at Hotel Park Royal, Delhi on 4th January. For the occasion, it gets the service by way of makeover of its models from Aura Beauty Services Ltd., Ashok Vihar, on 4th January, for which a consideration of ₹ 5,00,000 (excluding GST) has been charged. Aura Beauty Services Ltd. issued a duly signed tax invoice on 10th February showing

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the lumpsum amount of ₹ 5,90,000 inclusive of CGST and SGST @ 9% each for the services provided. Answer the following questions:

(i) Examine whether the tax invoice has been issued within the time limit prescribed under law.

(ii) Tax consultant of Royal Fashions objected to the invoice raised suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd. However, Aura Beauty Services Ltd. contended that there is no mandatory requirement of showing tax component separately in the invoice. You are required to examine the validity of the objection raised by tax consultant of Royal Fashions.

6. Kidzee Toys Ltd., a wholesaler of toys registered in Chandigarh, is renowned in the local market for the variety of toys and their reasonable prices. Kidzee Toys Ltd. makes supply of 100 pieces of baby's learning laptops and chat learning phones to Nancy General Store on 25th September by issuing a tax invoice amounting to ₹ 1,00,000.

However, the said toys were returned by Nancy General Store on 30th September. Discuss which document Kidzee Toys Ltd. is required to issue in such a case?

7. Rana Sanga Ltd., a registered supplier, has made following taxable supplies to its customer Babur in the quarter ending 30th June.

Date	Bill No.	Particulars	Invoice value (including GST)[₹]
5th April	102	Notebooks [10 in numbers]	1,200
10th May	197	Chart Paper [4 in number]	600
20th May	230	Crayon colors [2 packets]	500
2nd June	254	Poster colors [5 packets]	900
22nd June	304	Pencil box [4 sets]	700

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Goods in respect of bill no. 102, 230 and 254 have been returned by Babur. You are required to advise Rana Sanga Ltd. whether it can issue a consolidated credit note against all the three invoices?

8. Chidanand Products Pvt. Ltd. is a registered supplier who has opted for composition levy in the current financial year. He wishes to know whether the issue of a bill of supply can be dispensed with under any circumstances. You are required to advise him.

9. A registered person has to mandatorily issue separate invoices for taxable and exempted goods when supplying both taxable as well as exempted goods to an unregistered person. Examine the validity of the statement.

10. A non-banking financial company can issue a consolidated tax invoice at the end of every month for the supply made during that month. Examine the validity of the statement.

11. Sakthi Enterprises, Kolkata entered into a contract with Suraj Enterprises, Surat for supply of goods and the delivery shall be made on or before 31st October. The goods were removed from the factory at Kolkata on 11th October for supply to Suraj Enterprises. As per the agreement, the goods were to be delivered on or before 31st October. Suraj Enterprises has received the goods on 14th October. Determine the time of issue of invoice as per the provisions of CGST Act.

12. Trust and Fun Ltd., an event management company, has provided its services for an event at Kapoor Film Agencies, Mumbai on 5th June. Payment for the event was made on 19th June. Determine the time of issue of invoice as per the provisions of CGST Act.

13. Udai Singh, a registered supplier, has received advance payment with respect to services to be supplied to Sujamal. His accountant asked him to issue the receipt voucher with respect to such services to be supplied. However, he is apprehensive as to what would happen in case a receipt voucher is issued, but subsequently no services are supplied. You are required to advise Udai Singh regarding the same.

14. Bhoj Raj, a registered person, has availed GTA services from unregistered supplier, on which he is liable to pay tax under reverse charge. He wishes to know whether he is required to issue an invoice. Please advise him discussing the relevant provisions under CGST Act and rules thereunder.

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ANSWERS

1. As per the provisions of section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, in the given case, the tax invoice must be issued on or before 29th September.

2. Continuous supply of service means, *inter alia*, supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations.

Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.

Therefore, in the given case, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

3. As per section 25 read with CGST Rules, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded ₹20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.

As per section 31read with CGST Rules, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Revised Tax Invoices shall be issued within 1 month from the date of issuance of

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certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

4. A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed [Section 31(3)(c) read with the CGST Rules, 2017].

5. **(i)** As per section 31 read with the CGST Rules, in case of taxable supply of services, invoices should be issued before or after the provision of service, but within a period of 30 days [45 days in case of insurer/ banking company or financial institutions including NBFCs] from the date of supply of service.

In view of said provisions, in the present case, the tax invoice should have been issued in the prescribed time limit of 30 days from the date of supply of service i.e. upto 3rd February. However, the invoice has been issued on 10th February.

(ii) Section 31 read with the CGST Rules, inter alia, provides that tax invoice in addition to other mandatory details shall also contain the amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess). Further, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax charged in respect of taxable goods or services which shall form part of the price at which such supply is made.

The objection raised by the tax consultant of Royal Fashions suggesting that the amount of tax charged in respect of the taxable supply of makeover services should be shown separately in the invoice raised by Aura Beauty Services Ltd., is valid in law.

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6. Kidzee Ltd. is required to issue a credit note in such a case.

As per section 34, where one or more tax invoices have been issued for supply of any goods or services or both and the goods supplied are returned by the recipient the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed. Therefore, Kidzee Ltd.is required to issue a credit note to Nancy General Store for the good returned.

7. Where one or more tax invoices have been issued for supply of any goods and/or services and

(a) the taxable value/tax charged in that tax invoice is found to exceed the taxable value/tax payable in respect of such supply, or

(b) where the goods supplied are returned by the recipient, or

(c) where goods and/or services supplied are found to be deficient,

the registered person, who has supplied such goods and/or services, may issue to the recipient one or more credit notes for supplies made in a financial year containing prescribed particulars.

Thus, one (consolidated) or more credit notes can be issued in respect of multiple invoices issued in a financial year without linking the same to individual invoices.

Hence, in view of the above-mentioned provisions, Rana Sanga Ltd. can issue a consolidated credit note for the goods returned in respect of all the three invoices.

8. Yes. Chidanand Products Pvt. Ltd. may not issue a bill of supply if the value of the goods or services or both supplied is less than ₹ 200 subject to the condition that:

(a) the recipient is not a registered person; and

(b) the recipient does not require such bill of supply,

and he shall issue a consolidated bill of supply for such supplies at the close of each day in respect of all such supplies.

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9. The statement is not valid in law. As per the CGST Rules, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies.

10. The said statement is valid in law. A customer may avail numerous services from a non-banking financial company in a given tax period. It may issue a consolidated tax invoice/ statement/ advice, any other document in lieu thereof, by whatever name called may be issued/ made available, physically/ electronically, for supply of services made during a month at the end of the month.

11. A registered person supplying taxable goods shall issue a tax invoice, before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods.

Therefore, in the given case, invoice has to be issued on or before, 11th October (the time of removal of goods).

12. A registered person [other than an insurer/banking company/financial institution, including an NBFC] supplying taxable services shall issue a tax invoice before or after the provision of service, but within a period of 30 days from the date of supply of service.

Thus, in the given case, invoice has to be issued within 30 days of 5th June (date of supply of service), i.e. on or before, 5th July.

13. Udai Singh is required to issue a receipt voucher at the time of receipt of advance payment with respect to services to be supplied to Sujamal. A receipt voucher is a document evidencing receipt of advance money towards a supply of goods and/or services or both. A registered person, on receipt of advance payment with respect to any supply of goods or services or both, shall issue a receipt voucher or any other document, evidencing receipt of such payment.

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment. Therefore, in case

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subsequently no services are supplied by Udai Singh, and no tax invoice is issued in pursuance thereof, Udai Singh may issue a refund voucher against such payment to Sujamal.

14. Bhoj Raj is required to issue an invoice with regard to the GTA services availed by him. A registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 (i.e. where the recipient is liable to discharge GST on reverse charge basis) shall within the prescribed period issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both.

Further, the time limit for issuing tax invoice in case of reverse charge mechanism supplies has been prescribed in rule 47A.

Rule 47A provides that where an invoice referred to in rule 46 is required to be issued under clause (f) of section 3(3) by a registered person, who is liable to pay tax under section 9(3)/9(4), he shall issue the said invoice within a period of 30 days from the date of receipt of the said supply of goods and/or services, as the case may be.

Thus, invoice is to be issued by Bhoj Raj within a period of 30 days from the date of receipt of GTA services.

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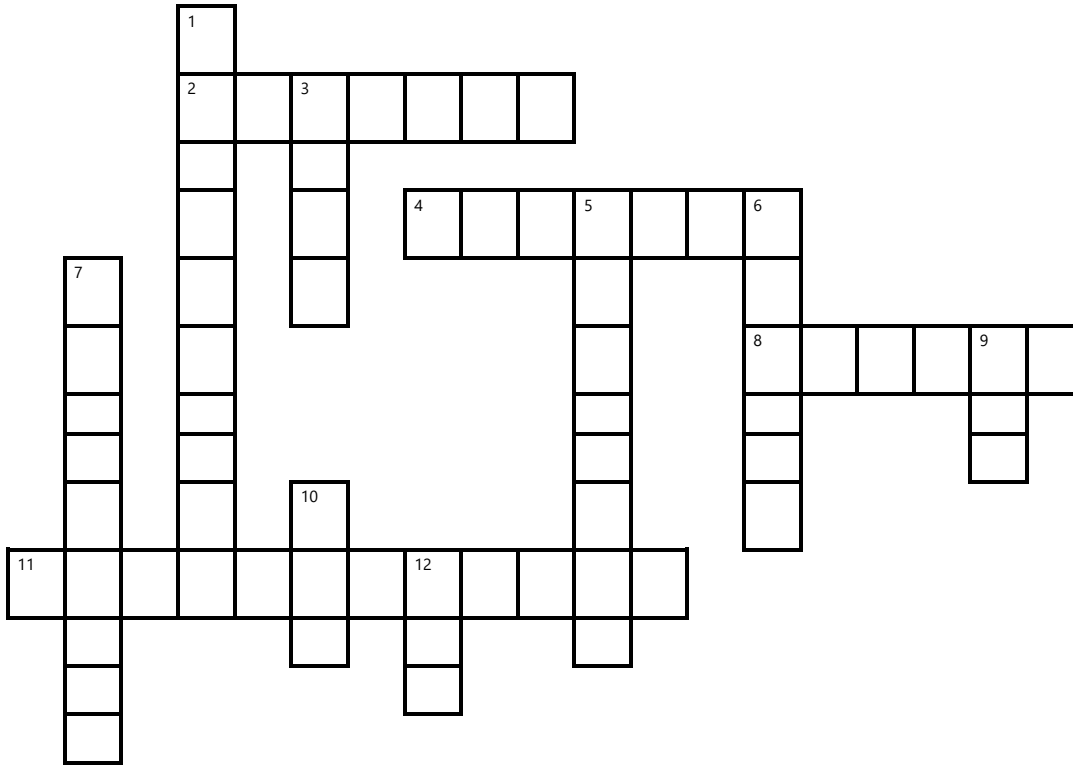


1. •Is it correct that NBFC has to mandatorily issue e-invoice?
2. •Physical copy of tax invoice is to be mandatorily carried even in cases where e-invoice has been generated by the supplier. Is it valid in law?
3. •Is it correct that a registered person may not issue a tax Invoice, if value of services supplied to unregistered recipient is less than ₹ 200?
4. •Which document is required to be issued by a registered person paying tax under composition levy?
5. •What will be the rate of tax if at the time of receipt of advance it is not determinable?
6. •What will be the nature of supply if at the time of receipt of advance it is not determinable?
7. •Which document is required to be issued in case of transportation of goods for reasons other than supply without invoice?
8. Which document is required to be issued if post issuance of invoice, quantity received by recipient is less than what has been declared in the tax invoice?

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ACROSS

2. Invoice shall be issued before or at the time of ----------of goods for supply to the recipient, where the supply involves movement of goods.

4. A registered person on receipt of advance payment with respect to any supply of goods shall issue a ------Voucher.

8. Where tax invoice has been issued for supply of any goods and goods supplied are found to be deficient, the registered person may issue ------ note.

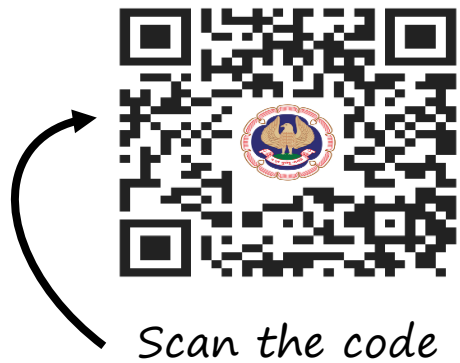
11. Dynamic QR code is not applicable to an invoice issued to an ---------- person by Insurer.

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DOWNWARDS

1. Invoice shall be prepared in ----------in case of taxable supply of goods.
3. Name and address of the recipient and the address of delivery, along with the name of State and its code is mandatory for tax invoice, if recipient is unregistered and value of supply is ₹ 50,000 or----------.
5. A registered person supplying ---------services is required to issue a bill of supply.
6. In case of supplier of passenger transportation service, tax invoice shall include---------- in any form, by whatever name called.
7. Supplier of ----------transportation service are exempt from the mandatory requirement of e-invoicing.
9. ---------- is the website for uploading/reporting of invoices by the notified persons. (Acronym)
10. Where the goods being sent on approval for sale are removed before the supply takes place, the invoice shall be issued before/at the time of supply or ------ months from the date of removal, whichever is earlier.
12. The aggregate total turnover of a company with the turnover of ` 4 crore in DTA unit and turnover of ` 6 crore in SEZ unit (both having same PAN) in preceding year is ` --- crore and thus, e-invoicing is applicable for said company.

Scan the following QR code for accessing the answers to Rapid Fire Quiz and Crossword puzzle of this chapter.



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AMENDMENTS MADE VIDE THE FINANCE ACT, 2025

The Finance Act, 2025 has come into force from 29.03.2025. However, most of the amendments made under the CGST Act and the IGST Act vide the Finance Act, 2025 would become effective only from a date to be notified by the Central Government in the Official Gazette. Such a notification has not been issued till 30.04.2025. Therefore, the applicability or otherwise of such amendment for May 2026, September 2026 and/or, January 2027 examinations shall be informed by the ICAI by way of an announcement.

In the table given below, the existing provisions of section 34(2) of the CGST Act, 2017 are compared with the provisions as amended by the Finance Act, 2025.

Once the announcement for applicability of such amendments for examination(s) is made by the ICAI, students should read the amended provisions given hereunder in place of the related provisions discussed in the chapter.

Section 34	Existing provisions	Provisions as amended by the Finance Act, 2025	Remarks
(2)	Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than the 30th day of November following the end of the financial year in which such supply was made, or the	Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than the 30th day of November following the end of the financial year in which such supply was made, or the	Proviso to sub-section (2) of section 34 is proposed to be amended to explicitly provide for requirement of reversal of corresponding input tax credit in respect of a credit-note, if availed, by the registered recipient, for the purpose of reduction of tax liability of the supplier in respect of the said credit note.

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	date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed. Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.	date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed. ***Provided that no reduction in output tax liability of the supplier shall be permitted, if the—*** ***(i) input tax credit as is attributable to such a credit note, if availed, has not been reversed by the recipient, where such recipient is a registered person*** ***(ii) incidence of tax on such supply has been passed on to any other person, in other cases.***	

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CHAPTER 11

ACCOUNTS AND RECORDS



The section numbers referred to in the Chapter pertain to CGST Act, 2017, unless otherwise specified. Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

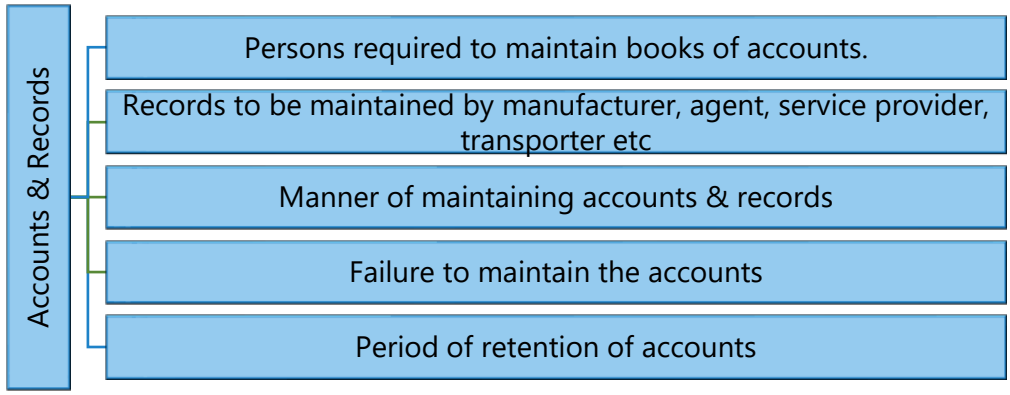
LEARNING OUTCOMES

After reading this chapter, you shall be equipped to:

- enumerate the accounts and other records required to be maintained under GST by registered person.
- list the additional records required to be maintained by agent, manufacturer, service provider.
- describe the accounts and records to be maintained by person executing works contract, clearing and forwarding agent.
- Enumerate the accounts and records to be maintained by owner/operator of a warehouse/godown and transporter.
- describe the period for which the books of accounts or other records are required to be maintained.

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CHAPTER OVERVIEW



1. INTRODUCTION

Assessment in GST is mainly focused on self-assessment by the taxpayers themselves. Every taxpayer is required to self-assess the taxes payable and furnish a return for each tax period i.e. the period for which return is required to be filed.



The compliance verification is done by the Department through scrutiny of returns and/or investigation. Thus, the compliance verification is to be done through documentary checks rather than physical controls. This requires certain obligations to be cast on the taxpayer for keeping and maintaining accounts and records. Such accounts and records may be used by the department for compliance verification.



Every registered person shall keep and maintain all records at his principal place of business. Responsibility has been casted on the owner or operator of warehouse or godown or any other place used for storage of goods and on every transporter to maintain specified records even if they are not registered under GST. They need not enroll for this purpose.

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Further, Commissioner is empowered to notify a class of taxable persons to maintain additional accounts or documents for specified purpose or to maintain accounts in other prescribed manner. Similarly, the Commissioner can permit a class of taxable persons to maintain accounts in such manner as may be prescribed if that class of taxable person is not in a position to keep and maintain accounts in accordance with the provisions of GST Laws. It is not mandatory to maintain the accounts in electronic form. Accounts and records may be maintained either electronically or manually. Further, there is no prescribed format for maintaining the accounts.



Chapter VIII – Accounts and Records [Sections 35 and 36] of the CGST Act and Chapter VII – Accounts and Records [Rules 56 to 58] of the CGST Rules, 2017, enumerates the accounts and records required to be maintained by a taxpayer and the period for which such accounts and records are required to be preserved. State GST laws also prescribe identical provisions in relation to accounts and records.

Provisions relating to Accounts and Records under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

Before proceeding to understand the accounts and records provisions, let us first go through few relevant definitions.

2. RELEVANT DEFINITIONS

- **Agent:** means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carried on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].
- **Commissioner:** means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the

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Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act. [Section 2(24)]

- **Common portal:** means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].
- **Invoice or Tax invoice:** means the tax invoice referred to in section 31. [Section 2(66)]
- **Manufacture:** means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly. [Section 2(72)]
- **Taxable supply:** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108)].
- **Place of business:** includes [Section 2(85)]:
  - a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
  - a place where a taxable person maintains his books of account; or
  - a place where a taxable person is engaged in business through an agent, by whatever name called.
- **Taxable person:** means a person who is registered or liable to be registered under section 22 or section 24 [Section 2(107)].
- **Principal place of business:** means the place of business specified as the principal place of business in the certificate of registration [Section 2(89)].
- **Proper officer:** in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board [Section 2(91)].
- **Registered person:** means a person who is registered under section 25, but does not include a person having a Unique Identity Number [Section 2(94)].

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- **Tax period:** means the period for which the return is required to be furnished [Section 2(106)].
- **Document:** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 [Section 2(41)].
- **Voucher:** means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument [Section 2(118)].
- **Conveyance:** includes a vessel, an aircraft and a vehicle [Section 2(34)].
- **Works Contract:** means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract [Section 2(119)].

3. ACCOUNTS AND OTHER RECORDS [SECTION 35]

STATUTORY PROVISIONS

Section 35	*Accounts and Other Records*
Sub-section	*Particulars*
(1)	*Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of* *(a) production or manufacture of goods;* *(b) inward and outward supply of goods or services or both;* *(c) stock of goods;* *(d) input tax credit availed;*

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	(e) output tax payable and paid; and *(f) such other particulars as may be prescribed* *Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:* *Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.*
(2)	*Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.*
(3)	*The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.*
(4)	*Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.*
(6)	*Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74* ***or section 74A****, as the case may be, shall, mutatis mutandis, apply for determination of such tax.*

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ANALYSIS

The provisions relating to accounts and records required to be maintained under GST are contained in sections 35 and 36 read along with Chapter VII - Accounts and Records of CGST Rules, 2017. Relevant provisions of CGST Rules, 2017 have been incorporated at relevant places.

(I) Who is required to maintain books of accounts and at which place? [1]



Every registered person shall keep and maintain, books of accounts at his **principal place of business** (hereinafter referred to as PPoB) and books of account relating to additional place of business (hereinafter referred to as APoB) [as mentioned in the certificate of registration].

Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

(II) Which accounts and records are required to be maintained?



A true and correct account of following is to be maintained:

(a) production or manufacture of goods;

(b) inward and outward supply of goods or services or both;

(c) stock of goods;

(d) input tax credit availed;

(e) output tax payable and paid

(f) such other particulars as may be prescribed[2]

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[1] *Section 35(1) read with rule 56(7) and 56(10)*

[2] *Section 35(1)*

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The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.[3]

Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.[4]

The additional records to be maintained by specified persons are as under:-

(i) Registered person



In addition to the particulars mentioned in section 35(1), the rules also provide that the registered person[5] is required to maintain a true and correct account of:

- the goods/services imported/exported,
- supplies attracting payment of tax on reverse charge along with relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers[6].
- separate account of advances received, paid and adjustments made thereto.



- particulars of:
  - ✓ names and complete addresses of suppliers **from whom he has received** the goods or services chargeable to tax under the Act;

[3] *Section 35(3)*
[4] *Section 35(4)*
[5] *Rule 56(1), (3), (5) and (6)*
[6] *The detailed provisions relating to all such documents have already been discussed in Chapter 10: Tax invoice, Credit and Debit Notes of this Module.*

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- ✓ names and complete addresses of the persons **to whom he has supplied** goods or services, where required under the provisions of this Chapter.

❑ particulars of the complete address of the **premises where goods are stored** by him, including goods stored during transit along with the particulars of the stock stored therein.

However, if any taxable goods are found to be stored at any place(s) other than those so declared without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

A supplier is required to maintain following records relating to stock of goods and tax details. However, a supplier who has opted for composition scheme is not required to maintain such records[7].



(a) Stock of goods: Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

(b) Details of tax: Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

(ii) Agent[8]



Every agent shall maintain accounts depicting the-

(a) particulars of authorisation received by him from each principal to receive/supply goods/services on behalf of such principal separately;

[7] *Rule 56(2) and (4)*
[8] *Rule 56(11)*

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(b) particulars including description, value and quantity (wherever applicable) of goods/services received on behalf of every principal;

(c) particulars including description, value and quantity (wherever applicable) of goods/services supplied on behalf of every principal;

(d) details of accounts furnished to every principal; and

(e) tax paid on receipts/ supply of goods/services effected on behalf of every principal.

(iii) Manufacturer[9]



Apart from other records, every registered person manufacturing goods has to maintain monthly production accounts showing quantitative details of raw materials/services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

(iv) Service Provider[10]

Every registered person supplying services has to additionally maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

(v) Person executing works contract[11]

Every registered person executing works contract shall keep separate accounts for works contract showing -

- the names and addresses of the persons on whose behalf the works contract is executed;



[9] *Rule 56(12)*
[10] *Rule 56(13)*
[11] *Rule 56(14)*

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- description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- the details of payment received in respect of each works contract; and
- the names and addresses of suppliers from whom he received goods or services.

(vi) Custodian/clearing and forwarding agent[12]

Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.

(vii) Owner/operator of a warehouse/godown and transporter[13]

Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

Enrolment, if not already registered in GST[14]:

If such persons are not already registered, they shall obtain a unique enrollment number by applying electronically[15] at the GST Common Portal.

The person enrolled as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.

Such person may also amend the details furnished in the prescribed form.

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[12] *Rule 56(17)*
[13] *Section 35(2) read with rule 58*
[14] *Rule 58(1), 58(2) & 58(3)*
[15] *in Form GST ENR-01*

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Such person, once obtained unique enrollment number, shall not be eligible to use any of the GSTIN.

Transporter[16]:

Any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with GSTIN of the registered consignor and consignee for each of his branches.

Owner/operator of a warehouse/ godown[17]:-

Every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

(III) How the accounts and records will be maintained[18]?

- **Records may be maintained manually**
  - ✓ Each volume of books of account maintained **manually** by the registered person shall be serially numbered.
- **Records may be maintained in electronic form**



  - ✓ **Books of account** include any electronic form of data stored on any electronic device.
  - ✓ The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature.

---

[16] *Rule 58(4)(a)*

[17] *Rule 58(4)(b) & rule 58(5)*

[18] *Second proviso to section 35(1) read with rule 56(7), (8), (9), (15), (16) and (18) and rule 57*

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- ✓ Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.
- ✓ The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.
- ✓ Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

❑ **No entry to be erased/overwritten**

- ✓ Any entry in registers, accounts and documents shall not be erased, effaced or overwritten.
- ✓ All incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and there after correct entry shall be recorded.



- ✓ Where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.

❑ Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36 *[discussed subsequently in this Chapter]* and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

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- Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

(IV) What are the consequences of failure to maintain the accounts[19] ?

Where the registered person fails to account for the goods and/or services in accordance with the provisions of section 35(1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73/section 74/***section 74A***[20], as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

4. PERIOD OF RETENTION OF ACCOUNTS [SECTION 36]

Every registered person required to keep and maintain books of account or other records in accordance with the provisions of section 35(1) shall retain them **until the expiry of 72 months** from the due date of furnishing of annual return for the year pertaining to such accounts and records.

However, a registered person, who is a party to an appeal or revision[21] or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

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[19] *Section 35(6)*

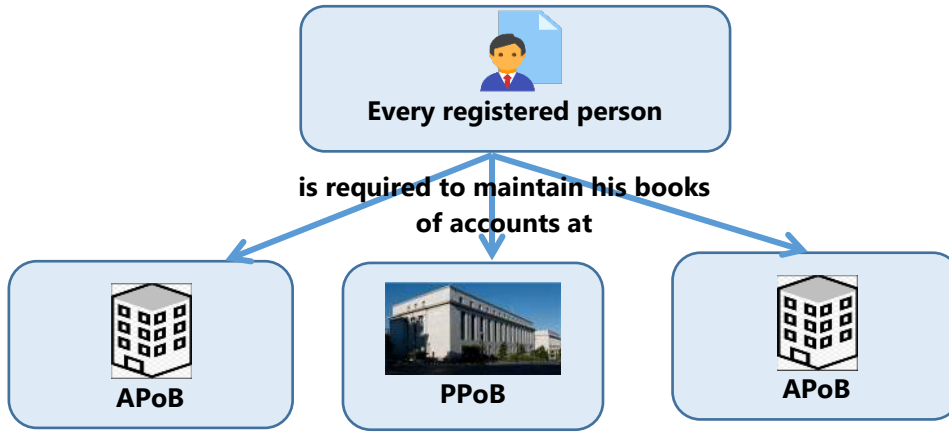
[20] ***The provisions of section 74A contain provisions relating to determination of tax not paid/short paid or erroneously refunded or ITC wrongly availed/utilized for any reason pertaining to Financial Year 2024-25 onward. Detailed provisions of section 74A will be discussed at the Final level. The provisions of sections 73 and 74 are applicable for tax determination relating to the past period up to the Financial Year 2023–24.***

[21] *The provisions pertaining to appeals and revision will be discussed in detail at the Final level.*

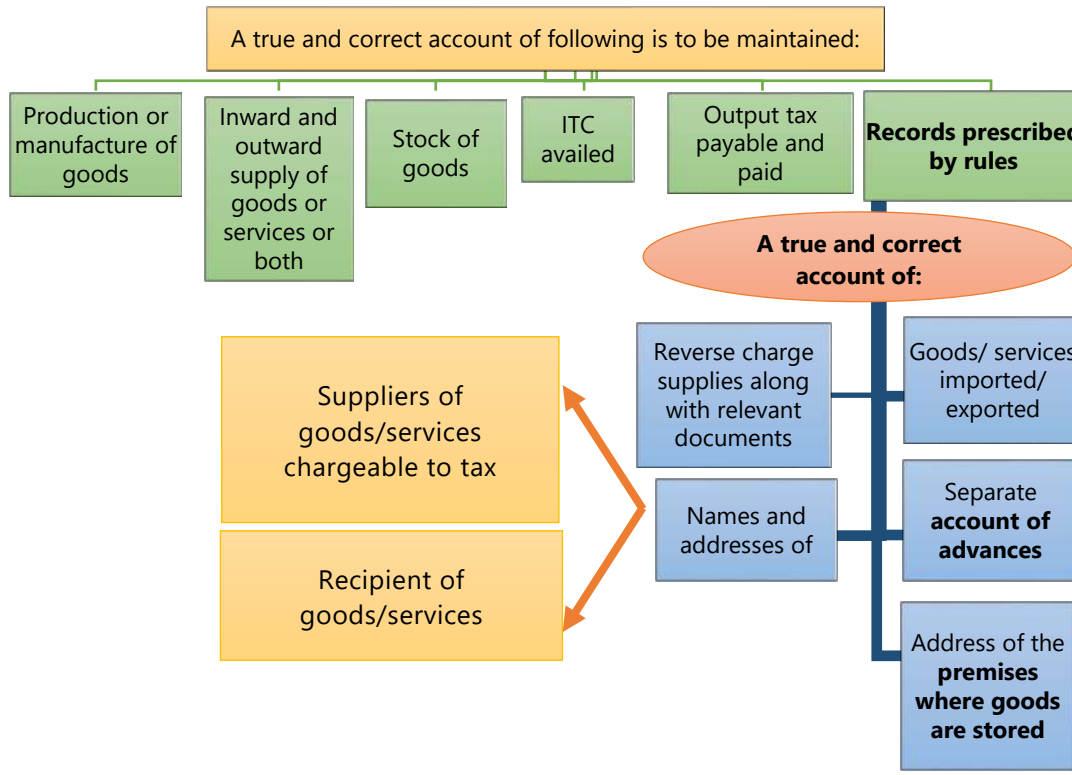
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LET US RECAPITULATE

Who is required to maintain his books of accounts and at which place?



Accounts and records required to be maintained



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Records which are to be maintained only by a supplier other than a supplier opting for composition levy

Account of stock of goods received and supplied including opening balance, receipt, supply, goods lost/stolen, destroyed, written off, gifted, free samples, stock balance.	**Account of details of tax** payable,collected and paid, ITC claimed, together with register of tax invoice, credit-debit notes, delivery challan issued/received during any tax period

Records to be maintained by agent

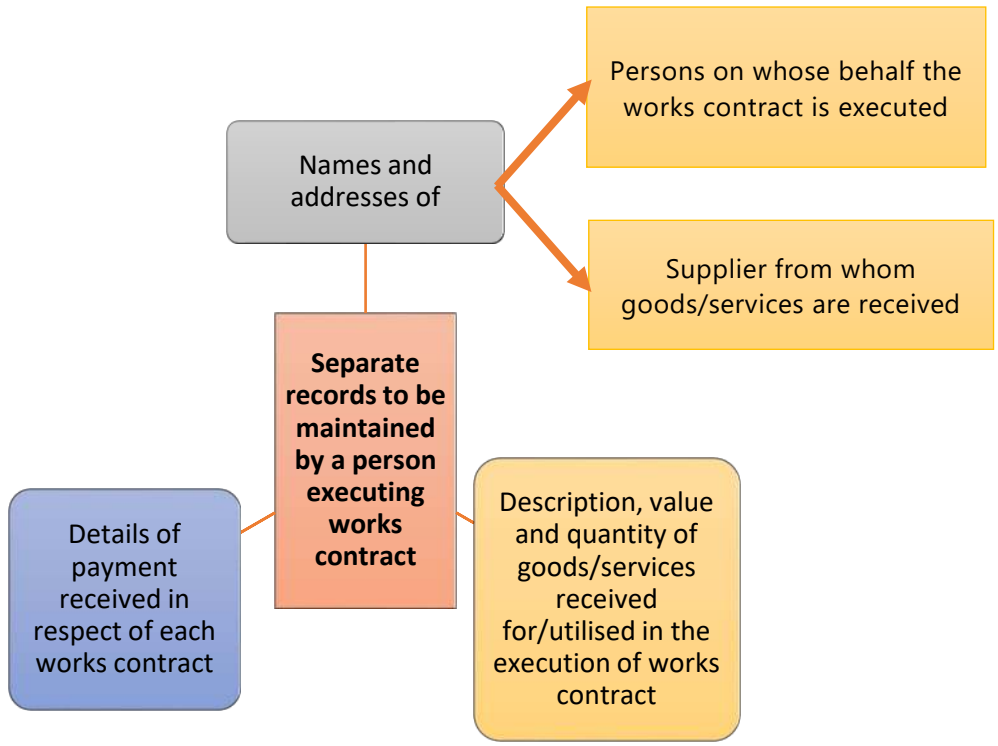
- Authorisation received from each principal to receive/supply goods/services on behalf his behalf;
- Particulars of goods/services received/supplied on behalf of every principal
- Details of accounts furnished to every principal
- Tax paid on receipts/supply of goods/services effected on behalf of every principal

Records to be additionally maintained by a manufacturer and service provider

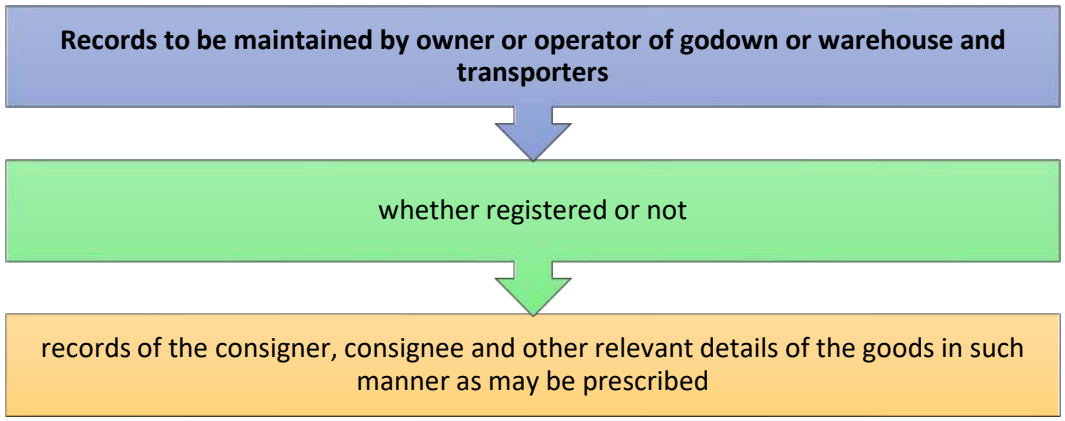
- Manufacturer
  - Monthly production accounts showing quantitative details of
    - raw materials/services used in manufacture and
    - goods so manufactured including waste and by-products
- Service provider
  - Accounts showing
    - quantitative details of goods used in the provision of services
    - details of input services utilised and services supplied

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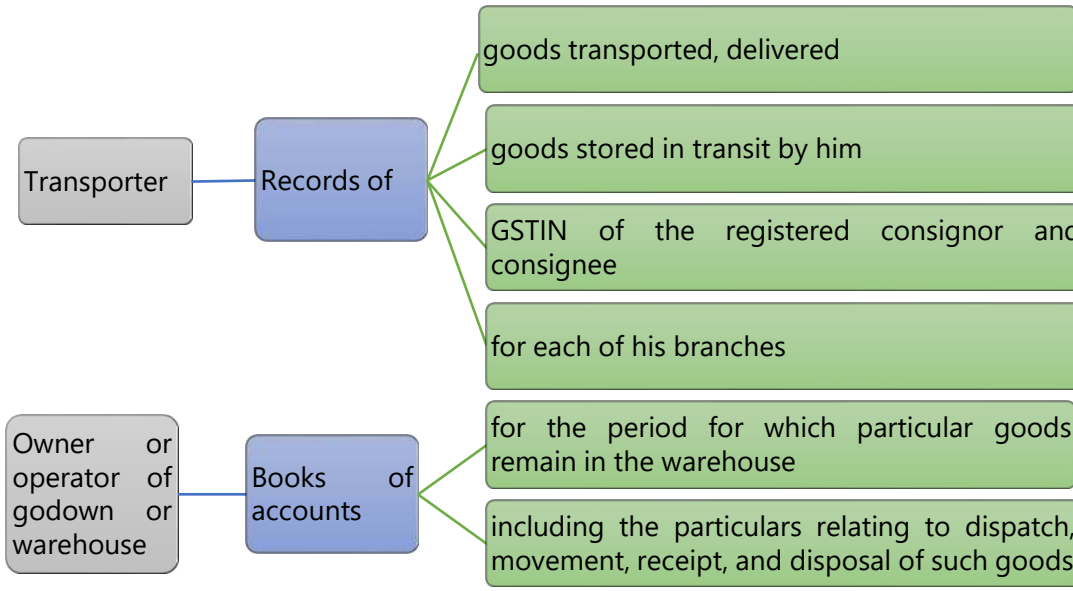
Separate records for works contract to be maintained by a person executing works contract



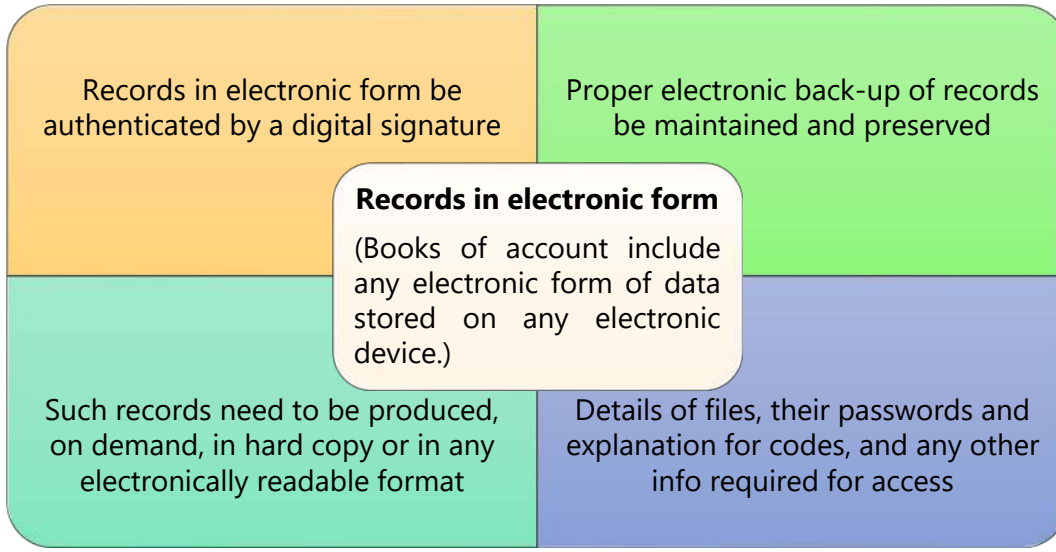
Records to be maintained by owner or operator of godown or warehouse and transporters



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How the accounts and records will be maintained?



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No entry to be erased/overwritten

Incorrect entries, other than those of clerical nature, be scored out under attestation and there after correct entry be recorded.

In case electronic records beng maintained, a log of every entry edited or deleted shall be maintained.

Books of account maintained manually be serially numbered

Books of accounts, are required to be produced, on demand.

Failure to maintain the accounts

Failure to maintain the accounts

- PO shall determine the tax payable on the unaccounted goods and/or services, as if the same had been supplied by such person
- Provisions of section 73/74/***74A*** shall, *mutatis mutandis*, apply for determination of such tax

Period of retention of accounts

72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records

Where an appeal/ revision/ any other proceedings before any Appellate/ Revisional Authority or Appellate Tribunal or Court, or an investigation is going on

1 year after final disposal of such appeal/revision/proceedings/investigation

or

72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records

whichever is later

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TEST YOUR KNOWLEDGE

1. *Who is required to maintain books of accounts and at which place in terms of section 35 read with relevant rules?*
2. *Mr. Sky is engaged in the business of trading of mobiles. He is eligible for composition scheme and has opted for the same. He seeks your advice for records which are not required to be maintained by him as composition taxable person.*
3. *Mr. Harsh Manjula is engaged in the business of works contract services and seeks your guidance as to specific records required to be maintained by him under GST law, if any.*
4. *Chill Chain Cold is operating cold storage warehouse and seeks your guidance on the GST accounts and records to be maintained by them in terms of section 35.*
5. *Mr. X is of the view that records are to be mandatorily maintained manually only. You are required to examine the view taken by Mr. X.*

ANSWERS

1. Every registered person shall keep and maintain, his books of accounts at his principal place of business and books of account relating to additional place of business as mentioned in the certificate of registration. Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

2. A supplier who has opted for composition scheme is not required to maintain records relating to;

(a) **Stock of goods:** Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

(b) **Details of tax:** Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Thus, Mr. Sky is not required to maintain above mentioned records.

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3. Mr. Harsh Manjula, executing works contract shall keep separate accounts for works contract showing -

- the names and addresses of the persons on whose behalf the works contract is executed;
- description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- the details of payment received in respect of each works contract; and

the names and addresses of suppliers from whom he received goods or services.

4. Chill Chain Cold shall maintain records of the consigner, consignee and other relevant details of the goods in the prescribed manner.

Chill Chain Cold shall also maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

Chill Chain Cold shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

5. The view taken by Mr. X is not valid in law. Books of account include any electronic form of data stored on any electronic device. The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature. The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.

Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

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1. •State the correctness of statement -"*Place of business includes a place where a taxable person is engaged in business through an agent, by whatever name called*".

2. •Is it valid that document includes written or printed record of any sort but does not include electronic record, under GST law?

3. •For how many months from the due date of furnishing of the relevant annual return, a registered person is required to maintain his books of account?

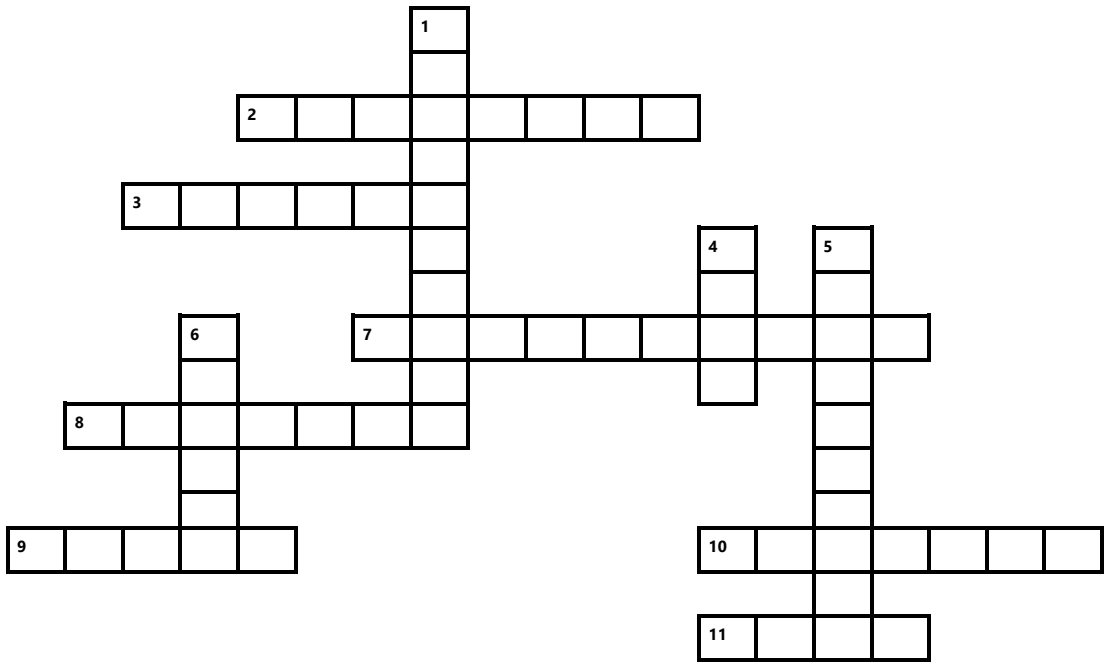
4. •Mr. Yuvi, a registered person imported raw material to be used in the manufacture of finished goods. He opines that he is not required to maintain account of goods imported. Is he correct?

5. •Miss Taavi, a composition dealer, is of the view that she is not mandatorily required to maintain account of goods disposed of by way of gift. Is her view valid in law?

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CROSSWORD



ACROSS

2. All incorrect entries, otherwise than those of _____ nature, shall be scored out under attestation.

3. Every registered person is required to retain books of account until the expiry of 72 months from the due date of furnishing of _____ return.

7. Every _____ person shall keep and maintain, books of accounts at his principal place of business and books of account relating to additional place of business.

8. Every transporter shall maintain records of goods transported, delivered and goods stored in _____ by him.

9. Stock of _____ is not required to be maintained by a supplier who has opted for composition scheme.

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10. Every manufacturer has to maintain _____ production accounts showing quantitative details of raw materials/services used in the manufacture.

11. Every transporter shall maintain the record of GSTIN of the registered consignor and consignee for _____ of his branches.

DOWNWARDS

1. The operator of a warehouse is required to obtain a unique _____ number if not already registered.

4. The owner of the godown has to store the goods so that they can be identified _____ wise and owner wise.

5. Books of account include any _____ form of data.

6. Any entry in registers, accounts and documents shall not be _____.

Scan the following QR code for accessing the answers to Rapid Fire Quiz and Cross word puzzle of this chapter.

Scan the code

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CHAPTER 12

E-WAY BILL



The section numbers referred to in the Chapter pertain to CGST Act, unless otherwise specified. Examples/Illustrations/Questions and Answers, as the case may be, given in the Chapter are based on the position of GST law existing as on 30.04.2025.

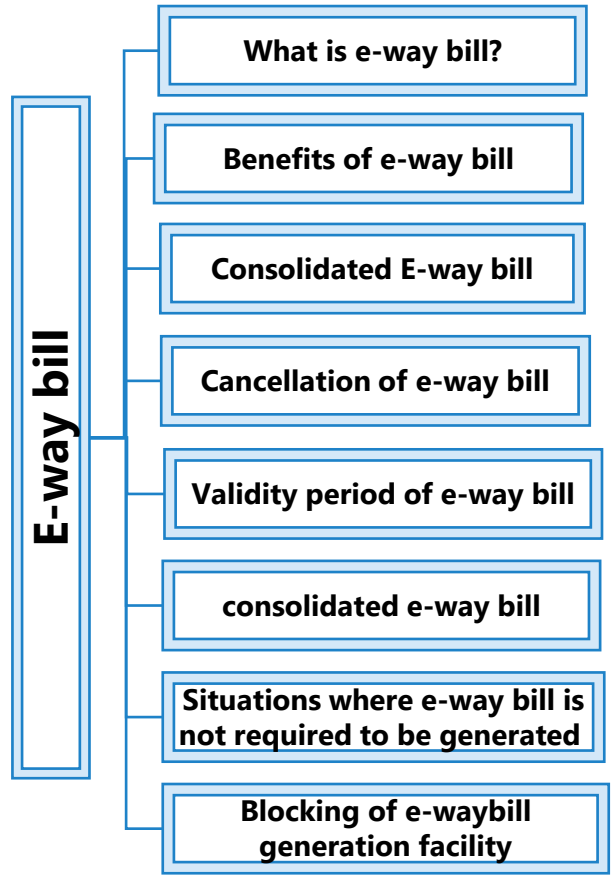
LEARNING OUTCOMES

After reading this chapter, you shall be equipped to:

- comprehend the requirement of e-way bill and its benefits.
- identify the situations in which e-way bill is required to be generated.
- analyse the information to be furnished in e-way bill.
- explain the provisions relating to consolidated e-way bills.
- identify the situations where e-way bill is not required to be generated.

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CHAPTER OVERVIEW



1. INTRODUCTION



Under GST regime, for quick and easy movement of goods across India without any hindrance, all the check posts across the country are abolished. However, in order to monitor the movement of goods for controlling any tax evasion, e-way bill system has been introduced.

Under this system, a taxpayer - prior to movement of goods via a conveyance - would inform each transaction's details to the tax department, obtain an acknowledgement number for having thus informed, and then use this

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acknowledgement number as a valid document accompanying the conveyance carrying goods.

The idea is that the taxpayer be made to upload the details of each transaction to a common portal through the internet, and once uploaded, the common portal would automatically generate a document which can be tracked and verified easily by any stakeholder.

E-way Bill provisions discussed in this Chapter are contained in section 68 read with rules 138, 138A, 138B, 138C 138D and 138E [Chapter XVI] of the CGST Rules, 2017. State GST laws also prescribe identical provisions in relation to E-Way Bill.

Provisions relating to E-way Bill under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

Before proceeding to understand the e-way bill provisions, let us first go through few relevant definitions.

2. RELEVANT DEFINITIONS

- **Common portal:** means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].
- **Taxable supply:** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108)].
- **Place of business:** includes [Section 2(85)]:

a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

a place where a taxable person maintains his books of account; or

a place where a taxable person is engaged in business through an agent, by whatever name called.

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- **Taxable person:** means a person who is registered or liable to be registered under section 22 or section 24 [Section 2(107)].
- **Principal place of business:** means the place of business specified as the principal place of business in the certificate of registration [Section 2(89)].
- **Proper officer:** in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board [Section 2(91)].
- **Registered person:** means a person who is registered under section 25, but does not include a person having a Unique Identity Number [Section 2(94)].
- **Tax period:** means the period for which the return is required to be furnished [Section 2(106)].
- **Document:** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 [Section 2(41)].
- **Voucher:** means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument [Section 2(118)].
- **Conveyance:** includes a vessel, an aircraft and a vehicle [Section 2(34)].

3. E-WAY BILL [SECTION 68 READ WITH RELEVANT CGST RULES, 2017]

Under GST regime, for quick and easy movement of goods across India without any hindrance, all the check posts across the country are abolished. However, in order to monitor the movement of goods for controlling any tax evasion, e-way bill system has been introduced.



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Under this system, a taxpayer - prior to movement of goods via a conveyance - would inform each transaction's details to the tax department, obtain an acknowledgement number for having thus informed, and then use this acknowledgement number as a valid document accompanying the conveyance carrying goods.

The idea is that the taxpayer be made to upload the details of each transaction to a common portal through the internet, and once uploaded, the common portal would automatically generate a document which can be tracked and verified easily by any stakeholder.

Statutory requirement

Section 68 stipulates that the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed. Rule 138 prescribes e-way bill as the document to be carried for the consignment of goods in certain prescribed cases.

What is e-way bill?

A **waybill** is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route.

Electronic Way Bill (E-Way Bill) is a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. In other words, **E-way bill is an electronic document generated on the GST portal evidencing movement of goods**.

What are the benefits of e-way bill?

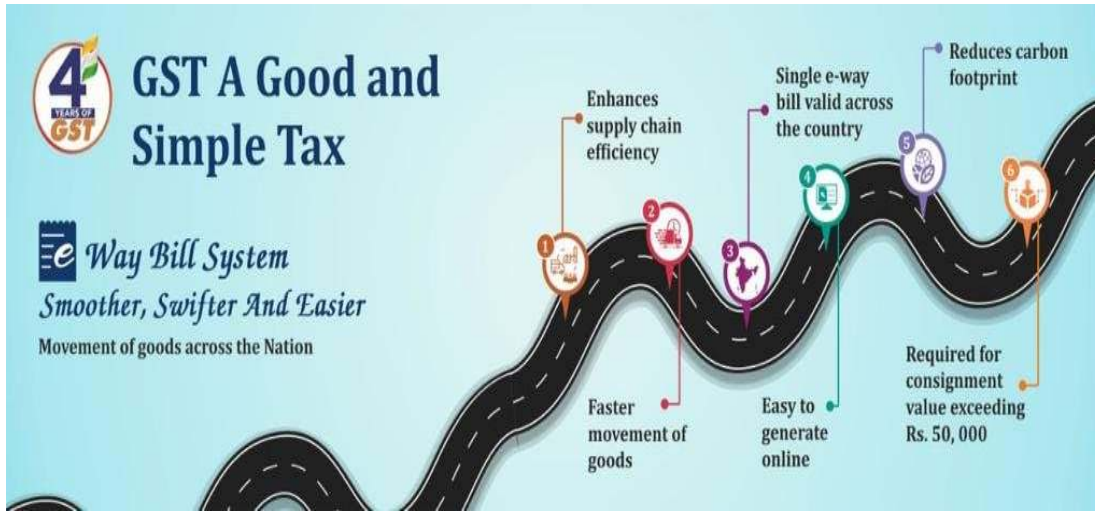
Following are the benefits of e-way bill mechanism:

(i) Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts

(ii) It will facilitate faster movement of goods

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(iii) It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.



E-way Bill is generated **electronically** in **Form GST EWB 01** on the common portal (www.ewaybillgst.gov.in). E-way Bill can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool and API (Application Program Interface) based site to site integration etc.

The facility of generation, cancellation, updation and assignment of e-way bill is available to the supplier, recipient and the transporter, as the case may be. The pre-requisite for generation of e-way bill is that the person who generates e-way bill should be a registered person on GST portal and he should register on the e-way bill portal using his GSTIN. If the transporter is generating the e-way bill, but he is not registered person under GST law, it is mandatory for him to get enrolled on e-waybill portal before generation of the e-way bill to get 15-digit Unique Transporter Id called TRANSIN.

TRANSIN or Transporter id is a unique number generated by EWB system for unregistered transporter, once he enrolls on the system which is similar to GSTIN format and is based on State code, PAN and check sum digit. This TRANSIN or Transporter id can be shared by transporter with his clients, who may enter this number while generating e-waybills for assigning goods to him for transportation.

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E-way Bill provisions [as contained in rules 138, 138A, 138B, 138C, 138D and 138E– Chapter XVI of the CGST Rules, 2017] are elaborated as under:

(1) When is e-way bill required to be generated? [Rule 138(1)]

Whenever there is a movement of goods of consignment value exceeding ₹ 50,000:

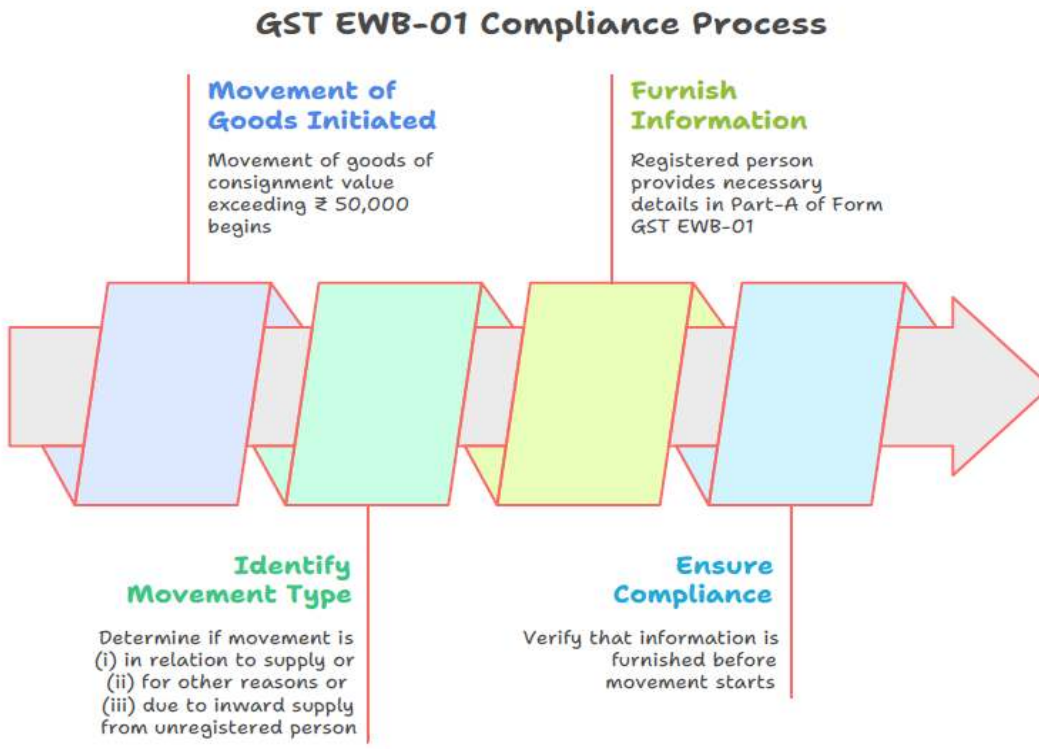
(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an unregistered person,

the registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in Part A of Form GST EWB-01 before commencement of such movement.

It is important to note that "information is to be furnished prior to the commencement of movement of goods" and "is to be issued whether the movement is in relation to a supply or for reasons other than supply".



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Who causes movement of goods?

If supplier is registered and undertakes to transport the goods, movement of goods is caused by the supplier. If recipient arranges transport, movement is caused by him. If goods are supplied by an unregistered supplier to a registered recipient, movement shall said to be caused by such recipient, if the recipient is known at the time of commencement of the movement of goods.

Meaning of consignment value of goods

Consignment value of goods shall be the value:

- ✓ determined in accordance with the provisions of section 15,
- ✓ declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and
- ✓ also includes the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and
- ✓ shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

As discussed earlier in this chapter, in case of movement of goods for reasons other than supply, the movement is occasioned by means of a delivery challan which has to necessarily contain the value of goods. The value given in the delivery challan should be adopted in the e-way bill[1].



(1) Bhanupratap Shoe Manufacturers, registered in Punjab, sold shoes to a retail seller in Gujarat, at a value of ₹ 48,000 (excluding GST leviable @ 18%) and wants to send the consignment of such shoes to Gujarat. The consignment value will be ₹ 56,640 [₹ 48,000 × 118%]. Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹ 50,000, e-way bill is mandatorily required to be issued in the given case.

[1] *As clarified by CBIC FAQs on E-way Bill.*

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Special situation(s) where e-way bill needs to be issued even if the value of the consignment is less than ₹ 50,000[2]:

Inter-State transfer of handicraft goods by a person exempted from obtaining registration

Where handicraft goods* are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration [under clauses (i) and (ii) of section 24], the e-way bill shall be generated by the said person irrespective of the value of the consignment [Fourth proviso to rule 138(1)].

***Handicraft goods** are the goods specified in *Notification No. 56/2018 CT dated 23.10.2018* which exempts the casual taxable persons making inter-State taxable supplies of such handicraft goods from obtaining registration upto specified turnover limit *[Refer Chapter 9 – Registration]*.

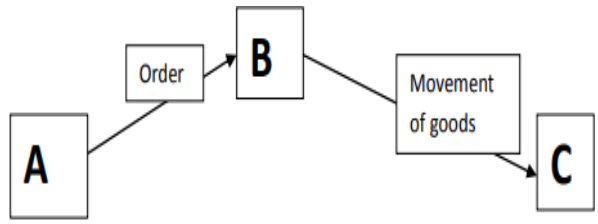
E-way Bill in case of 'Bill To Ship To' Model

In a "Bill To Ship To" model of supply, there are three persons involved in a transaction, namely:

'A' is the person who has ordered 'B' to send goods directly to 'C'.

'B' is the person who is sending goods directly to 'C' on behalf of 'A'.

'C' is the recipient of goods.



[2] *E-way bill also needs to be issued even if the value of consignment is less than ₹ 50,000 in case of inter-State transfer of goods by principal to job-worker. The provisions relating to job-work are discussed in detail at the Final Level. This is only for the purpose of information and not relevant from examination point of view.*

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In this complete scenario. two supplies are involved and accordingly two tax invoices are required to be issued:

Invoice -1: which would be issued by 'B' to 'A'.

Invoice -2: which would be issued by 'A' to 'C'.

It is clarified that as per the CGST Rules, 2017, for the movement of goods which is taking place from "B" to "C" on behalf of "A", either A or B can generate the e-Way Bill, but it may be noted that **only one e-Way Bill** is required to be generated *[Press Release dated 23.04.2018]*

(2) Information to be furnished in e-way bill:

An e-way bill Form GST EWB-01 contains two parts:

(I) Part A [comprising of details of GSTIN of supplier & recipient, place of delivery (indicating PIN Code also), document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date, value of goods, HSN code, and reasons for transportation, etc.]: to be furnished by the **registered person** who is causing movement of goods** of consignment value exceeding ₹ 50,000 and

(II) Part B (transport details) [Transporter document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and Vehicle number, in case of transport by road]: to be furnished by the **person who is transporting the goods**.

**However, information in Part-A may be furnished:

- ✓ by the transporter, on an authorization received from such registered person [First proviso to rule 138(1)] or
- ✓ by the e-commerce operator or courier agency, where the goods to be transported are supplied through such an e-commerce operator or a courier agency, on an authorization received from the consignor [Second proviso to rule 138(1)].

Once the consignor/consignee enters all the details in Part-A of e-way bill, a Part-A slip is generated which contains a temporary number. This slip can be shared with the transporter or used by the supplier himself later to enter the details in Part-B of e-way bill and generate the e-way bill.

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This will be useful, when supplier has prepared invoice relating to his business transaction, but doesn't have the transportation details. Thus, he can enter invoice details in Part A of e-way bill and keep it ready for entering details of mode of transportation in Part B of e-way bill.

Once the goods are ready for movement from the business premises and transportation details are known, the user can enter the Part-B details and generate the e-way bill for movement of goods. **E-way Bill can be generated only after entering the details of Part-B.**

(3) Who is mandatorily required to generate e-way bill?

E-way bill is to be generated by the consignor or consignee himself if the transportation is being done in own/hired conveyance or by railways by air or by vessel. If the goods are handed over to a transporter for transportation by road, e-way bill is to be generated by the transporter. Where neither the consignor nor consignee generates the e-way bill and the value of goods is more than ₹ 50,000, it shall be the responsibility of the transporter to generate it. This has been explained in detail below:

- **Where the goods are transported by a registered person - whether as consignor or recipient as the consignee** (whether in his own conveyance or a hired one or a public conveyance, by road), the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal) [Rule 138(2)].
- **Where the e-way bill is not generated by the registered person and the goods are handed over to the transporter, for transportation of goods by road**, the registered person shall furnish the information relating to the transporter in Part B on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)].
- **Where the goods are transported by railways or by air or by vessel**, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, information in part B [viz transport document number (Goods Receipt Number or Railway

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Receipt Number or Airway Bill Number or Bill of Lading Number)] on the common portal [Rule 138(2A)].

Other important points:

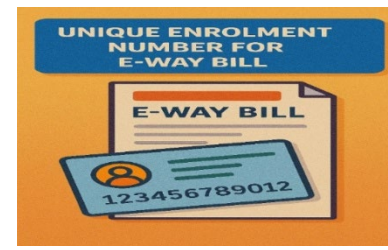
- **Where the goods are transported by railways:** there is no requirement to carry e-way bill along with the goods, but railways has to carry invoice or delivery challan or bill of supply, as the case may be along with goods. Further, e-way bill generated for the movement is required to be produced at the time of delivery of the goods. Railways shall not deliver goods unless the e-way bill required under rules is produced at the time of delivery [Proviso to rule 138(2A)].
- The registered person or, the transporter may, at his **option**, generate and carry the e-way bill even if the value of the consignment is less than ₹ 50,000 [First proviso to rule 138(3)].
- **Where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter**, he or the transporter may, at their option, generate the e-way bill [Second proviso to rule 138(3)].

Where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods [Explanation 1 to rule 138(3)].

- ***Generation of unique enrollment number***

Following persons required to generate the e-way bill shall submit the details electronically on the common portal in prescribed form and, upon validation of the details so furnished, a unique enrolment number shall be generated and communicated to the said person:-

(i) An unregistered person making inter-State transport of handicraft goods exempted from obtaining compulsory registration and required to generate e-way bill irrespective of the value of the consignment.



(ii) An unregistered person opting to generate e-way bill

[Fourth proviso to rule 138(3)]

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(4) When is it not mandatory to furnish the details of conveyance in Part-B?

E-way bill is valid for movement of goods by road only when the information in Part-B is furnished[3].

Exceptions:

However, details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported **for a distance of upto 50 km** within the State/Union territory:

- ❑ from the place of business of the consignor to the place of business of the transporter for further transportation[4] [Third proviso to rule 138(3)]. or
- ❑ from the place of business of the transporter finally to the place of business of the consignee[5].

(5) Unique e-way bill number (EBN)

Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal [Rule 138(4)].

(6) Transfer of goods from one conveyance to another

Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in **Part A**, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in **Part B** of the e-way bill on the common portal [Rule 138(5)].

Consignment of goods may be required to be transferred from the original conveyance to due to unforeseen exigencies like break down of the vehicle. In such case, the transporter transferring goods from one conveyance to

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[3] *Explanation 2 to rule 138(3)*

[4] *Third proviso to rule 138(3)*

[5] *Proviso to rule 138(5)*

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another in the course of transit shall, before such transfer and further movement of goods, update the details of the conveyance.

In some cases, consignments are transported by the transporter through transshipment using multiple vehicles (same mode of transportation) for carrying the same consignment before it is delivered to the recipient at the place of destination. Hence for each movement from one place to another, the transporter needs to update the vehicle number in which he is transporting that consignment in part B of the e-way bill.

The user can update Part-B (Vehicle details) as many times as he wants for movement of goods to the destination. However, the updating should be done within the validity period.

There can also be a case where one e-way bill can go through multiple modes of transportation before reaching destination. As per the mode of transportation, the EWB can be updated with new mode of transportation by using the option of 'Update Vehicle Number'.



(2) Babbal Associates is moving the goods from Cochin to Chandigarh through road, ship, air and road again. First, Babbal Associates generates the EWB by entering first stage of movement (by road) from its place to shipyard and enters the vehicle number. Next, it will submit the goods to shipyard and update the mode of transportation as ship and transport document number on the e-way bill system.

After reaching Mumbai, Babbal Associates or concerned transporter updates movement as road from shipyard to airport with vehicle number. Thereafter, Babbal Associates or transporter updates using 'update vehicle number' option on the portal, the Airway Bill number.

Again, after reaching Delhi, Babbal Associates updates movement through road with vehicle number. This way, the e-way bill will be updated with multiple modes of transportation.

Assigning the e-way bill number to another transporter

The consignor/recipient, who has furnished the information in **Part A**, or the transporter, may assign the e-way bill number to another registered/enrolled transporter for updating the information in **Part B** for further movement of the consignment [Rule 138(5A)]. However, once the

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details of the conveyance have been updated by the transporter in **Part B**, the consignor or recipient, as the case may be, who has furnished the information in **Part A** shall not be allowed to assign the e-way bill number to another transporter [Proviso to rule 138(5A)].



(3) A consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B.

In such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y.

On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B. Transporter B will fill the details of his vehicle and move the goods from City Y to City Z *[Press Release No. 144/2018 dated 31.03.2018]*.

(7) Consolidated E-way bill

After e-way bill has been generated, where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in **Form GST EWB-02** may be generated by him on the said common portal prior to the movement of goods [Rule 138(6)].

Consolidated e-way bill is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance (goods vehicle). That is, the transporter carrying multiple consignments of various consignors and consignees in a single vehicle can generate and carry a single document - consolidated e-way bill instead of carrying separate document for each consignment in a conveyance.

Consolidated EWB is like a trip sheet and it contains details of different e-way bills in respect of various consignments being transported in one vehicle and these e-way bills will have different validity periods.

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Hence, Consolidated EWB does not have any independent validity period. Further, individual consignment specified in the Consolidated EWB should reach the destination as per the validity period of the individual EWB.

Further, where the consignor/consignee has not generated the e-way bill in Form GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than ₹ 50,000, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in Form GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in **Form GST EWB-02** on the common portal prior to the movement of goods [Rule 138(7)].

The generation of **Form GST EWB-02** is optional and not mandatory.

However, where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of Form GST EWB-01 may be furnished by such e-commerce operator or courier agency [Proviso to rule 138(7)]. **This proviso is not yet effective.**

(8) Information submitted for e-way bill can be used for filing GST Returns

The information furnished in **Part A** of the e-way bill shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in **Form GSTR-1** [Rule 138(8)]**.**

However, when the information has been furnished by an unregistered supplier/unregistered recipient, he shall be informed electronically, if the mobile number or the e-mail is available [Proviso to rule 138(8)].

(9) Cancellation of e-way bill

Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within **24 hours** of generation of the e-way bill [Rule 138(9)].

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B [First proviso to rule 138(9)].

Further, unique EWB number generated is valid for a period of 15 days for updation of Part B [Second proviso to rule 138(9)].

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(10) Validity period of e-way bill/consolidated e-way bill [Rule 138(10)]

The validity of e-way bill depends on the distance to be travelled by the goods. For a distance of less than 200 km the e-way bill will be valid for a day from the relevant date. For every 200 km thereafter, the validity will be additional one day from the relevant date.

Sl. No.	Distance within country	Validity period from relevant date*
1.	Upto 200 km	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
2.	For every 200 km or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
3.	Upto 20 km	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
4.	For every 20 km or part thereof thereafter	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship

***Relevant date** means the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

This can be explained by following examples –

(i) Suppose an e-way bill is generated at 00:04 hrs. on 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.

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(ii) Suppose an e-way bill is generated at 23:58 hrs. on 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on[6].

The validity of the e-way bill starts when first entry is made in Part-B i.e. vehicle entry is made first time in case of road transportation or first transport document number entry in case of rail/air/ship transportation, whichever is the first entry. It may be noted that validity is not re-calculated for subsequent entries in Part-B[7].



(4) A consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. The validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time.

In the given situation, consignor can fill the details in Part A on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill Part B i.e. the assigned transporter can fill the details in Part B on Monday and the validity period of the e-way bill will start from Monday *[CBIC Press Release dated 31.03.2018]*.



(5) A registered person has to transport goods from its warehouse to its depot located at a distance of 500 km in a normal cargo. In the given case, if e-way bill is generated, it will be valid for 3 days.

****Over dimensional cargo** means a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988.

Extension of validity period

If validity of the e-way bill expires, the goods are not supposed to be moved. In general, the validity of the e-way bill cannot be extended However, the validity of the e-way bill can be extended in following cases:

[6] *As clarified by FAQs on E-way Bill by CBIC.*

[7] *As clarified by FAQs on E-way Bill web portal.*

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Extension by Commissioner for certain categories of goods: Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein.

Extension by transporter in exceptional circumstances: Under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B, if required.

Thus, the transporter, who is carrying the consignment as per the e-way bill system at the time of expiry of validity period, can extend the validity period. Such transporter can extend the validity of the e-way bill, if the consignment is not being reached the destination within the validity period due to exceptional circumstance like natural calamity, law and order issues, trans-shipment delay, accident of conveyance, etc. He needs to explain this reason in details while extending the validity period[8]. The validity of the e-way bill may be extended within 8 hours from the time of its expiry.

(11) Acceptance of e-way bill

The details of the e-way bill generated shall be made available to the -

(a) supplier, if registered, where the information in Part A has been furnished by the recipient/transporter; or

(b) recipient, if registered, where the information in Part A has been furnished by the supplier/transporter,

on the common portal, and the supplier/recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill [Rule 138(11)].

In case, the person to whom the information in Part-A is made available, does not communicate his acceptance or rejection within the specified time, it shall be deemed that he has accepted the said details. The time-limit specified for this purpose is:

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[8] *As clarified by FAQs on E-way Bill web portal.*

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(i) 72 hours of the details being made available to him on the common portal

or

(ii) the time of delivery of goods,

whichever is earlier [Rule 138(12)].

(12) E-way bill generated in one State is valid in another State

The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory [Rule 138(13)].

Points to remember

1. E-way bill is not valid for movement of goods without vehicle number on it.
2. If there is a mistake, incorrect or wrong entry in the e-way bill, then it cannot be edited or corrected. Only option is cancellation of e-way bill within 24 hours of generation and generate a new one with correct details.
3. E- Way Bill may be updated with vehicle number any number of times.
4. The latest vehicle number should be available on e-way bill and should match with the vehicle carrying it in case checked by the department.
5. If multiple invoices are issued by the supplier to recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e-way bills have to be generated. That is, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one e-way bill. However, after generating all these e-way bills, one Consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

(13) Situations where e-way bill is not required to be generated

Notwithstanding anything explained above, no e-way bill is required to be generated in the following cases:

(a) where the goods being transported are the ones given below:

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S. No.	Description of Goods
1.	Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts
4.	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) [excepting imitation Jewellery (7117)]
6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)]

(b) where the goods are being transported by a non-motorised conveyance

(c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs

(d) in respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory

(e) where the goods [other than de-oiled cake], being transported, are exempt from tax[9]

(f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel

[9] *Notification No. 2/2017 CT(R) dated 28.06.2017*

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(g) where the supply of goods being transported is treated as no supply under Schedule III of the CGST Act[10]

(h) where the goods are being transported -

(i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or

(ii) under customs supervision or under customs seal

(i) where the goods being transported are transit cargo from or to Nepal or Bhutan

(j) where the goods being transported are exempt from tax under *Notification No. 7/2017 CT (R) 28.06.2017 [Supply of goods by the CSD to the Unit Run Canteens or to the authorized customers and supply of goods by the Unit Run Canteens to the authorized customers] and Notification No. 26/2017 CT (R) 21.09.2017 [Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL)]*

(k) any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee

(l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail

(m) where empty cargo containers are being transported

(n) where the goods are being transported upto a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.

(o) where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply

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[10]*Provisions of Schedule III have been discussed in detail in Chapter 2 – Supply under GST in Module 1 of the Study Material.*

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(14) Documents and devices to be carried by a person-in-charge of a conveyance [Rule 138A]

The person-in-charge of a conveyance shall carry -

(a) the invoice or bill of supply or delivery challan, as the case may be; and

(b) a copy of the e-way bill in physical form or the e-way bill number in electronic form* or mapped to a RFID** embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner[11].

**Carrying e-way bill number in electronic form implies that person-in-charge of conveyance can merely quote the e-way bill number to the proper tax officer. Tax officer will do all the requisite verifications, based on that number.*

***RFIDs are Radio Frequency Identification Device used for identification*

Invoice Reference Number in lieu of tax invoice

In case, e-invoice is issued[12], the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.

In such a case, the registered person will not have to upload the information in Part A of e-way bill for generation of e-way bill and the same shall be auto-populated by the common portal on the basis of the information furnished in the prescribed form relating to e-invoice.

The Commissioner may, by notification, require a class of transporters to obtain a unique RFID and get the said device embedded on to the conveyance and map the e-way bill to the RFID prior to the movement of goods.

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[11] In case of imported goods, the person in charge of a conveyance shall also carry a copy of the bill of entry filed by the importer of such goods and shall indicate the number and date of the bill of entry in Part A of e-way bill. The concept of bill of entry filed in respect of imported goods under customs law will be discussed at Final Level.

[12] in the manner prescribed under sub-rule (4) of rule 48

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Documents in lieu of e-way bill

Where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill:

(a) tax invoice or bill of supply or bill of entry[13]; or

(b) a delivery challan, where the goods are transported for reasons other than by way of supply.

(15) Verification of documents and conveyances [Rule 138B]

The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.

The Commissioner shall get RFID readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf.

However, on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

(16) Inspection and verification of goods [Rule 138C]

A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of a prescribed form within 24 hours of inspection and the final report in Part B of said form shall be recorded within 3 days of such inspection.

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[13] *Bill of entry needs to be carried in lieu of e-way bill in case of import of goods. The concept of bill of entry will be discussed at Final Level.*

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However, where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of said form, for a further period not exceeding 3 days.

The period of 24 hours or, as the case may be, 3 days shall be counted from the midnight of the date on which the vehicle was intercepted.

Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State/Union territory or in any other State/Union territory, no further physical verification of the said conveyance shall be carried out again in the State/Union territory, unless a specific information relating to evasion of tax is made available subsequently.

(17) Facility for uploading information regarding detention of vehicle [Rule 138D]

Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in **specified form** on the common portal.

(18) Blocking of e-waybill generation facility [Rule 138E]

Blocking of e-waybill generation facility means disabling a taxpayer from generating the e-way bill. Blocking of GSTIN for e-way bill generation would only be for the defaulting supplier GSTIN and not for the defaulting Recipient or Transporter GSTIN. Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.

As per rule 138E, no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in Part A of Form GST EWB-01 in respect of any outward movement of goods of a registered person, who -

(i) being a person paying tax under composition scheme[14] has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or

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[14] *or under Notification No. 2/2019 CT (R) dated 07.03.2019*

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(ii) being a person paying tax under regular scheme has not furnished the returns for a consecutive period of 2 tax periods, or

(iii) being a person paying tax under regular scheme has not furnished GSTR-1 (Statement of outward supplies) for any 2 months or quarters, as the case may be.

(iv) Being a person whose registration has been suspended under the provisions of rule 21A of the CGST Rules.

However, Commissioner (jurisdictional commissioner) may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions. An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

(19) It may be noted that the expressions 'transported by railways', 'transportation of goods by railways', 'transport of goods by rail' and 'movement of goods by rail' used in the provisions discussed above does not include cases where leasing of parcel space by railways takes place.



(6) Mr. A, a registered person paying tax under regular scheme in Delhi, has not filed Form GSTR-1 for last 2 months. Mr. B, Haryana, (a regular return filer) wants to generate an e-way bill for goods to be supplied to Mr. A.

Here, there will be no restriction in generating e-way Bill for Mr. B who is making outward movement of goods, as he is a regular return filer.

Mr. A wants to generate an e-way bill in respect of an outward supply of goods to Mr. H. E-way bill generation is blocked in this case as it's an outward movement of goods of Mr. A who has not filed GSTR-1 for past 2 months.

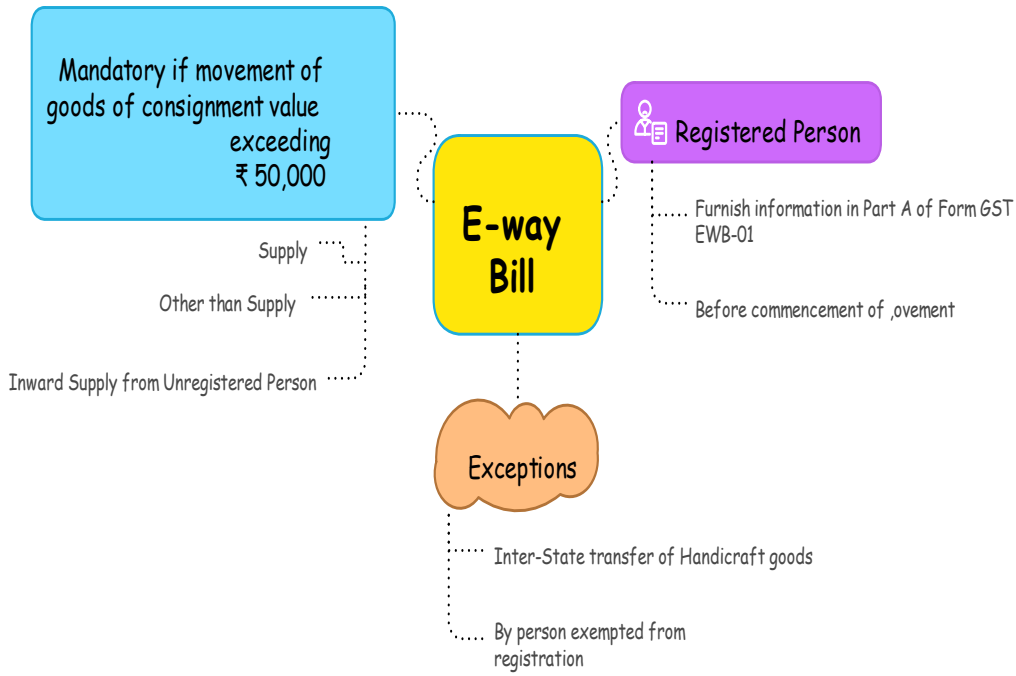
Tax invoice or bill of supply to accompany transport of goods [Rule 55A]

Person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.

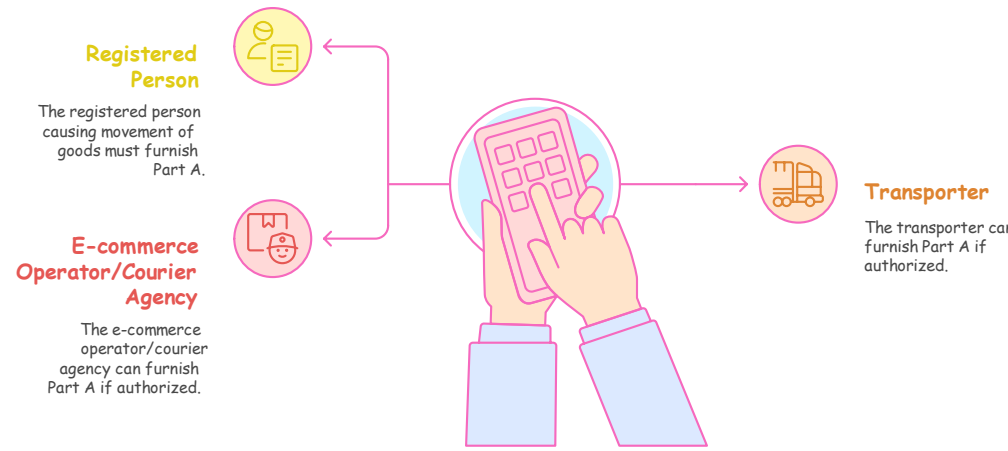
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LET US RECAPITULATE

E-way bill requirement and Exceptions

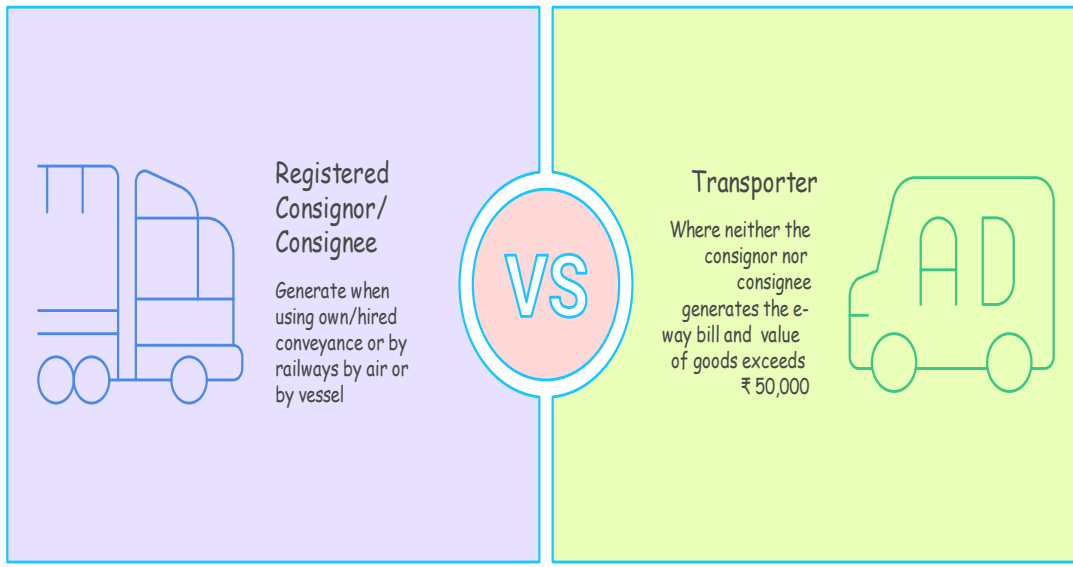


Information to be furnished in Part A of e-way bill

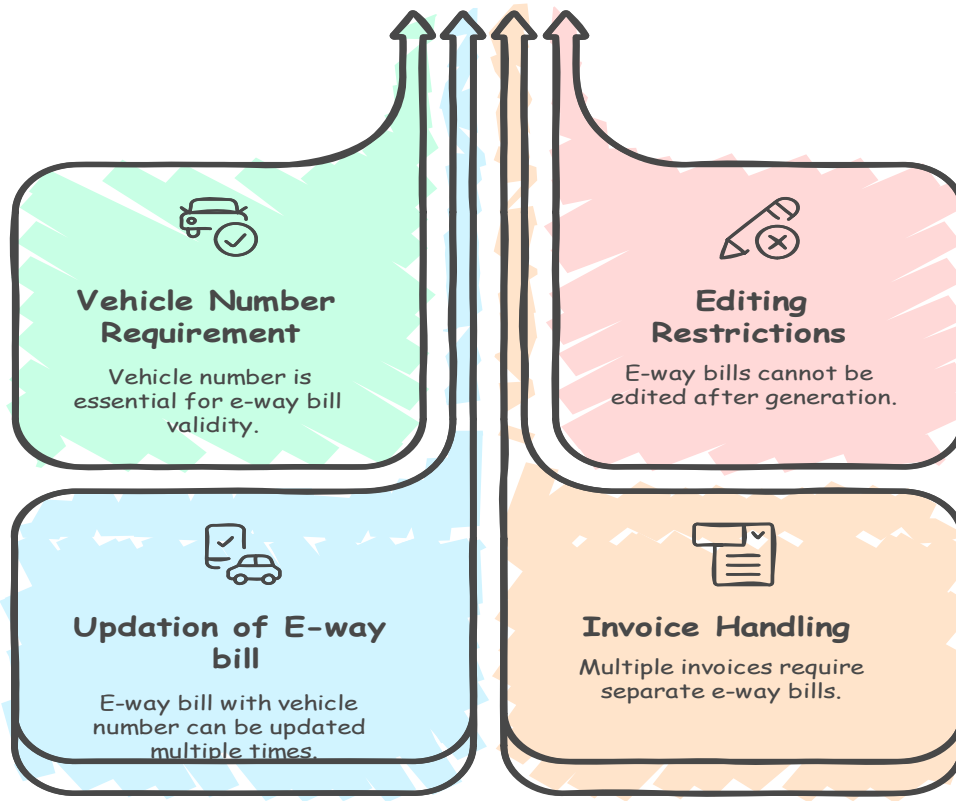


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Who can generate the E-way bill?

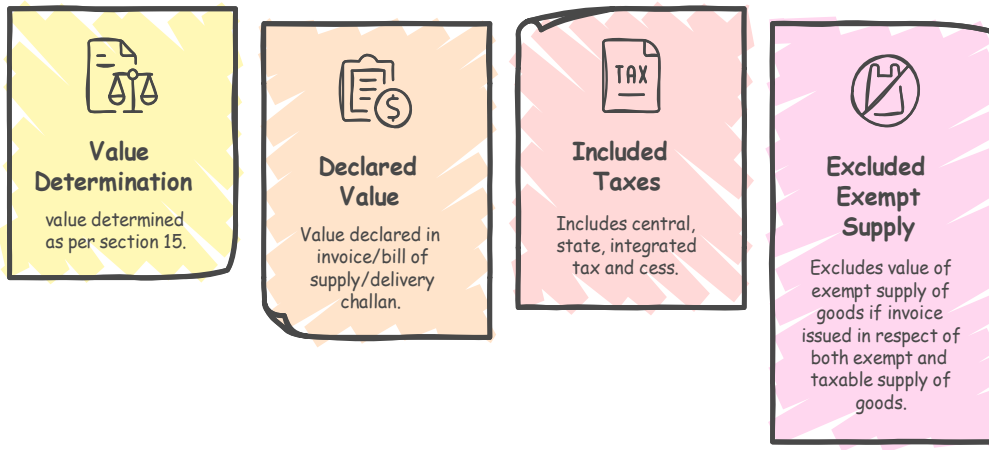


Navigating E-way bill compliance

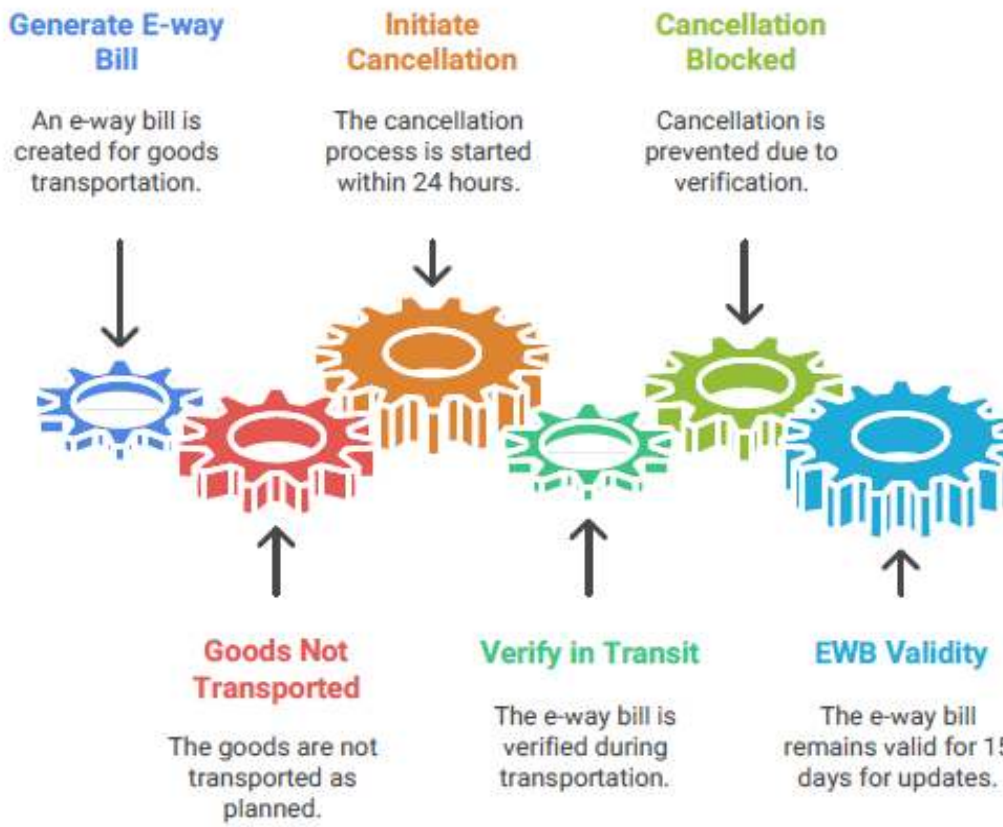


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Consignment Value of Goods

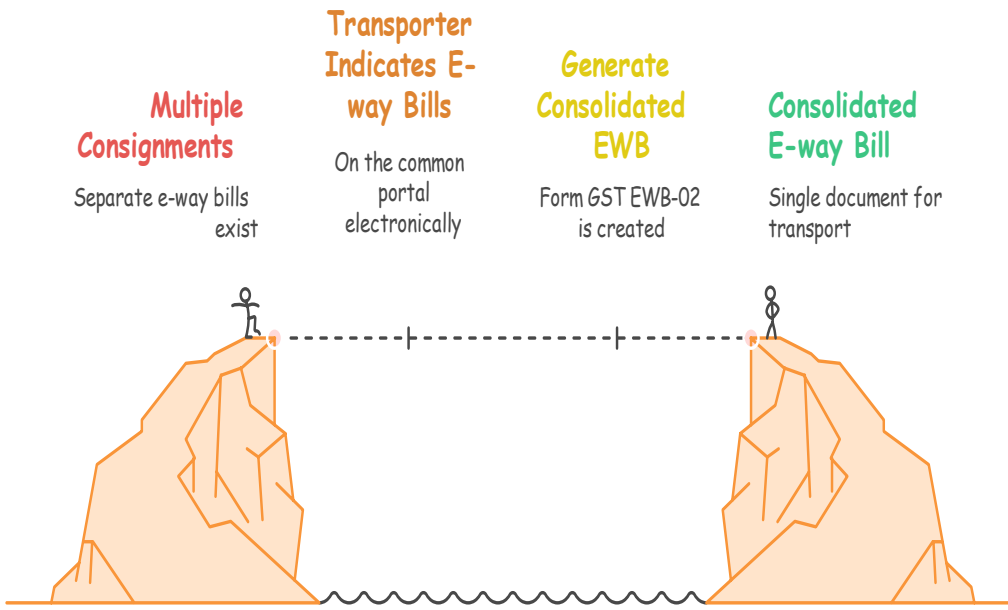


E-way bill Cancellation

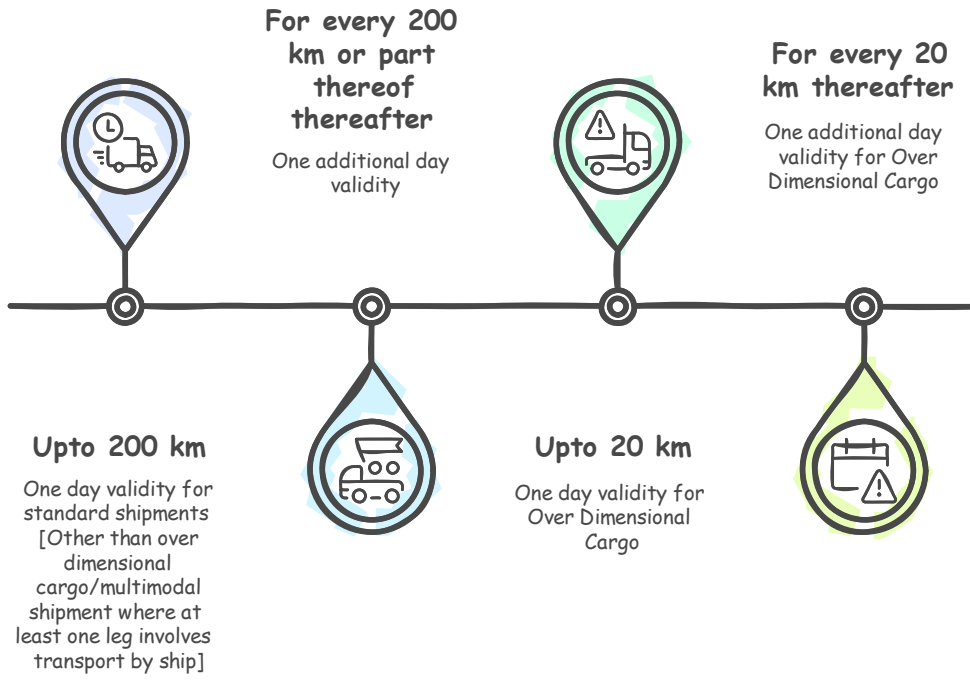


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Generating a consolidated E-way bill

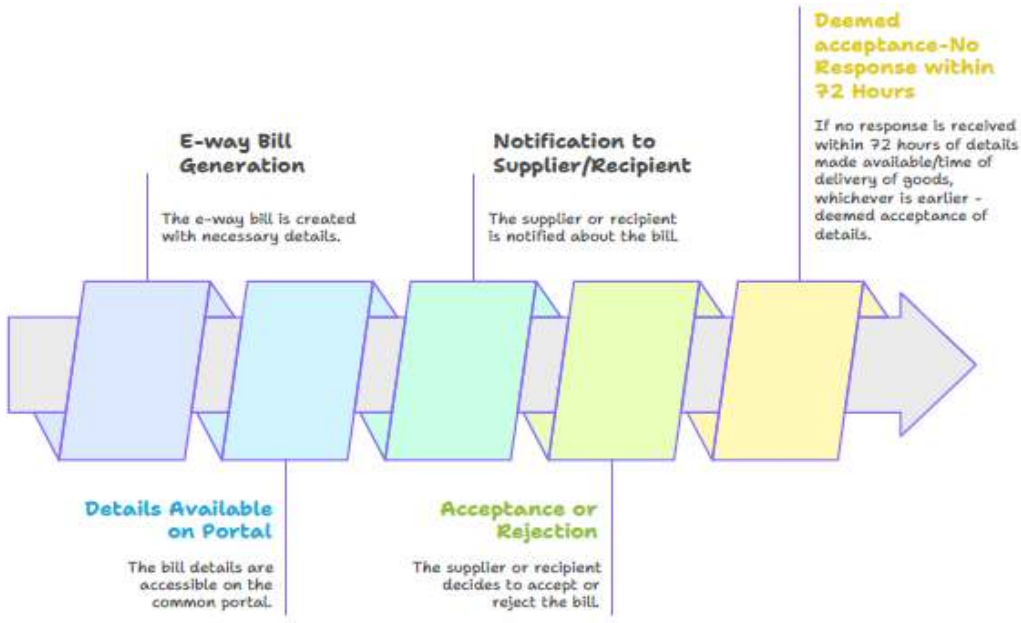


Validity period of e-way bill/consolidated e-way bill based on distance

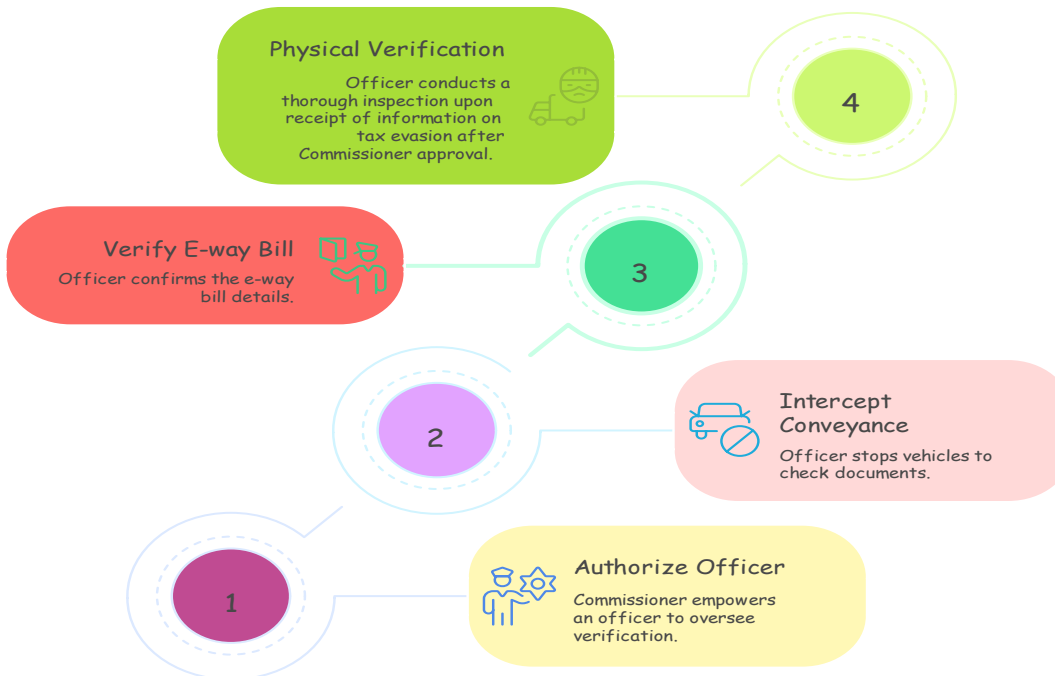


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Acceptance/Rejection of e-way bill

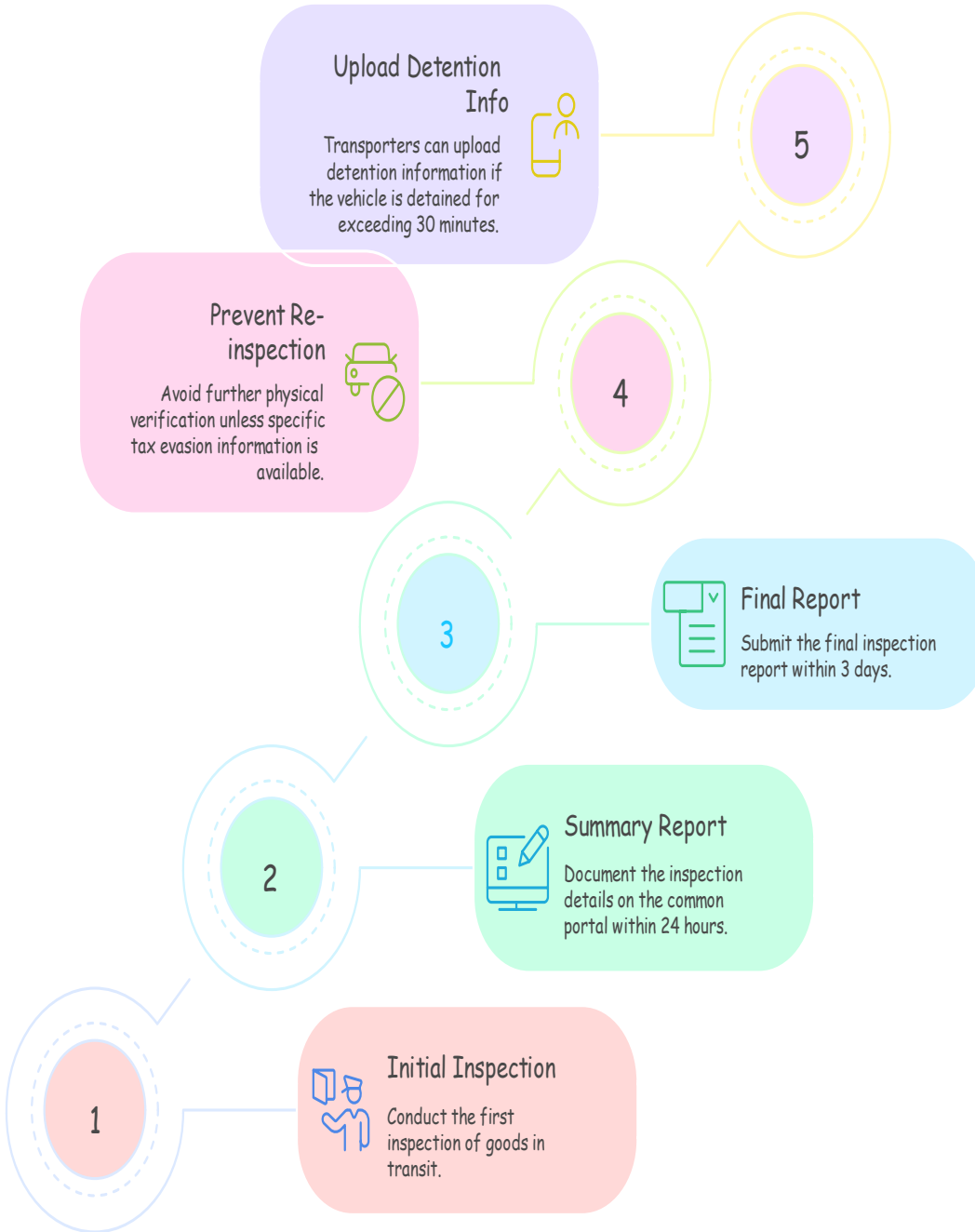


Verification of documents and conveyances



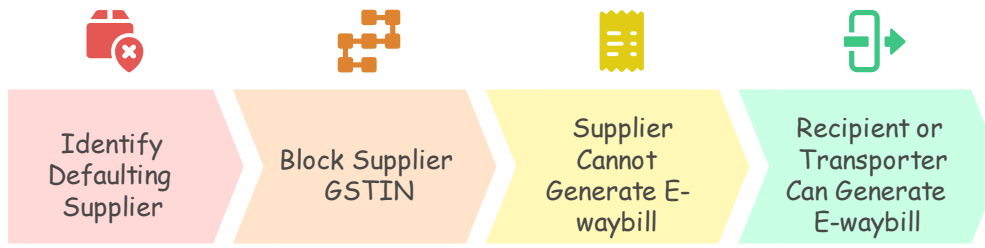
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Inspection and verification of goods



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Blocking of e-way bill generation facility



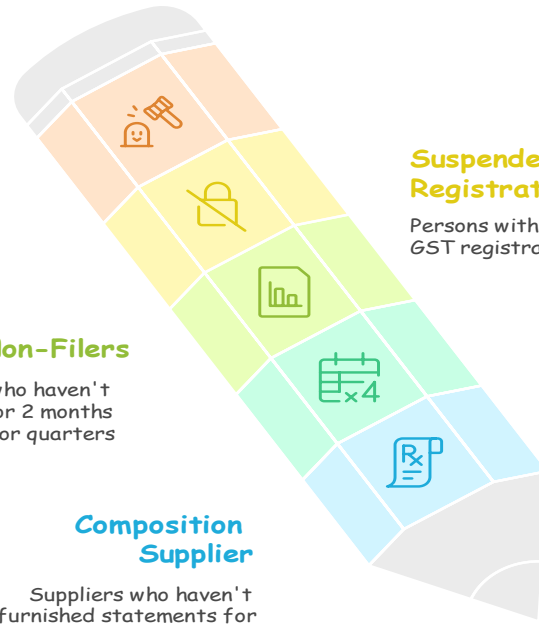
The system identifies a supplier who has defaulted on GST obligations.

The supplier's GSTIN is blocked, preventing e-waybill generation.

The supplier is unable to generate e-waybills due to the block.

The recipient or transporter can still generate e-waybills using their GSTIN.

Restriction on furnishing of information in Part A of Form GST EWB-01



Commissioner's Discretion

Commissioner's authority to allow submission under prescribed conditions

Suspended Registration

Persons with suspended GST registration

GSTR-1 Non-Filers

Taxpayers who haven't filed GSTR-1 for 2 months or quarters

Regular Scheme Taxpayer

Taxpayers who haven't filed returns for 2 consecutive tax periods

Composition Supplier

Suppliers who haven't furnished statements for payment of self assessed tax for 2 consecutive quarters

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TEST YOUR KNOWLEDGE

1. *What are the documents and devices to be carried by person-in-charge of conveyance under rule 138A of CGST Rules, 2017?*
2. *Explain the meaning of consignment value of goods.*
3. *Mr. X, a registered person has caused movement of goods of consignment value exceeding ₹ 50,000 in relation to a supply and thus, generated e-way bill. However, after generation of e-way bill, he found a mistake in the e-way bill and wants to edit it. You are required to advise Mr. X whether he can do so with the help of relevant provisions?*
4. *Talli Lal, a registered person, has transported alcoholic liquor for human consumption of consignment value of ₹ 1,50,000 from Delhi to Haryana. He has not generated e-way bill for the same. You are required to examine the correctness of action taken by Talli Lal.*
5. *Dhananjay Associates registered in Gujarat deals in industrial grade iron and steel products. The proprietor of Dhananjay Associates sold TMT Iron bars (GST applicable @18%) to a retailer in Maharashtra at a value of ₹ 40,000 (excluding GST). As per the agreement of sale, goods are to be delivered at the premises of retailer. The transportation cost of ₹ 7,000 has been charged separately to deliver the same to the retailer in Maharashtra. In the above scenario, determine whether an e-way bill is required to be issued under GST?*



ANSWERS

1. The person-in-charge of a conveyance has to carry -

(a) the invoice or bill of supply or delivery challan, as the case may be; and

(b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner

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2. Consignment value of goods shall be the value:

- ♦ determined in accordance with the provisions of section 15,
- ♦ declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and
- ♦ also includes the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and
- ♦ shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

3. If there is a mistake, incorrect or wrong entry in the e-way bill, then it cannot be edited or corrected. Only option is cancellation of e-way bill within 24 hours of generation and generate a new one with correct details.

Thus, in view of the above-mentioned provisions, Mr. X cannot edit the e-way bill. However, he can cancel the e-way bill within 24 hours of generation and generate a new one with correct details.

4. E-way bill is not required to be generated where the goods being transported are alcoholic liquor for human consumption.

Thus, the action of Talli Limited of not generating the e-way bill is correct in law.

5. Consignment value of goods is the value determined in accordance with the provisions of section 15, and also includes the central tax, state or union territory tax, integrated tax and cess charged, if any, in the document.

Further, since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are to be added in the value of principal supply.

Accordingly, the value of supply as per section 15 in the given case would include the transportation cost in the invoice value i.e. 47,000 (₹ 40,000 + ₹ 7,000).

Consignment value = ₹ 47,000 x 118% = ₹ 55,460.

Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹ 50,000, e-way bill is mandatorily required to be issued under GST in the given case.

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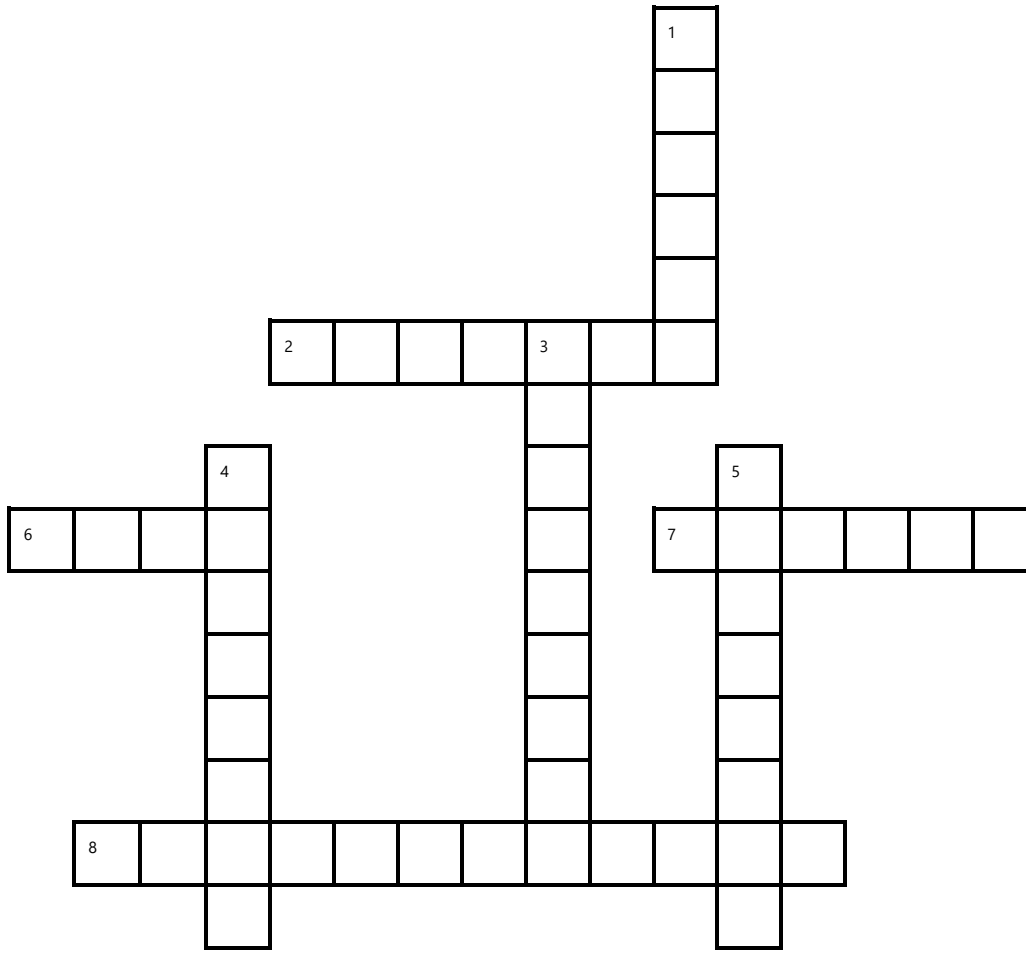


1. *Whether E-way bill generated in one State is valid or not in another State?*
2. *E-way bill can be edited, any number of times in case of mistake. Examine the correctness of statement?*
3. *Mr. X contends that e-way bill is mandatorily required to be generated in case of transportation of used personal and household effects? Is Mr. X correct?*
4. *What is the limit of consignment value for generation of e-way bill in case of movement of goods for reasons other than supply?*
5. *Who is required to furnish information in Part-B of E-way bill?*

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ACROSS

2. The unique number generated by EWB system for unregistered transporter is _____. (Acronym)

6. Details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported for a distance of_____50 km within the State.

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7. E way bill will be issued in case of movement of goods of consignment value of ₹ 60,000 due to _____supply from an unregistered person.

8. _____e-way bill is generated when multiple consignments intended to be transported in one conveyance.

DOWNWARDS

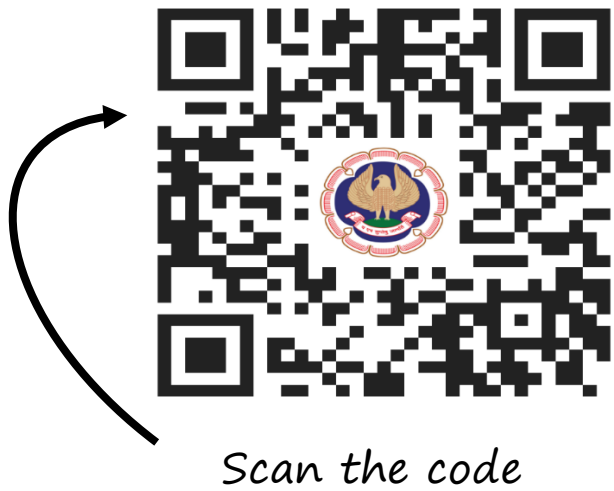
1. E-way bill may be cancelled electronically on the common portal _____24 hours of generation of the e-way bill.

3. _____GSTIN cannot generate e-way bill as supplier.

4. _____includes written or printed record of any sort and electronic record.

5. Consignment value of goods _____the Central tax and State tax.

Scan the following QR code for accessing the answers to Rapid Fire Quiz and Cross word puzzle of this chapter.



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CHAPTER 13

PAYMENT OF TAX



The section numbers referred to in the Chapter pertain to CGST Act, unless otherwise specified. Examples/Illustrations/Questions and Answers, as the case may be, given in the Chapter are based on the position of GST law existing as on 30.04.2025.

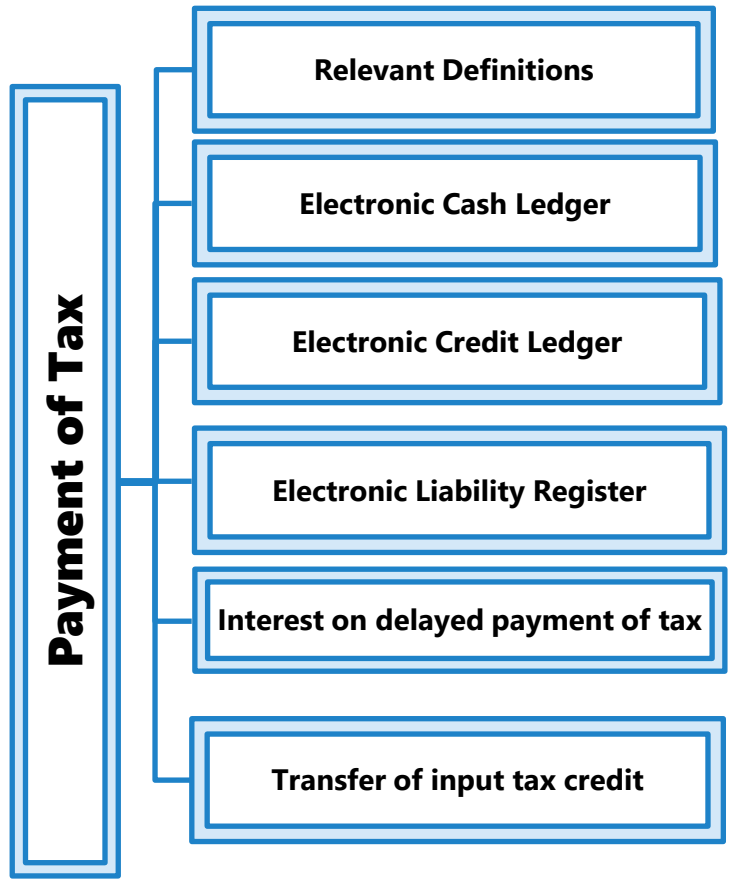
LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- describe three kinds of ledgers/register available to a registered person-electronic cash ledger, electronic credit ledger and electronic liability register.
- understand the methodology of cross utilization of credit.
- comprehend and apply the chronological order in which the liability of a taxable person has to be discharged.
- identify and analyse the circumstances in which penal interest is levied.
- procedure for transfer of input tax credit between Central and State Government

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CHAPTER OVERVIEW



1. INTRODUCTION

In the GST regime, for any intra-state supply, taxes to be paid are the Central GST (CGST), going into the account of the Central Government and the State GST (SGST)/(UTGST), going into the account of the concerned State Government. For any inter-state supply, tax to be paid is Integrated GST (IGST) having components of both CGST and SGST. In addition, certain categories of registered persons will be required to pay to the Government account



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- tax deducted at source (TDS) and tax collected at source (TCS)[1]. In addition, wherever applicable, interest, penalty, fees and any other payment will also be required to be made.

The introduction of E-ledgers is a unique feature under the GST regime. Electronic Ledgers or E-Ledgers are of two types. One set is prepared and updated by the Taxpayer – Electronic Cash Ledger and Electronic Credit Ledger. Second set is prepared and updated on the basis of returns furnished by the Registered person or Tax authority i.e. Electronic Liability register.

Once a taxpayer is registered on common portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an electronic tax liability register will be automatically opened and displayed on his dashboard at all times.

Chapter X of the CGST Act, 2017, prescribes the provisions relating to payment of tax containing sections 49 to 53A. Bird's eye view of coverage under these sections is as under-

- Section 49 discusses the three ledgers namely the electronic cash ledger, electronic credit ledger and electronic liability register,
- Section 49A & 49B discusses about the utilisation of input tax credit and its order of utilisation.
- Section 50 discusses about the interest on delayed payment of tax.
- Section 51 lays down the circumstances in which tax deduction at source (TDS) becomes mandatory.
- Section 52 deals with the circumstances when tax is to be collected at source (TCS) by the Electronic Commerce Operator.
- Further, the manner of transfer of ITC is laid down in section 53 and
- Transfer of certain amounts is discussed in section 53A.

[1]*It may be noted that sections 51 & 52 dealing with provisions relating to TDS & TCS have been discussed in detail in chapter-14 in this Module of the Study Material.*

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Chapter IX of CGST Rules, 2017 containing Rules 85 to 88D deals with provisions relating to payment of tax. Amongst these rules, rule 86A and 86B have already been discussed in detail in Chapter-8: Input tax credit. Rule 88C and Rule 88D will be discussed in Chapter-15: Returns.

Provisions of payment of tax under CGST Act, 2017 have also been made applicable to IGST Act, 2017 vide section 20 of the IGST Act, 2017.

Before proceeding to understand the provisions of section 49, 49A, 49B, 50, 53, 53A & the relevant rules, let us first go through few relevant definitions.

2. RELEVANT DEFINITIONS

- **Agent** means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].
- **Authorised bank** shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act [Section 2(14)].
- **Central Tax** means the central goods and services tax levied under Section 9 [Section 2(21)].
- **Common portal** means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].
- **Council** means the Goods and Services Tax Council established under article 279A of the Constitution [Section 2(36)].
- **Cess** shall have same meaning as assigned to it in the Goods and Service Tax (Compensation to States) Act [Section 2(22)].
- **Electronic Cash ledger** means the electronic cash ledger referred to in sub-section (1) of Section 49 [Section 2(43)].
- **Electronic Credit ledger** means the electronic credit ledger referred to in sub-section (2) of section 49 [Section 2(46)].
- **Integrated tax** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act [Section 2(58)].

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- **Input tax** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
  - ✓ the integrated goods and services tax charged on import of goods;
  - ✓ the tax payable under the provisions of sub-sections (3) and (4) of section 9;
  - ✓ the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;
  - ✓ the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or
  - ✓ the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,

  but does not include the tax paid under the composition levy [Section 2(62)].
- **Input Tax Credit** means the credit of input tax [Section 2(63)].
- **Notification** means a notification published in the Official Gazette and the expression "notify" and "notified" shall be construed accordingly [Section 2(80)].
- **Output tax** in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis [Section 2(82)].
- **Person** includes:-
  - (a) an individual;
  - (b) a Hindu Undivided Family;
  - (c) a company;
  - (d) a firm;
  - (e) a limited liability Partnership;
  - (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

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(g) any corporation established by or under any Central Act, State Act, or Provincial Act or a Government Company as defined in clause (45) of section 2 of the Companies Act, 2013;

(h) any body corporate incorporated by or under the laws of a country outside India;

(i) a co-operative society registered under any law relating to co-operative societies;

(j) a local authority;

(k) Central Government or a State Government;

(l) society as defined under the Societies Registration Act,1860;

(m) trust; and

(n) every artificial juridical person, not falling within any of the above [Section 2(84)].

- **Recipient** of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

- **State Tax** means the tax levied under any State Goods and Services Tax Act [Section 2(104)].

- **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied:

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Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims; [Section 2(105)].

- **Tax Period** means the period for which the return is required to be furnished [Section 2(106]
- **Taxable person** means a person who is registered or liable to be registered under Section 22 or section 24 [Section 2(107)].
- **Valid return** means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full [Section 2(117)].

After going through the various definitions relevant to this Chapter, let us discuss the provisions of Chapter X of the CGST Act, 2017.

3. PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SECTION 49]

	STATUTORY PROVISIONS	
Section 49	**Payment of tax, interest, penalty and other amounts**	
Sub-Section	**Clause**	**Particulars**
(1)	*Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall*	

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	be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.	
(2)	*The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.*	
(3)	*The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in such manner and subject to such conditions and within such time as may be prescribed.*	
(4)	*The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and restrictions within such time as may be prescribed.*	
(5)	*The amount of input tax credit available in the electronic credit ledger of the registered person on account of—*	
	(a)	*integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;*
	(b)	*the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;*
	(c)	*the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;* *Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;*
	(d)	*the Union territory tax shall first be utilised towards payment of Union territory tax and the amount*

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		remaining, if any, may be utilised towards payment of integrated tax; *Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax*
	(e)	*the central tax shall not be utilised towards payment of State tax or Union territory tax; and*
	(f)	*the State tax or Union territory tax shall not be utilised towards payment of central tax.*
(6)	*The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded[2] in accordance with the provisions of section 54.*	
(7)	*All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.*	
(8)	*Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:–*	
	(a)	*self-assessed tax, and other dues related to returns of previous tax periods;*
	(b)	*self-assessed tax, and other dues related to the return of the current tax period;*
	(c)	*any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74* ***or section 74A****;*

[2] Refund means getting back any excess GST. It is primarily on account of exports, unutilised ITC or excess tax paid mistakenly, etc. Detailed provisions are contained in section 54 read with relevant rules, which will be discussed at the Final level.

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(9)		*Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.*
(10)		*A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for,—*
	(a)	*integrated tax, central tax, State tax, Union territory tax or cess; or*
	(b)	*integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act:*
		Provided that, no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.
(11)		*Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).*
(12)		*Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the IGST Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.*
Explanation.—For the purposes of this section,—		
	(a)	*the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;*

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	(b)	*the expression,—*	
		(i)	*"tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and*
		(ii)	*"other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made there under.*
Section 49A	**Utilisation of input tax credit subject to certain conditions**		
	Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.		
Section 49B	**Order of utilisation of input tax credit**		
	Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.		
Section 53	**Transfer of input tax credit**		
	On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49, as reflected in the valid return furnished under sub-section (1) of section 39, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated		

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	tax account in such manner and within such time as may be prescribed.
Section 53A	**Transfer of certain amounts**
	Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the State Goods and Services Tax Act or the Union territory Goods and Services Tax Act, the Government shall, transfer to the State tax account or the Union territory tax account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.



ANALYSIS

A. ELECTRONIC CASH LEDGER [SECTION 49(1),(3),(6),(10)&(11) READ WITH RULE 87 OF CGST RULES]

The Electronic Cash Ledger contains a summary of all the deposits/payments made by a tax payer. Electronic Cash Ledger is maintained on the GST Common Portal.

Any deposit made towards payment of tax, interest, penalty, late fee or any other amount will be credited to the electronic cash ledger. Any debit to the electronic cash ledger represents payment therefrom towards tax, interest, penalty, late fee or any other amount.

The deposit in the electronic cash ledger shall be made through any of the following modes, namely:-

(i) Internet Banking through authorised banks;

(ii) Unified Payment Interface (UPI) from any bank;

(iii) Immediate Payment Services (IMPS) from any bank;

(iv) Credit card or Debit card through the authorised bank;

(v) National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) from any bank; or

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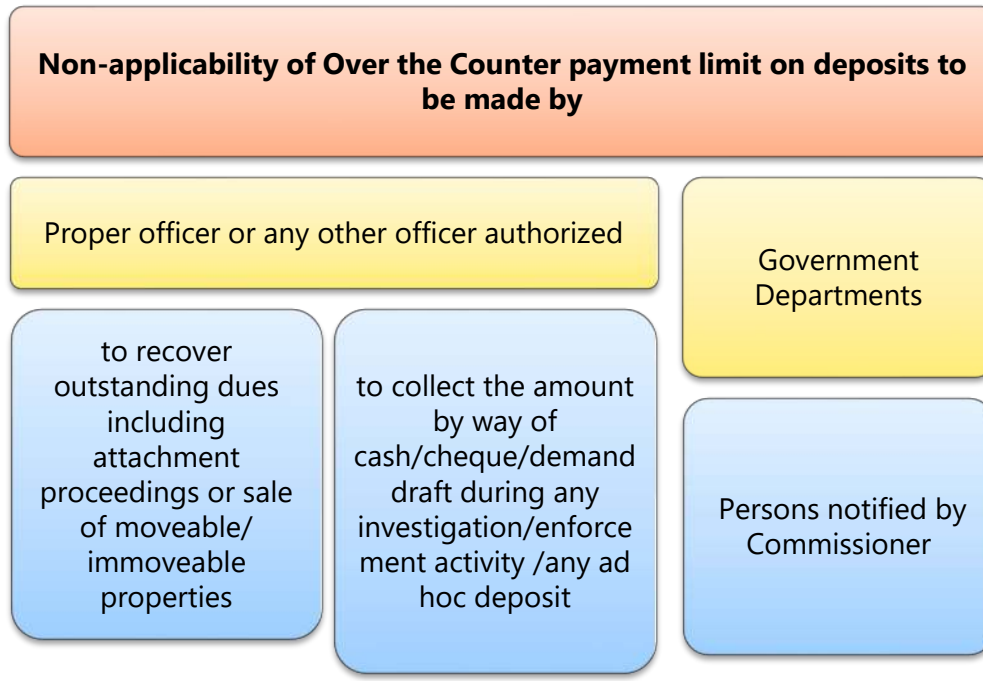
(vi) Over the Counter payment through authorized banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

It may be noted that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter payment will not apply to deposit to be made by –

(a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;

(b) Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;

(c) Proper officer or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit.



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Payment by Challan

❑ What is CPIN, CIN, BRN and E-FPB?

CPIN stands for Common portal Identification Number. It is created for every Challan successfully generated by the taxpayer. It is a 14-digit unique number to identify the challan. CPIN remains valid for a period of 15 days.

CIN or Challan Identification Number is generated by the banks, once payment in lieu of a generated Challan is successful. It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code.

CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant Government account held with them. It is an indication that the payment has been realized and credited to the appropriate Government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

BRN or Bank Reference Number is the transaction number given by the bank for a payment against a Challan.

E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for PAN India transaction.

The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS/IMPS Transactions, RBI will act as E-FPB.

❑ Are manual Challans applicable as allowed under the erstwhile indirect tax regimes?

Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Common Portal.

❑ How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?

There is single Challan prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.

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Other Aspects relating to Challan

- Any person, or a person on his behalf, can generate a challan in prescribed form [Form PMT 06] on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.
- E-challan validity is for 15 days. The commission for making payment through e-challan has to be borne by the person making the payment.
- The mandate form obtained after making NEFT/RTGS/IMPS payment has to be submitted in the Bank. The validity of the mandate form is 15 days.

Validity of challan-15 days

- On successful credit of amount in the concerned (Central/State) Government Account maintained in the authorized bank, a Challan Identification Number (CIN) will be generated by the collecting bank which will be indicated in the challan.
- On receipt of the CIN from the collecting bank, the said amount is credited into the electronic cash ledger of the person on whose behalf the deposit is made and the common portal will generate a receipt to this effect.

  If CIN is not generated even after making payment and submission of mandate form or when after generation, it has not been reflected in the common portal, the person making the deposit or the person on whose behalf the deposit has been made, can make a representation in prescribed form i.e. FORM GST PMT-07 through the common portal or e-gateway through which the payment has been made.
- Where the bank fails to communicate details of Challan Identification Number to the common portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the RBI in cases where the details of the said e-Scroll are in conformity with the details in challan generated in Form GST PMT-06 on the common portal.
- Date of credit into the treasury of the State Government/Central Government is deemed to be the date of debit in the electronic cash ledger and not the actual date of deposit of amount in the electronic cash ledger of the taxable person.

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- Any amount deducted under section 51 [TDS] or collected under section 52 [TCS] and claimed by the registered taxable person from whom the said amount was deducted or collected shall be credited to his electronic cash ledger.
- In case any discrepancy is noticed in electronic cash ledger, the registered person shall communicate the same to the officer exercising jurisdiction in the matter, through the common portal in prescribed form
- An unregistered person has to make payment through electronic cash ledger on the basis of temporary identification number generated through common portal.

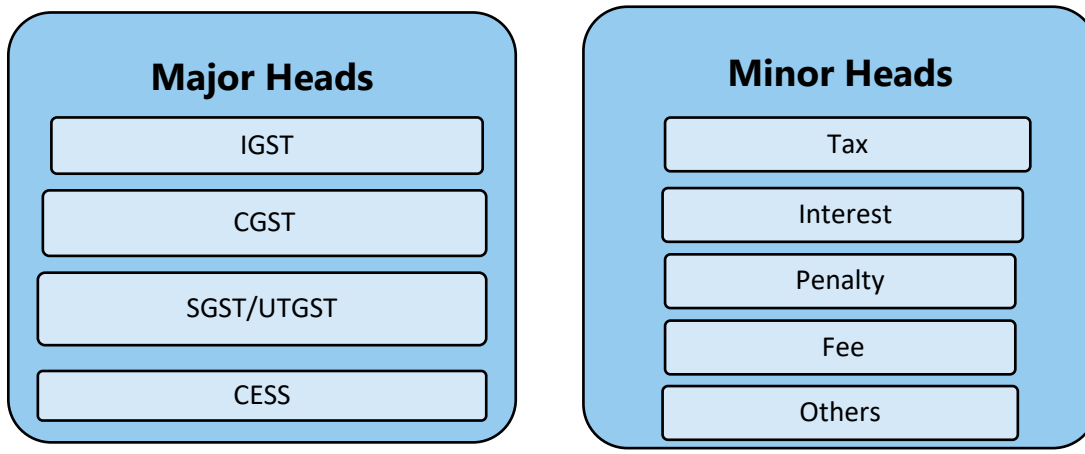
Manner of utilization of amount reflected in Electronic Cash Ledger

Sub-section 3 of section 49 of the CGST Act lays down the following:

The amount reflected in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fee, or any other amount in the prescribed manner.

In the e-ledger, information is kept minor head-wise for each major head. The ledger is displayed major head-wise i.e., IGST, CGST, SGST/UTGST, and CESS. Each major head is divided into five minor heads: Tax, Interest, Penalty, Fee, and Others.

A registered taxpayer can make cash deposits in the recognized Banks through the prescribed modes to the Electronic Cash Ledger using any of the Online or Offline modes permitted by the GST Portal. The Cash deposits can be used for making payment(s) like tax liability, interest, penalties, fee, and others.



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Transfer of amount reflected in Electronic Cash Ledger

Sub-sections (10) and (11) of section 49 of the CGST Act, 2017 facilitates a registered person to transfer an amount from one (major/minor) head to another (major/minor) head in the electronic cash ledger or to transfer any amount available in the electronic cash ledger, to the electronic cash ledger for IGST/CGST of a distinct person, provided there is no unpaid liability in his electronic liability register.

The amount available in the electronic cash ledger can be utilised for payment of any liability for the major and minor heads. For instance, if the registered person has made a deposit of tax erroneously i.e. by virtue of human error, under a particular head instead of a specific head, the same can be transferred to the respective intended head vide Form GST PMT-09.

Further, a registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger to the electronic cash ledger for central tax or integrated tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25, in Form GST PMT-09.

However, no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

This Form can be used either for -

(i) transfer of erroneous deposits under any minor head of a major head to any other minor head of same or other major heads or

(ii) transfer of any of the amounts already lying unutilised under any of the minor heads in Electronic Cash ledger or

(iii) transfer of any amount lying in the electronic cash ledger to the electronic cash ledger for CGST/IGST of a distinct person

For instance, a registered person has deposited a sum of ₹ 1,000 under the head of "Interest" column of CGST & ₹ 1,000 under the head of "Interest" column of SGST, instead of the head "Fee". Such amount can be transferred using Form GST PMT-09 for making a transfer to the head "Fee". The said transfer is required using the above Form PMT 09, because when the registered person has to make the remittance of Tax/Interest/Penalty/Fee/Other amount at a stage "Offset Liabilities" in any of the GST Returns/ Forms for Tax payments through Electronic Cash Ledger, adequate amount should be available under the respective head of account.

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Section 53A of the CGST Act and section 17A of the IGST Act provides for transfer of amount between Centre and States in accordance with section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.

ILLUSTRATION 1

M/s. Daksha Enterprises has made a cash deposit of ₹ 10,000 under minor head 'tax' of major head 'SGST'. It has a liability of ₹ 2,000 for minor head "Interest" under the major head "SGST".

State whether M/s. Daksha Enterprises can utilise the amount available for payment of interest.

ANSWER

The registered person is allowed to transfer the amount available under any minor head of a major head to any of the minor head of the same or other major head as per Section 49(10) of the CGST Act vide Form PMT-09.

Therefore, in the given case, amount of ₹ 10,000 available under minor head 'tax' of major head 'SGST' can be utilised for payment of liability of ₹ 2,000 under minor head 'interest' of the same major head, after making a due transfer entry using Form GST PMT-09 from the minor head of 'tax' to 'interest'.

B. ELECTRONIC CREDIT LEDGER [SECTION 49(2),(4)&(5), SECTION 49A, SECTION 49B READ WITH RULE 86, RULE 86A, RULE 86B AND RULE 88A OF CGST RULES]

Sub-section (2) of section 49 of the CGST Act provides that the self-assessed **input tax credit (ITC)** by a registered person shall be credited to his Electronic Credit Ledger.

Non-utilisation of ITC for tax liability under reverse charge mechanism

The amount available in the electronic credit ledger may be used for making any payment towards output tax under CGST or IGST. It is pertinent to note that "output tax" [as defined in Section 2(18)] in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods and/or services made by

Input Tax Credit as self-assessed in monthly returns will be reflected in the Electronic Credit Ledger. The credit in this ledger can be used to make payment of ONLY TAX and not for other amounts such as interest, penalty, fees etc.

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him or by his agent but excludes tax payable by him on reverse charge basis. Thus, ITC cannot be utilised for tax payable under reverse charge mechanism.

Manner of utilisation of ITC [Combined reading of section 49(5), 49A, 49B, rule 88A and Circular No. 98/17/2019 GST dated 23.04.2019][3]

Output / Input	IGST	CGST	SGST/UTGST
IGST	(1)	(2) [refer1(i)]	(2) [refer1(i)]
CGST	(2) [refer 2 & 3(i)]	(1) [refer 2 & 3]	Not allowed
SGST/ UTGST	(2) [refer 2 & 4(i)]	Not allowed	(1) [refer 2 & 4]

1. Available IGST credit in the credit ledger should first be utilized towards payment of IGST.

   Remaining amount, if any, can be utilized towards the payment of CGST and SGST/UTGST in any order and in any proportion, i.e. ITC of IGST can be utilized either against CGST or SGST.

2. Entire ITC of IGST is to be fully utilised first before the ITC of CGST or SGST/UTGST can be utilized.

3. Available CGST Credit in the credit ledger shall first be utilized for payment of CGST.

   Remaining amount if any, will be utilized for payment of IGST

4. Available SGST /UTGST credit in the credit ledger shall first be utilized for payment of SGST/UTGST.

   Remaining amount if any, will be utilized for payment of IGST, only when credit of CGST is not available for payment of IGST

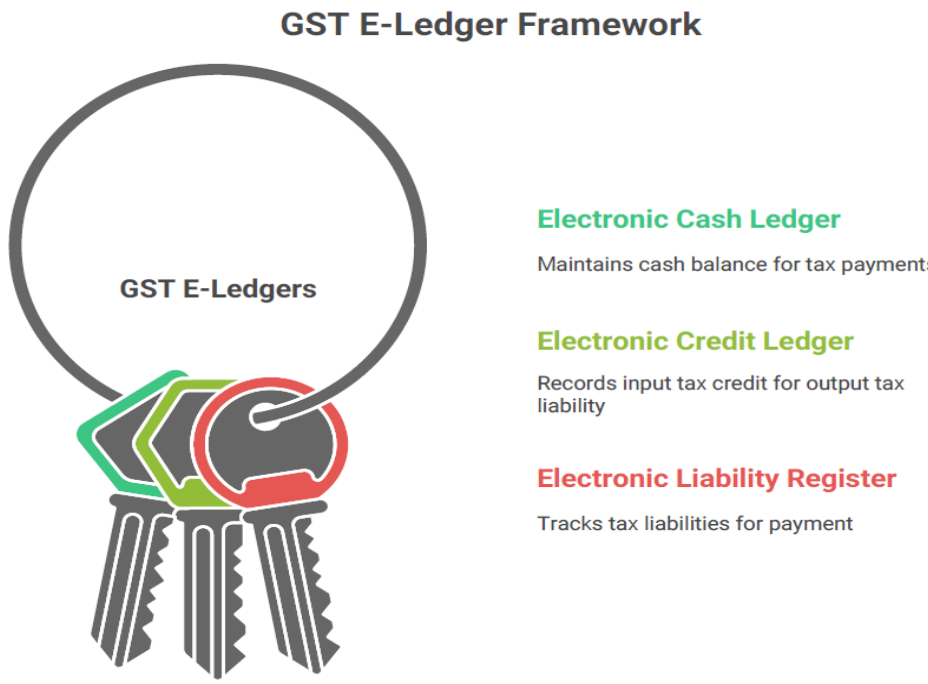
CGST credit cannot be utilized for payment of SGST/UTGST.
Similarly, SGST/UTGST credit cannot be utilized for payment of CGST.

[3] *The detailed provisions have already been discussed in Chapter-8: "Input tax credit".*

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Conditions of use of amount available in electronic credit ledger [Rule 86A]

In case the Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, has **reasons to believe** that ITC available in the electronic credit ledger has been fraudulently availed or is ineligible, he may, after recording reasons in writing, prohibit use of ITC for discharge of any liability under section 49 or for claim of any refund[4] of any unutilised amount. *[Such provisions have already been discussed in detail in Chapter 8: Input Tax Credit.]*



Restrictions on use of amount available in electronic credit ledger [Rule 86B]

Rule 86B restricts the amount available in electronic credit ledger which a registered person can use to discharge his output tax liability to 99% of such tax liability in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds ₹ 50 lakh. *[Such provisions have already been discussed in detail in Chapter 8: Input Tax Credit.]*

[4] *Refund means getting back any excess GST. It is primarily on account of exports, unutilised ITC or excess tax paid mistakenly, etc. Detailed provisions are contained in section 54 read with relevant rules, which will be discussed at the Final level.*

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Other Aspects of Electronic Credit Ledger

- In case any discrepancy is noticed in the electronic credit ledger, the registered person shall communicate the same to the officer exercising jurisdiction in the matter, through the common portal in prescribed form.
- No entry shall be made directly in the electronic credit ledger under any circumstance except as provided in the provisions.

Common Points for Electronic Cash & Credit Ledger

- Where a person has claimed refund of any amount from the electronic cash or credit ledger, the said amount shall be debited to the electronic cash or credit ledger.
- If the refund so claimed is rejected, either fully or partly, the amount debited earlier, to the extent of rejection, shall be credited to the electronic cash or credit ledger by the proper officer by an order made in prescribed form.
- A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger.
- Similarly, the unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.

Clarifications[5] regarding utilization of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities:-

Issue 1:

Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?

Clarification:

In terms of section 49(4), the amount available in the electronic credit ledger may be used for making any payment towards output tax under the CGST Act or the IGST Act, subject to the provisions relating to the order of utilisation of ITC as laid down in section 49B read with rule 88A.

[5] *vide Circular No. 172/04/2022 GST dated 06.07.2022*

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Rule 86(2) provides for debiting of the electronic credit ledger to the extent of discharge of any liability in accordance with the provisions of section 49/49A/49B.

Further, output tax in relation to a taxable person (i.e. a person who is registered or liable to be registered under section 22 or section 24) is defined in section 2(82) as the tax chargeable on taxable supply of goods or services or both but excludes tax payable on reverse charge mechanism.

Accordingly, it is clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.

It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.

Issue 2:

Whether the amount available in the electronic credit ledger can be used for making payment of any liability other than tax under the GST laws?

Clarification:

As per section 49(4), the electronic credit ledger can be used for making payment of output tax only under the CGST Act or the IGST Act. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said Acts.

Issue 3:

Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST laws?

Clarification:

As per section 49(3), the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the GST laws.

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C. ELECTRONIC LIABILITY REGISTER [SECTION 49(7), (8) & (9) READ WITH RULE 85 OF CGST RULES]

Sub-section (7) of section 49 enumerates about the third kind of ledger [Auto updated on common portal] viz. **Electronic Liability Register**. While the terms "Electronic Cash Ledger" and "Electronic Credit Ledger" are defined in the Act, the term "Electronic Liability Register" is not defined. The Section lays down that all liabilities of a taxable person will be recorded & maintained in a separate register named 'Electronic Liability Register'.

❑ Order of discharge of tax and other dues

Sub-section (8) prescribes the chronological order in which the liability of a taxable person has to be discharged:

Electronic Liability Register will reflect the total tax liability of a taxpayer for a particular tax period.

- ✓ self -assessed tax and other dues for the **previous tax periods** have to be discharged first.
- ✓ self-assessed tax and other dues for the **current tax period** have to be discharged next.
- ✓ Once these two steps are exhausted, thereafter any other amount payable including **demand determined under section 73 or section 74 *or section 74A***[6] to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last. This sequence has to be mandatorily followed.

The expression "other dues" referred above mean interest, penalty, fee or any other amount payable under the Act or the rules made there under.

[6] ***The provisions of section 74A contain provisions relating to determination of tax not paid/short paid or erroneously refunded or ITC wrongly availed/utilized for any reason pertaining to Financial Year 2024-25 onward. Detailed provisions of section 74A will be discussed at the Final level. The provisions of sections 73 and 74 are applicable for tax determination relating to the past period up to the Financial Year 2023–24.***

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❑ Presumption that incidence of tax is passed on

Sub-section (9) of Section 49 contains a deeming clause. This part of the section provides that when a taxable person has paid the GST under the corresponding Act, the taxable person is deemed to have passed on the incidence of such payment of tax to the recipient of such goods and /or services. Thus, if tax has been paid under the CGST Act, 2017, then the taxable person is deemed to have passed on the incidence of such payment of CGST to the recipient.

❑ Chapter IX of CGST Rules provide the following:

(I) Debit to electronic liability register:

- all amounts payable towards tax, interest, late fee and any other amount as per return filed;
- all amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by a proper officer or as ascertained by the said person;
- any interest amount that may accrue from time to time.

(II) Debit to Electronic Credit/Cash ledger:

Debit to Electronic Credit Ledger and Credit to Electronic Liability Register	Debit to Electronic Cash Ledger and Credit to Electronic Liability Register
Payment of all the liabilities of a registered person as per his return subject to section 49 or section 49A or section 49B.	Payment of all the liabilities of a registered person as per his return subject to section 49 or section 49A or section 49B.
	Payment of TDS deducted under section 51, TCS deducted by e-commerce operator under section 52, amount payable under reverse charge basis, amount payable under section 10, amount payable towards payment of interest, penalty, fee or any other amount under the Act.

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❑ **How do the payment systems benefit the taxpayer and the Commercial Tax Department?**

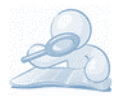
- ✓ No more queues and waiting for making payments as payments can be made online 24 X 7.
- ✓ Instant online receipts for payments made online.
- ✓ Tax Consultants can make payments on behalf of the clients.
- ✓ Single Challan form to be created online, replacing the three or four copy Challan.
- ✓ Revenue will come earlier into the Government Treasury as compared to the old system.
- ✓ Greater transparency.
- ✓ Online payments made after 8 pm will be credited to the taxpayer's account on the same day.

4. INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]

	STATUTORY PROVISIONS
Section 50	**Interest on delayed payment of tax**
Sub-section	**Particulars**
(1)	*Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.*

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	Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 ***or section 74A*** *in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger*
(2)	*The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.*
(3)	*Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding 24% as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.*



ANALYSIS

To promote greater discipline amongst taxpayer and timeliness in payment of tax, the tax dues which are not paid within the stipulated time are made liable to interest payment. This mechanism is automatic in nature by virtue of the provisions laid under any tax laws. Interest liability is imposed on taxpayer who has withheld the payment of any tax as and when it is due and payable. Basically, it is compensatory in character and totally different from penalty which is penal in character.

On similar lines, section 50 of the CGST Act, 2017 provides for applicability of interest for default in payment of taxes within the stipulated time. Under GST law, a registered person, can make the payment of tax through electronic credit ledger or electronic cash ledger in terms of section 49 of CGST Act, 2017. Usually, the balance in electronic credit ledger is exhausted first (subject to provisions of rule 86B) before utilizing the balance available in the electronic cash ledger. This practice is adopted for a better working capital management.

In case a registered person does not have sufficient amount available in electronic credit ledger to pay the tax dues for a particular tax period and also if the registered

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person does not have sufficient money for making deposit of balance tax amount in electronic cash ledger then in such a situation, GST common portal doesn't have a mechanism to allow a registered person to make part payment of taxes.

If the law maker demands tax dues along with interest on the gross payments i.e. tax paid through electronic cash ledger and credit ledger both, it may be an unhealthy practice from business perspective. To counter such recovery mechanism, the proviso under Section 50 provides that when a registered person has paid his taxes through a return specified under Section 39 of CGST Act, 2017 belatedly, interest shall be applicable only on the net taxes paid through electronic cash ledger and not on the gross taxes paid for such tax period.

As per the said proviso, the interest, in cases where the tax return has been furnished after the due date (but furnished before commencement of proceedings under section 73 or section 74 ***or section 74A***), shall be levied on that portion of the output tax which is being paid by debiting the electronic cash ledger. This means that the interest liability shall not arise on that portion of the output tax liability which is paid using the ITC available in the electronic credit ledger.

Accordingly, interest if any payable by the registered person for delay in remittance of taxes beyond the stipulated due date on account of delay in filing of return under section 39, shall be demanded only on the net cash liability of taxes and not on the gross tax liability.

❑ When interest is payable?

Interest is payable in case of delay in payment of tax, in full or in part within the prescribed period.

❑ Rate of interest

The rate of interest shall be notified by the Government on the basis of recommendation of the Council. However, such rate to be notified **shall not exceed** 18% in case of belated payment of tax i.e. on failure to pay tax (or part of tax) to the Government's account and in case of wrongful availment and utilization of input tax credit[7].

[7] *Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 18% per annum.*

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❑ Computation of period for calculation of interest

Generally, the period of interest will be from the date following the due date of payment to the actual date of payment of tax.

❑ Manner of calculating interest on delayed payment of tax [Rule 88B]

In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 ***or section 74A*** in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under section 50(1).

However, where any amount has been credited in the Electronic Cash Ledger as per provisions of section 49(1) on or before the due date of filing the said return, but is debited from the said ledger for payment of tax while filing the said return after the due date, the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.

In all other cases, where interest is payable under section 50(1), the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid at the rate specified under section 50(1).

Where interest is payable on the amount of ITC wrongly availed and utilised in accordance with section 50(3), the interest shall be calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount at the rate specified under section 50(3).

The explanation to the rule lays down that-

(i) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

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(ii) the date of utilisation of such input tax credit shall be taken to be-

(a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or

(b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

❑ **Other relevant points relating to interest**

✓ The term "tax" here means the tax payable under the Act or Rules made thereunder.

✓ The payment of interest in case of belated payment of tax should be made voluntarily i.e. even without a demand.

✓ The interest payable under this section shall be debited to the Electronic Liability Register.

✓ The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger **but not with balance in electronic credit ledger.**

Clarification on charging of interest under section 50(3) in cases of wrong availment of IGST credit and reversal thereof[8]

The issues which arose for consideration are as to:

(i) whether in the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B, whether the balance of ITC available in electronic credit ledger (ECL) under the head of IGST only needs to be considered or total ITC available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.

Since the amount of ITC available in ECL, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total ITC available in ECL, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B and for determining as to whether the balance in the ECL has fallen below the amount

[8] *Circular No. 192/04/2023 GST dated 17.07.2023*

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of wrongly availed ITC of IGST, and to what extent the balance in ECL has fallen below the said amount of wrongly availed credit.

Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under section 50(3) if, during the time period starting from such availment and up to such reversal, the balance of ITC in the ECL, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in ECL individually falls below the amount of such wrongly availed IGST credit.

However, when the balance of ITC, under the heads of IGST, CGST and SGST of ECL taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in ECL under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest as per section 50(3) read with section 20 of the IGST Act, 2017 and of rule 88B(3).

(ii) whether the credit of compensation cess available in ECL shall be taken into account while considering the balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit.

Since ITC in respect of compensation cess can be utilised only towards payment of compensation cess. Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads. Accordingly, credit of compensation cess available in ECL cannot be taken into account while considering the balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit.

ILLUSTRATION 2

Mr. Alok, a registered supplier of taxable goods, filed GSTR 3B for the month of January, 2024 on 15th April, 2024. The prescribed due date to file the said GSTR 3B was 20th February, 2024. The amount of net GST payable, in Cash i.e. Electronic Cash Ledger on supplies made by him for the said month worked out to be ₹36,500 which was paid on 15th April, 2024. Briefly explain the related provisions and compute the amount of interest payable under the CGST Act, 2017 by Mr. Alok. Ignore the effect of leap year, if applicable in this case.

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ANSWER

Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax**.**

Thus, the amount of interest payable by Mr. Alok is as under:-

Period of delay = 21st February, 2024 to 15th April, 2024 = 54 days

Hence, amount of interest = ₹ 36,500 x 18% x 54/365 = ₹ 972

ILLUSTRATION 3

ABC Ltd., have filed their GSTR-3B for the month of July, 2024 within the due date prescribed under Section 39 i.e. 20.08.2024. Post filing of the return, the registered person has noticed during September 2024 that tax dues of ₹ 40,000 for the month of July, 2024 have not been paid. ABC Ltd., has paid the above amount of ₹ 40,000, through GSTR-3B of September 2024, filed on 20.10.2024 [payment through Cash ledger - ₹ 30,000 and Credit ledger ₹ 10,000]. Examine the Interest payable under the CGST Act, 2017.

What would be your answer if, GSTR-3B for the month of July 2024 has been filed belatedly on 20.10.2024 and the self-assessed tax of ₹ 40,000/- has been paid on 20.10.2024 [payment through electronic cash ledger - ₹ 30,000 and electronic credit ledger ₹ 10,000]

Notes:

- *No other supply has been made nor tax payable for the month of July, 2024 other than ₹ 40,000/- missed out to be paid on forward charge basis*
- *Ignore the effect of leap year, if applicable in this case.*

ANSWER

Interest is payable under Section 50 of the CGST Act, 2017 in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

As per proviso to sub-section (1) of Section 50, interest is payable on the net tax liability paid in cash, only if the return to be filed for a tax period under Section 39, has been filed after the due date to furnish such return.

In the above scenario, ABC Ltd., has defaulted in making the payment for ₹ 40,000 on self-assessment basis in the return for the month of July, 2024.

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Accordingly, interest is payable on the gross liability and proviso of sub-section 50(1) shall not be applicable.

Thus, the amount of interest payable by ABC Ltd., is as under:-

Period of delay = 21st August, 2024 to 20th October, 2024 = 61 days

Hence, amount of interest = ₹ 40,000 x 18% x 61/365 = ₹ 1,203

Alternatively, if ABC Ltd., have filed the return for the month of July, 2024 on 20.10.2024, beyond the stipulated due date of 20.08.2024 and if the self-assessed tax for July, 2024 has been paid on 20.10.2024, Interest under proviso to Section 50(1) shall be payable on the tax paid through Electronic Cash Ledger only.

Hence Interest is payable from 21st August 2024 till 20th October 2024 = 61 days

Amount of Interest = ₹ 30,000 x 18% x 61/365 = ₹ 902

5. TRANSFER OF INPUT TAX CREDIT [SECTION 53 OF CGST ACT & SECTION 18 OF IGST ACT]

If the amount of CGST is utilised towards dues of IGST then, in terms of section 53 of the CGST Act, there shall be reduction in the amount of CGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in CGST account to the IGST account.

Similarly, if the amount of IGST is utilised towards dues of CGST/UTGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in IGST account to the CGST/UTGST account.

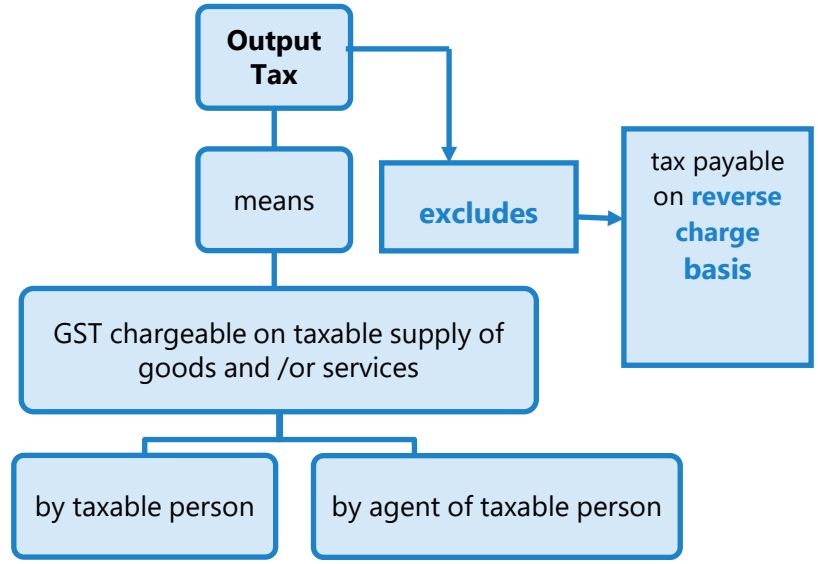
However, if the amount of IGST is utilised towards dues of SGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and will be apportioned to the 'appropriate State' Government and the Central Government shall transfer the amount so apportioned to the account of the respective State Government. Here, "appropriate State" in relation to a taxable person, means the State or Union territory where taxable person is registered or is liable to be registered under the provisions of the Central Goods and Services Tax Act.

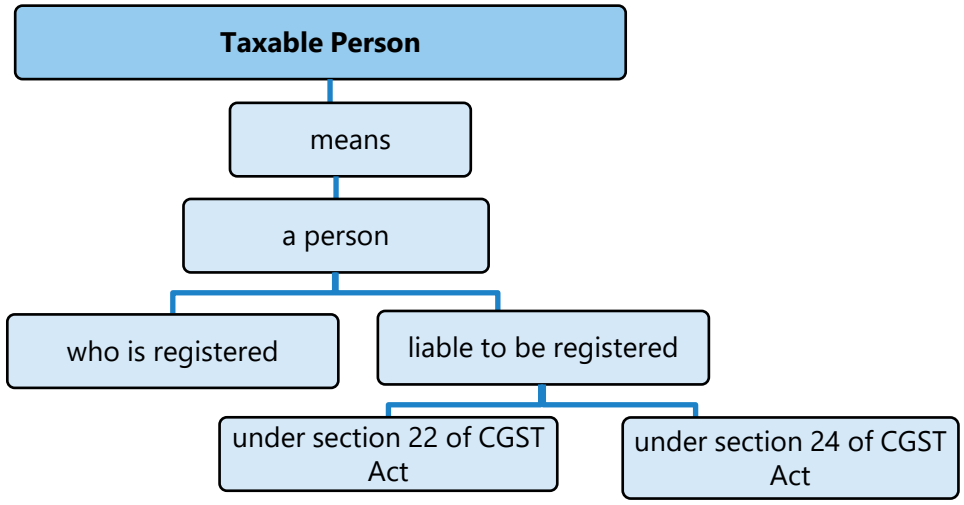
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LET US RECAPITULATE

The provisions relating to payment of tax, interest and other amounts have been summarised by way of table and diagrams to help students remember and retain the provisions in a better and effective manner:-

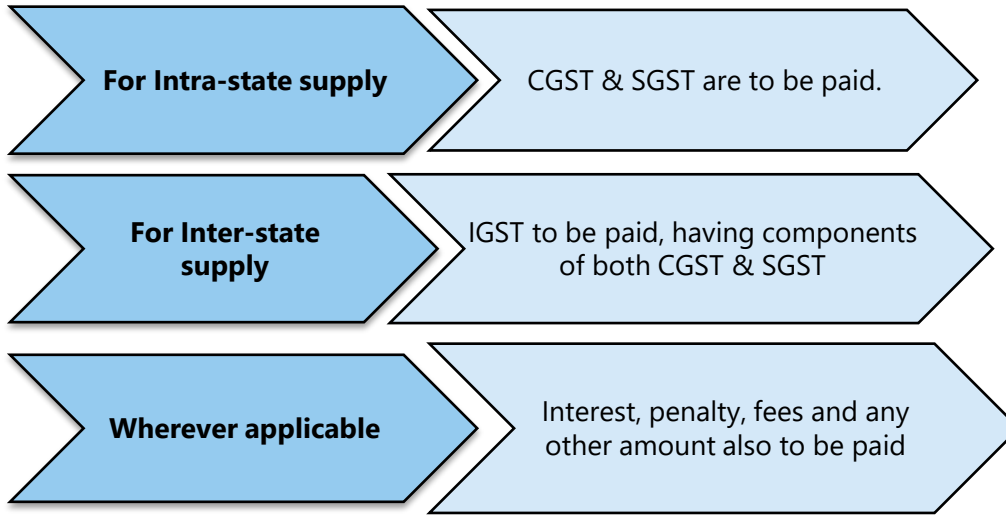
Definitions of certain key terms





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Payments to be made in GST regime



Key Features of Payment process

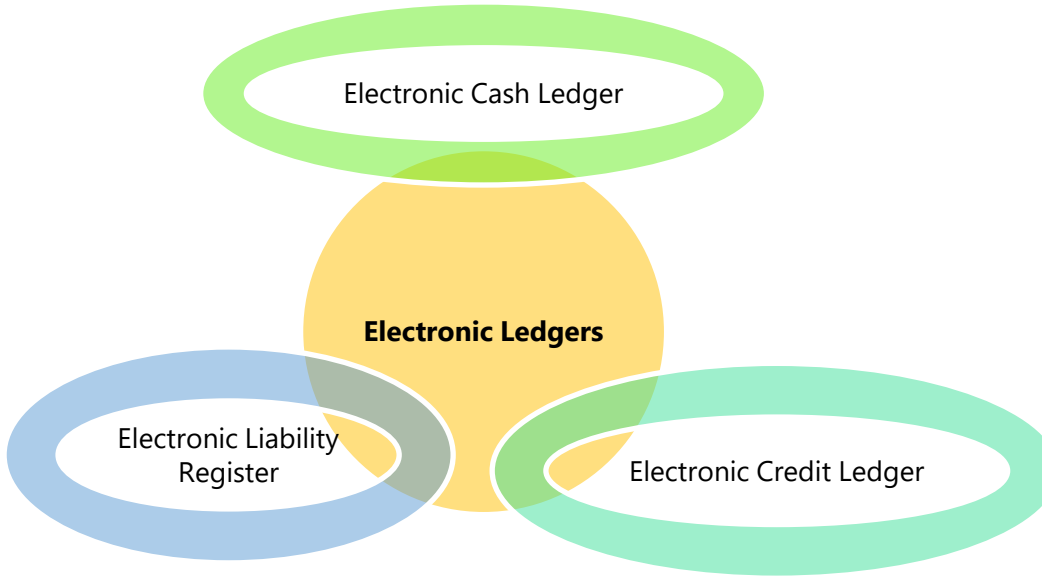
- Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;
- Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;
- Convenience of making payment online;
- Real time data for tax collection in electronic format;
- Faster remittance of tax revenue to the Government Account;
- Paperless transactions;
- Speedy Accounting and reporting;
- Electronic reconciliation of all receipts;
- Simplified procedure for banks;
- Warehousing of Digital Challan.

What are E-Ledgers/register?

Electronic ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic liability register.

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Types of Electronic ledgers/register



A. Electronic Cash Ledger



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Modes of deposit in Electronic cash ledger

Interned banking	• No limit
Credit/Debit card	• No limit
UPI	• No limit
NEFT/RTGS/IMPS	• No limit
Over the counter	• ₹ 10,000 per challan per tax period

Date of deposit of tax dues

Which date is considered as date of deposit of the tax dues ?		
(i)	Date of presentation of cheque	×
(ii)	Date of payment	×
(iii)	Date of credit of amount in the account of government by Debit of Electronic Cash Ledger/Electronic credit ledger	√

Major and minor Heads of payment

Major Heads
- IGST
- CGST
- SGST/UTGST
- CESS

Each of these Major Heads have the five following Minor Heads

Minor Heads
- Tax
- Interest
- Penalty
- Fee
- Others

Cross utilization of funds across major or minor heads - Possible

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B. Electronic credit ledger

Order of utilisation of input tax credit available in electronic credit ledger

ITC	Order of utilisation	
	(1)	(2)
IGST	IGST	CGST/SGST/UTGST- any order
ITC of IGST to be completely exhausted first, mandatorily		
CGST	CGST	IGST
ITC of CGST has been utilized fully before utilizing SGST for payment of IGST		
SGST/UTGST	SGST/UTGST	IGST

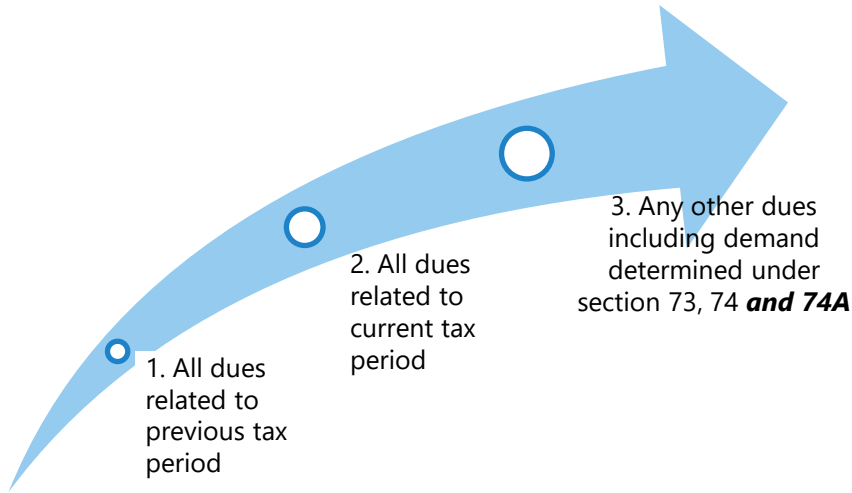


The CGST credit cannot be utilized for payment of SGST/UTGST.

The SGST/UTGST credit cannot be utilized for payment of CGST.

C. Electronic liability register

Order of discharge of liability of taxable person



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Manner of making payment

Through debit of Electronic Credit Ledger	In cash, by debit in the Electronic Cash Ledger
Through debit of Credit Ledger of the tax payer maintained on the Common portal – ONLY Tax can be paid.	Payment can be made in cash, by debit in the Cash Ledger of the tax payer maintained on the common portal.

E-Ledgers/Register

Electronic Cash Ledger

- It will reflect all deposits made in cash, and TDS/TCS made on account of the tax payer.
- This ledger can be used for making **ANY PAYMENT** towards tax, interest, penalty, fees or any other amount on account of GST.

Electronic Credit Ledger

- It will reflect Input Tax Credit as self-assessed in monthly returns.
- The credit in this ledger can be used to make payment of **ONLY TAX** i.e. output tax and not other amounts such as interest, penalty, fees etc.

Electronic Liability Register

- Electronic Liability Register will reflect the total tax liability of a taxpayer (after netting) for the particular month.

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Payment of tax via Electronic Ledger

A. Electronic Cash Ledger

(Assume it as an account statement provided by bank, for easy understanding)

Debit Amount (DR)	Credit Amount (CR)
• Credit amount of this ledger may be used for payment of tax, interest, fees etc. • Remaining credit balance amount after payment of above tax etc can be claimed as refund by taxable person	• Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, IMPS, fund transfer etc. • TDS/TCS claimed

B. Electronic Credit ledger

Debit Amount (DR)	Credit Amount (CR)
• Credit amount of this ledger may be used for payment of output tax viz IGST, CGST, SGST, UTGST, CESS	• Input Tax credit as self-assessed in the return in the form of IGST, CGST, SGST, UTGST, CESS

C. Electronic Liability Register

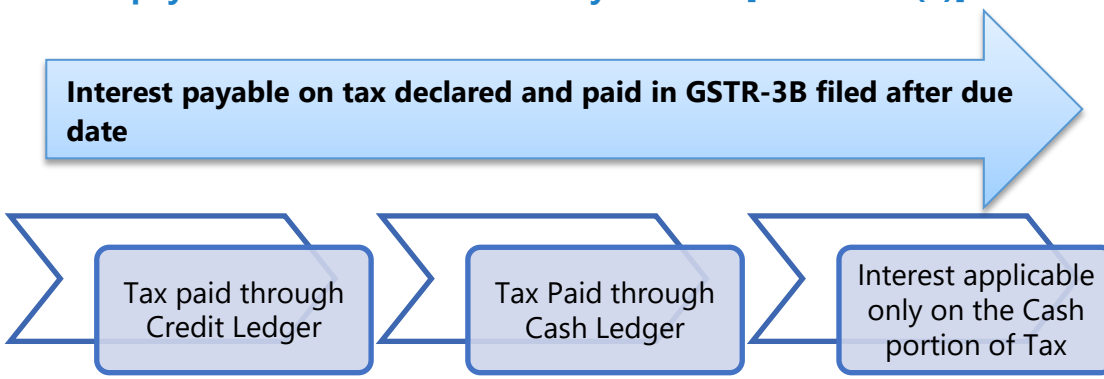
Debit Amount (DR)	Credit Amount (CR)
• Amount payable towards tax, interest, fees etc. • Tax or interest payable • Any other dues	• Electronic cash ledger
• Amount payable towards output tax	• Electronic credit ledger

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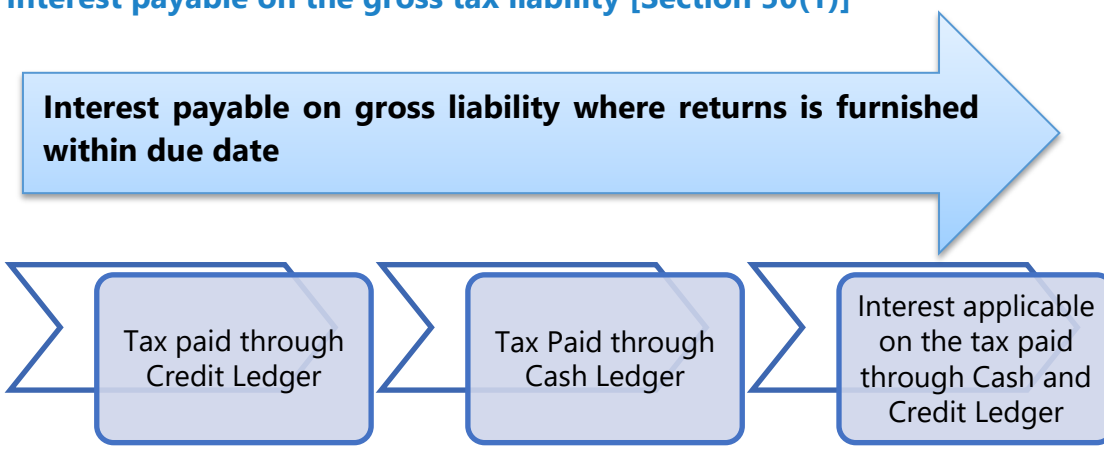
Interest on delayed payment of tax [Section 50]



Interest payable on the net cash liability of taxes [Section 50(1)]

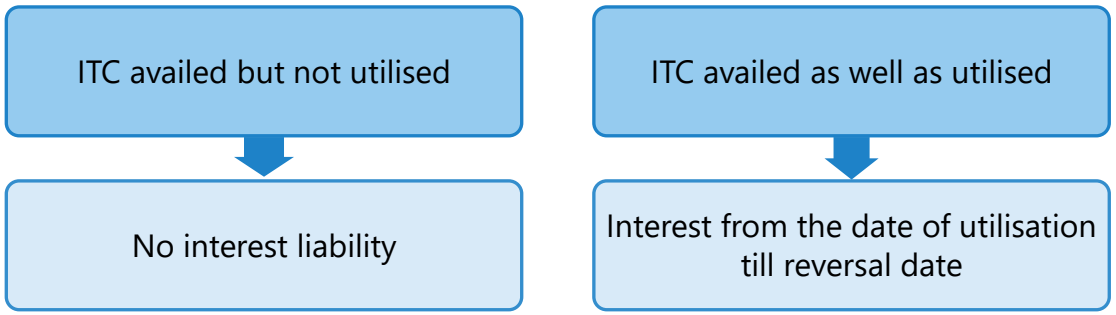


Interest payable on the gross tax liability [Section 50(1)]

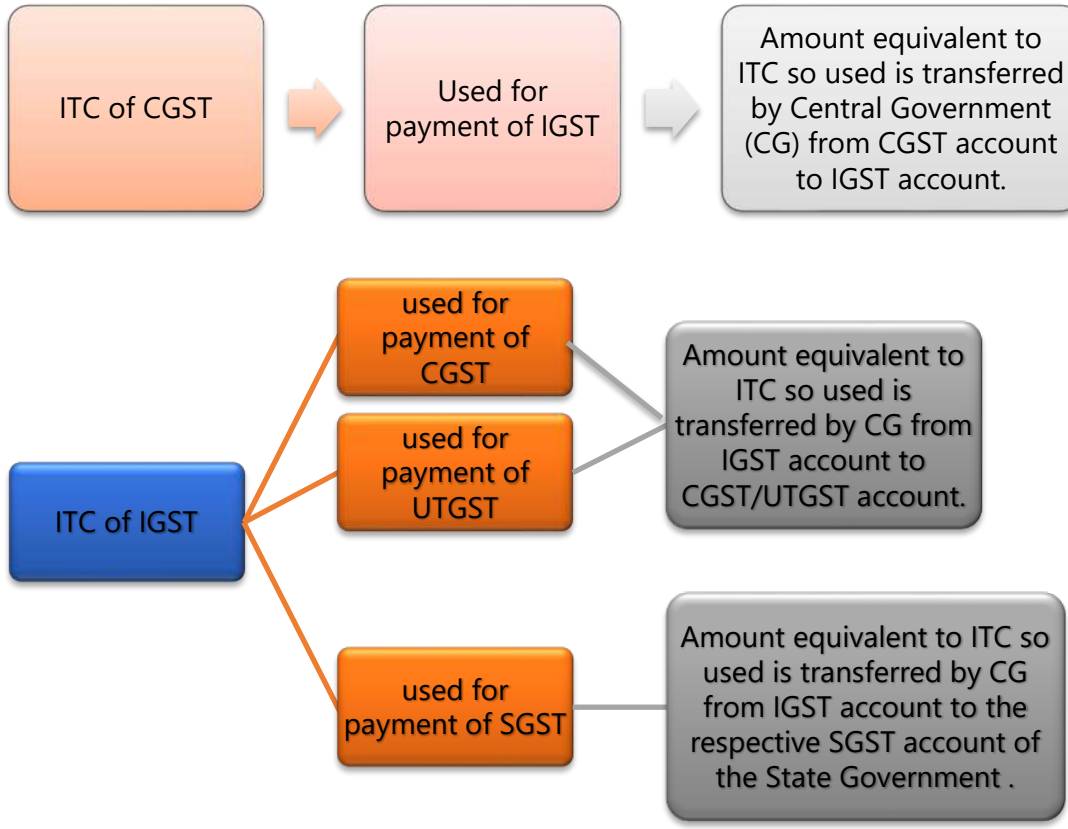


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Interest payable due to wrongful availment and utilisation of ITC [Section 50(3)]



Transfer of input tax credit [Section 53 of CGST Act & section 18 of IGST Act]



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TEST YOUR KNOWLEDGE

1. *How many types of electronic ledger/register are being maintained on GST common portal?*
2. *What are the main features of GST payment process?*
3. *Are principles of unjust enrichment applicable for payment of tax made under GST?*
4. *State the name of output tax under GST, where any of the input tax credit under GST can be utilized?*
5. *Mr. A has deposited a sum of ₹30,000 under minor head of "Interest" column for the major head "IGST". At the time of filing GSTR-3B for a particular tax period, he noticed that there is no sufficient amount under the minor head 'Tax' towards payment of ₹30,000. When approached with the consultant, Mr. A was guided to deposit the tax amount under proper head of account and claim a refund for the remittance of amount deposited under head "interest". Examine the relevant provisions of CGST Act, 2017 towards payment of tax and compliance with the law.*
6. *M/s ABC & Co. have defaulted in filing the return under Section 39 of CGST Act, 2017 i.e. GSTR-3B for the month of March within the specified due date. Reason for such delay is attributable to delay in closure of books for March, which have been finalised during May. The GST Common portal prompted for payment of late fees payable under Section 47 of CGST Act, 2017 for a sum of ₹2,000 under CGST and SGST each. Accountant, of M/s ABC & Co., sought your confirmation for payment of such late fees through the balance available in Electronic Credit Ledger Give your guidance in this regard*
7. *Sahil is a supplier of taxable goods in Karnataka. He got registered under GST in the month of September and wishes to pay his IGST liability for the month. Since he is making the GST payment for the first time, he is of the view that he needs to mandatorily have the online banking facility to make payment of GST; offline payment is not permitted under GST. You are required to apprise Sahil regarding the various modes of deposit in the electronic cash ledger. Further, advise him with regard to following issues:*

   (a) Are manual challans allowed under GST?

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(b) *What is the validity period of the challan?*

(c) *Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?*

8. *Suhasini is a registered software consultant. On account of her ill health, she could not provide any services during the month of October. However, she had to incur all the expenses relating to her office. She paid ₹ 75,000 to various vendors. The total input tax involved on the goods and services procured by her is ₹ 13,500. Out of the total bills paid by her, one bill for ₹ 15,000 relates to security services availed for security of her office, tax on which is payable under reverse charge. Input tax involved in such bill is ₹ 2,700.*

Suhasini is of the opinion that for the month of October, no GST is payable from electronic cash ledger as she has sufficient balance of ITC for payment of GST under reverse charge on security services.

Do you think Suhasini is right? Explain with reasons assuming provisions of rule 86B are not applicable.



ANSWERS

1. (a) Electronic cash ledger

(b) Electronic credit ledger

(c) Electronic liability register

2. The main features of GST payment process are as follows:-

(a) Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;

(b) Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;

(c) Convenience of making payment online;

(d) Realtime data for tax collection in electronic format;

(e) Faster remittance of tax revenue to the Government Account;

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(f) Paperless transactions;

(g) Speedy Accounting and reporting;

(h) Electronic reconciliation of all receipts;

(i) Simplified procedure for banks;

(j) Warehousing of Digital Challan.

3. Yes, as per Section 49(9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

4. IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be utilized against output tax liability known as IGST. However, it has to be utilized in prescribed manner.

5. Provisions of Section 49(10) of CGST Act, 2017 permit a registered person for transferring the amount deposited in electronic cash ledger under any of the minor head i.e. tax, interest, penalty, fees or others to any of the heads under IGST/CGST/SGST/UTGST/Cess and make the payment of taxes there upon. Accordingly, Mr. A need not deposit the tax amount under head "tax" and claim a refund for the remittance of amount deposited under head "interest". Rather, using the Form GST PMT 09, such amount can be transferred suo-moto on the common portal from "interest" to "tax" head and tax liability be paid accordingly.

6, Section 49(3) of the CGST Act, 2017 provides that the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in prescribed manner.

Further, section 49(4) provides that the amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in prescribed manner.

Accordingly, as per the combined reading of the above provisions, late fees shall be paid only through electronic cash ledger and payment of the same is not possible through electronic credit ledger. Thus, contention of the accountant of M/s ABC & Co., is not correct and the amount of late fee shown

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on the common portal has to be deposited in Electronic Cash Ledger under appropriate minor head, through any of the specified modes.

7. As per the provisions of CGST Act, 2017 read with relevant rules, the deposit in electronic cash ledger can be made through any of the following modes, namely:-

(i) Internet Banking through authorised banks;

(ii) Unified Payment Interface (UPI) from any bank;

(iii) Immediate Payment Services (IMPS) from any bank;

(iv) Credit card or Debit card through the authorised bank;

(v) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or

(vi) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft subject to specific exceptions.

(a) Manual or physical challans are not allowed under the GST regime. It is mandatory to generate challans online on the GST Portal.

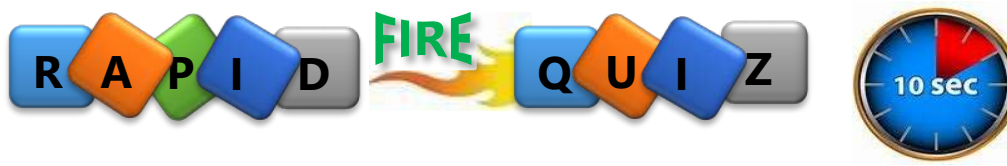
(b) Challan is valid for a period of 15 days from the date of generation of challan.

(c) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the CGST Act, 2017 to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess.

8. The amount available in the electronic credit ledger, i.e. ITC may be used for making any payment towards output tax. Output tax in relation to a taxable person, means the tax chargeable on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.

Therefore, ITC cannot be used to pay the tax liability under reverse charge. The same is always required to be paid through electronic cash ledger and not electronic credit ledger. Thus, Suhasini is wrong and she will need to pay the GST of ₹ 2,700 on security service through electronic cash ledger.

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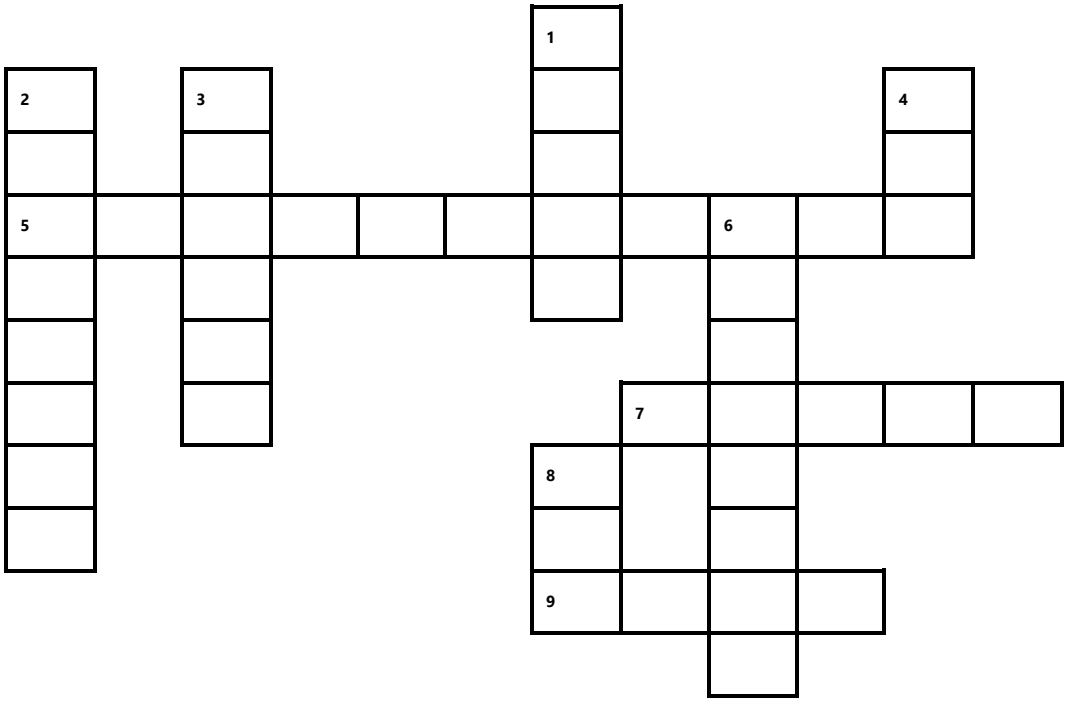


1. •The deposit towards payment of interest and penalty will be credited to which ledger?
2. •Whether deposit in the electronic cash through IMPS from bank is valid?
3. •Is it correct that there is no monetary limit for deposit in electronic cash ledger by over the counter payment through authorised banks?
4. •For how much period CPIN remains valid?
5. •How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?
6. •What is the condition for transfer of any amount available in the electronic cash ledger, to the electronic cash ledger for IGST of a distinct person?
7. •What is the use of balance available in electronic credit ledger?
8. •Is Mr. X permitted to use UTGST credit for payment of CGST?
9. •Penalty of previous tax period has to be discharged first or last?
10. •In which order credit of IGST be utilised for payment of CGST & SGST?

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ACROSS

5. Input tax does not include the tax paid under the---- levy.

7. The ITC wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger is ------ the amount of ITC wrongly availed.

9. Entire ITC of ------is to be fully utilised first before utilising any other credit. (Acronym)

DOWNWARDS

1. ------ return means a return furnished under section 39(1) of CGST Act on which self-assessed tax has been paid in full.

2. Output tax -----tax payable by taxable person on reverse charge basis.

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3. The liability arising out of----- notice comes last.

4. ------is the transaction number given by the bank for a payment against a Challan. (Acronym)

6. The liability for ------can not be settled by adjustment with balance in Electronic credit Ledger.

8. The deposit in the electronic cash ledger can be made through -----from any bank. (Acronym)

Scan the following QR code for accessing the answers to Rapid Fire Quiz and Cross word puzzle of this chapter.



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CHAPTER 14

TAX DEDUCTION AT SOURCE AND COLLECTION OF TAX AT SOURCE



The section numbers referred to in the Chapter pertain to the CGST Act, 2017, unless otherwise specified. Examples/Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

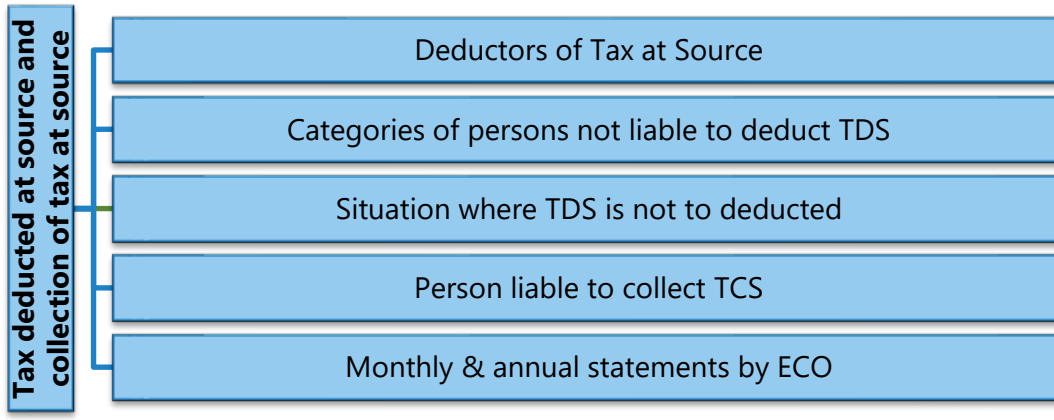
LEARNING OUTCOMES

After studying this chapter, you will be able to –

- understand and analyse the provisions relating to TDS, i.e. tax deduction at source including the list of deductors, standard rate of deduction, value of supply.
- explain the remittance period and the time within which the TDS certificate is to be issued.
- describe and analyse the TCS i.e. tax collection at source provisions relating to collection, payment and reporting of tax by electronic commerce operator.

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CHAPTER OVERVIEW



1. INTRODUCTION

TDS stands for Tax Deduction at Source (TDS). Tax Deduction at Source (TDS) is a system, initially introduced by the Income Tax Department. It is one of the modes/methods to collect tax, under which, certain percentage of amount is deducted by a recipient at the time of making payment to the supplier. It facilitates sharing of responsibility of tax collection between the deductor and the tax administrator. This concept of TDS ensures regular inflow of tax collection to the Government. This mechanism acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provides for the creation of an audit trail. Also, with the integration of data furnished by the Supplier and Buyer on the GST common portal, there exists an audit trail to ensure for harmony of taxes paid by the supplier.

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Section 51[1] of CGST Act, 2017 provides for deduction of tax at source in certain circumstances. This Section specifically lists out the deductor's who are mandated by the Central Government to deduct tax at source, the rate of tax deduction and the procedure for remittance of the tax deducted.

On the other hand, Tax Collection at Source (TCS) has similarities with TDS, as well as a few distinctive features. TDS refers to the tax which is deducted when the recipient of goods or services make payment to or credits a supplier's account under a contract etc., while TCS refers to the tax which is collected by the electronic commerce operator, when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the electronic commerce operator.



Section 52[2] of CGST Act, 2017 provides for collection of tax at source in certain circumstances. The Section specifically lists out the tax collecting persons who are mandated by the Central Government to collect tax at source, the rate of tax collection and the procedure for remittance of the tax collected.

The amount of tax deducted/collected is reflected in the Electronic Cash Ledger of the deductee/supplier respectively.

Provisions of TDS and TCS under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

2. RELEVANT DEFINITIONS

❖ **Local authority** means

(a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;

(b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;

[1] Students may refer "Standard Operating Procedure on TDS" issued by CBIC from CBIC website.
[2]Students may refer "Frequently Asked Questions on TCS" issued by CBIC from CBIC website.

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(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;

(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(f) a Development Board constituted under article 371 and article 371J of the Constitution; or

(g) a Regional Council constituted under article 371A of the Constitution; [Section 2(69)]

- **Cess** shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act [Section 2(22)].
- **Electronic Commerce** means the supply of goods or services or both, including digital products over digital or electronic network [Section 2(44)].
- **Electronic Commerce Operator** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce [Section 2(45)].
- **Taxable supply** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108)].
- **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied; [Section 2((105)]
- **Notification** means a notification published in the official gazette and the expressions "notify" and "notified" shall be constructed accordingly.

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3. TAX DEDUCTION AT SOURCE [SECTION 51 OF CGST ACT]

	STATUTORY PROVISIONS	
Section 51	**Tax deduction at source**	
Sub-Section	**Clause**	**Particulars**
(1)	*Notwithstanding anything to the contrary contained in this Act, the Government may mandate, —*	
	(a)	*a department or establishment of the Central Government or State Government; or*
	(b)	*local authority; or*
	(c)	*Governmental agencies; or*
	(d)	*such persons or category of persons as may be notified by the Government on the recommendations of the Council,*
	(hereafter in this section referred to as "the deductor"), to deduct tax at the rate of one per cent from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees :	
	Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.	
Explanation	*For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.*	

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(2)	*The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.*
(3)	*A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.*
(5)	*The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.*
(6)	*If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.*
(7)	*The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74* ***or section 74A*** [3]*.*
(8)	*The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54*[4] *:*
	Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

[3] ***The provisions of section 74A contain provisions relating to determination of tax not paid/short paid or erroneously refunded or ITC wrongly availed/utilized for any reason pertaining to Financial Year 2024-25 onward. Detailed provisions of section 74A will be discussed at the Final level. The provisions of sections 73 and 74 are applicable for tax determination relating to the past period up to the Financial Year 2023–24.***

[4] The provisions relating to section 54 will be discussed in detail at Final level.

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ANALYSIS

❑ Deductors of Tax at Source

Under the GST regime, section 51 of the CGST Act, 2017 prescribes the authority and procedure for 'tax deduction at source'. The TDS provisions empower the Central Government to make it mandatory for the following persons (the deductor) to deduct tax at source from payments made to the suppliers of taxable goods and/or services.

Central/State Government department or establishment [Section 51(1)(a)]

Local Authority [Section 51(1)(b)]

Governmental Agencies [Section 51(1)(c)]

Notified Persons/category of persons [Section 51(1)(d)]

With respect to deductors under section 51(1)(a), provisions of TDS are applicable to certain prescribed authorities of Ministry of Defence, remaining authorities under the Ministry of Defence are exempt. Detailed list has been specified under *Notification 57/2018 CT dated 23.10.2018*.

The following persons have been notified under clause (d) of sub-section (1) of section 51 of the CGST Act by the Central Government[5]:

(a) an authority or a board or any other body, -

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with 51% or more participation by way of equity or control, to carry out any function;

It has been clarified vide *Circular No. 76/50/2018 GST dated 31.12.2018* that the rider of 51% or more participation by way of equity or control

[5] *Notification No. 50/2018 CT dated 13.09.2018*

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is applicable to both the items (i) and (ii). Thus, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which 51% or more participation by way of equity or control is with the Government.

(b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;

(c) public sector undertakings

(d) any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975, from other registered person

❑ Categories of persons not liable to deduct TDS

Tax is not liable to be deducted at source in the following cases:-

(i) When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person

(ii) When supply of goods and/or services takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the said Act, except the person referred to in clause (d).

❑ Deductees

The deductees are the suppliers whose total value of supply of taxable goods and/or services under a contract exceeds ₹ 2,50,000 exclusive of tax & cess as per the invoice.

❑ Standard Rate of deduction

TDS-1% +1% [CGST + SGST] on net value of taxable supplies

The tax would be deducted @ 1% under CGST Act, 2017 of the payment made to the supplier (the deductee) of taxable goods and/or services, where the total value of such supply, under a contract, exceeds ₹ 2,50,000 (excluding the amount of Central tax, State tax, Union Territory tax, Integrated tax and cess indicated in the invoice). Thus, individual supplies may be less than

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₹ 2,50,000/-, but if total value of supplies under a contract is more than ₹ 2,50,000/-, TDS has to be deducted.

The deductors have to deduct tax at the rate of 1% from the payment made or credited to the supplier of taxable goods and/or services under CGST Act, 2017.



It may be noted that Section 20 of IGST Act provides that in the case of tax deducted at source, the deductor shall deduct tax at the rate of 2% from the payment made or credited to the supplier.

❑ NO TDS

The Proviso to Section 51(1) lays down that when the location of the supplier and the place of supply is in a State/ Union territory which is different from the State/ Union territory of registration of the recipient, there will be no TDS.

The above statement can be explained in the following situations:

(a) Supplier, place of supply and recipient are in the same state.

It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

(b) Supplier as well as the place of supply are in different states.

In such cases, Integrated tax would be levied. TDS to be deducted would be TDS (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

(c) Supplier as well as the place of supply are in State A and the recipient is located in State B.

The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So, in such cases, TDS would not be deducted.

Thus, when both the supplier as well as the place of supply are different from that of the recipient, no tax deduction at source would be made.

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Location of Supplier	Place of Supply	Registration of Recipient	TDS u/s 51
State A	State A	State A	Yes
State A	State A	State B	No
State A	State B	State B	Yes
UT1	UT1	UT1	Yes
UT1	UT2	UT2	Yes
UT1	UT1	UT2	No

❑ Value of Supply

The amount indicated in the invoice excluding the Central tax, State tax, Union territory tax, Integrated tax and cess element, is the value of supply for the purpose of TDS under Section 51 of CGST Act, 2017.

Value of supply shall exclude tax & cess

❑ Deposit of TDS with the Government

The amount of tax deducted at source should be deposited to the Government account by deductor by 10th of the succeeding month.

❑ TDS Certificate

A TDS certificate is required to be issued by deductor (the person who is deducting tax) in prescribed form to the deductee (the supplier from whose payment TDS is deducted).

The content of Form GSTR 7A (TDS Certificate) are given below:

1. TDS Certificate No.
2. GSTIN of deductor
3. Name of deductor
4. GSTIN of deductee

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5. (a) Legal name of the deductee

   (b) Trade name, if any

6. Tax period in which tax deducted and accounted for in GSTR-7

7. Details of supplies

8. Amount of tax deducted

❑ Non-remittance by the deductor

If the deductor has not remitted the amount deducted as TDS to the Government within the prescribed time limit, he is liable to pay penal interest under Section 50 in addition to the amount of tax deducted.

❑ Reflection of amount of TDS

The amount of tax deducted is reflected in

- Electronic Cash Ledger of deductee.
- Return filed by deductor under section 39(3). [GSTR-7] [Refer Chapter:15 Returns for detailed discussion on GSTR-7].

The deductee can claim credit of the tax deducted, in his electronic cash ledger. This provision enables the Government to cross check whether the amount deducted by the deductor is correct and that there is no mis-match between the amount reflected in the electronic cash ledger and the amount shown in the return filed by deductor.

This is similar to existing practice in income tax relating to E-TDS returns filed by deductor and 26AS statement available for viewing the TDS remitted in respect of transactions by deductee.

❑ Determination of amount in Default

Any default in determination of the amount under section 51 shall be made in the manner specified in section 73 or section 74 ***or section 74A***,[6] as the case may be.

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[6] ***The provisions of section 74A contain provisions relating to determination of tax not paid/short paid or erroneously refunded or ITC wrongly availed/utilized for any reason pertaining to Financial Year 2024-25 onward. Detailed provisions of section 74A will be***

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❑ Refund on excess/erroneous deduction

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54[7] relating to refunds would apply in such cases.

❑ Registration[8] [Rule 12 of CGST Rules, 2017]

Any person required to deduct tax in accordance with the provisions of section 51 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application. Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 51, then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.



(1) Supplier makes a supply worth ₹ 20 lakh to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of ₹ 20 lakh to the supplier, shall deduct 2% [CGST 1% + SGST 1%] viz ₹ 40,000 as TDS.

The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10th of the succeeding month.

The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount.

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discussed at the Final level. The provisions of sections 73 and 74 are applicable for tax determination relating to the past period up to the Financial Year 2023–24.

[7] *The provisions relating to section 54 will be discussed in detail at Final level.*

[8] *The provisions relating to registration have already been discussed in Chapter-9 of this Module.*

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4. COLLECTION OF TAX AT SOURCE [SECTION 52 OF CGST ACT]

	STATUTORY PROVISIONS	
Section 52	**Collection of tax at source**	
Sub-Section	**Clause**	**Particulars**
(1)		*Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.*
Explanation		*For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.*
(2)		*The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.*
(3)		*The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.*
(4)		*Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of*

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	outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month
	Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:
	Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner
(5)	*Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year*
	Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:
	Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner
(6)	*If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect*

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	particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:
	Provided that no such rectification of any omission or incorrect particulars shall be allowed after the thirtieth day of November following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.
(7)	*The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.*
(12)	*Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to —*
	(a) supplies of goods or services or both effected through such operator during any period; or
	(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,
	as may be specified in the notice.
(13)	*Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.*
(14)	*Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any*

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	action that may be taken under section 122[9], be liable to a penalty which may extend to twenty-five thousand rupees.
Explanation	*For the purposes of this section, the expression "concerned supplier" shall mean the supplier of goods or services or both making supplies through the operator.*



ANALYSIS

Overview of TCS

TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies taxable goods or services through portal of e-commerce operator and the payment for that supply is collected by said electronic commerce operator. The nature of working of electronic commerce operator can be better understood with the following example.



(2) There are many e-Commerce operators [hereinafter referred to as an Operator], like Amazon, Flipkart, Urban clap etc. operating in India. These operators display on their portal products as well as services which are actually supplied by some other person to the consumer.

The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. On placing the order for a particular product/service, the actual supplier supplies the selected product/service through the Operator to the consumer.

The price/consideration for the product/ service is collected by the Operator from the consumer and passed on to the actual supplier after the deduction of commission and incidental expenses mutually agreed upon by the Operator.

[9] *The provisions relating to section 122 will be discussed in detail at Final level.*

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Let us now have a look at the statutory provisions relating to TCS.

❑ Who is liable to collect TCS ?

Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) on the net value of taxable supplies [supplies net of returns if any] made through it by suppliers, where the ECO collects the consideration on behalf of the supplier for such supplies.

❑ Rate of TCS

0.25% of the net value of intra-State taxable supplies. 0.5% of the net value of inter-State taxable supplies.



(3) Suppose a certain product is sold at ₹ 1,120 [including GST @12%] through an Operator by a supplier. The operator would collect tax @ 0.5% of the net value of ₹ 1,000 *i.e.* ₹ 5 in case of inter-State supplies.

Net Value of Taxable Supplies

Aggregate value of taxable supplies of goods and / or services

taxable supplies **returned** to suppliers

other than notified services under section 9(5) by all registered persons supplied through operator

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Currently, services notified under section 9(5) of CGST Act, 2017 vide *Notification No. 17/2017 CT (R) dated 28.06.2017/ Notification No. 14/2017 IT (R) dated 28.06.2017* as amended are given as below[10]:

(a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle except omnibus;

(b) Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company.

(c) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.

(d) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.

(e) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.



It may be noted that Section 20 of IGST Act provides that in case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies. The rate has been notified as 0.5% for tax collection at source under IGST.

Further, the power conferred on the e-commerce operator to collect tax at source, is without prejudice to other modes of recovery from operator. The powers of e-commerce operator are restricted only to the extent of tax collection at source under circumstances specified therein and nothing more.

[10] *The provisions relating to section 54 will be discussed in detail at Final level.*

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❑ Deposit of TCS by ECO to Government

The TCS amount collected by the ECO has to be remitted to the Government Treasury within 10 days after the end of the month in which the collection was made.



(4) If the TCS has been collected in the month of July, the amount has to be remitted into the Government Treasury on or before 10th August.

ILLUSTRATION 1

Mr. X is a supplier selling his own products through a web site hosted by him. Does he fall under the definition of an "electronic commerce operator"? Whether he is required to collect TCS on such supplies?

ANSWER

As per the definitions in Section 2(44) and 2(45) of the CGST Act, 2017, Mr. X will come under the definition of an "electronic commerce operator". However, according to Section 52 of the Act ibid, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases, where someone is selling their own products through a website, there is no requirement to collect tax at source as per the provisions of this Section. These transactions will be liable to GST at the prevailing rates.

ILLUSTRATION 2

If Mr. A purchase goods from different vendors and in turn Mr. A, is selling them on his own website under his own billing, Is TCS required to be collected on such supplies?

ANSWER

No. According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through E-commerce operator by other suppliers where the consideration is to be collected by the ECO. In this case, there are two transactions - Mr. A purchase the goods from the vendors, and those goods are sold through his own website. For the first transaction, GST is leviable, and will need to be paid to vendor, on which

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credit is available to Mr. A. The second transaction is a supply on own account of Mr. A, and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

❑ Registration[11] [Rule 12 of CGST Rules, 2017]

Any person required to collect tax in accordance with the provisions of section 52 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application.

Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 52 then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

❑ Filing of Monthly & Annual Statements by ECO[12]

- ✓ An **electronic statement [Form GSTR 8]** has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made.
- ✓ The details of tax collected at source furnished by the ECO shall be made available electronically to each of the registered suppliers on the common portal after filing of FORM GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.
- ✓ Additionally, the ECO is also mandated to file an **Annual Statement** [Form GSTR 9B] on or before 31st day of December following the end of the financial year.

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[11] The provisions relating to registration have already been discussed in Chapter-9 of this Module.

[12] The detailed provisions of monthly and annual statements have been discussed in Chapter 15: Returns.

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- ✓ The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

❑ Notice to the Operator seeking details

- ✓ An officer not below the rank of Deputy Commissioner can issue notice to an operator, asking him to furnish details relating to volume of the goods/services supplied, stock of goods lying in warehouses/godowns etc.
- ✓ The operator is required to furnish such details within 15 working days.
- ✓ In case an operator fails to furnish the information, besides being liable for penal action under section 122[13], it shall also be liable for penalty up to ₹ 25,000.

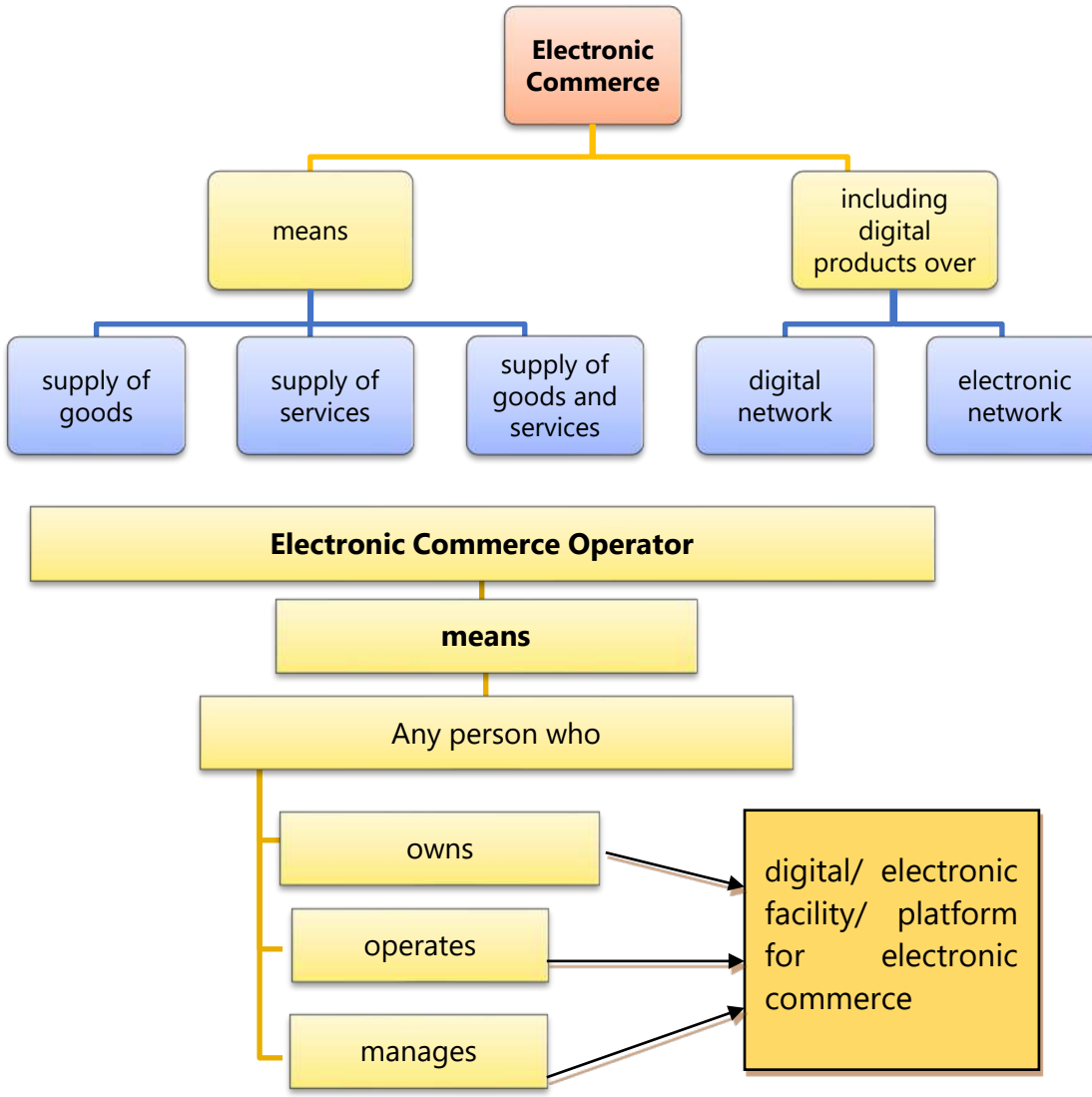
[13] *The provisions relating to section 122 will be discussed in detail at Final level.*

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LET US RECAPITULATE

The provisions relating to TDS & TCS have been summarised by way of table and diagrams to help students remember and retain the provisions in a better and effective manner:-

Definition of Key terms

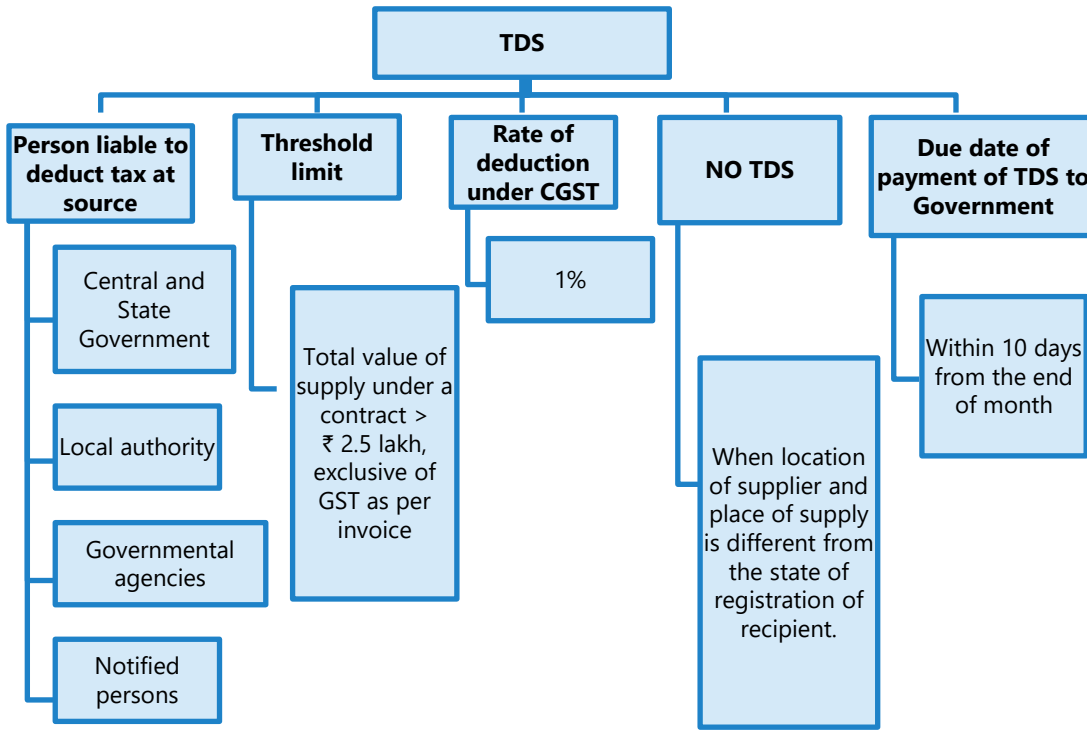


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TDS

Rate of TDS





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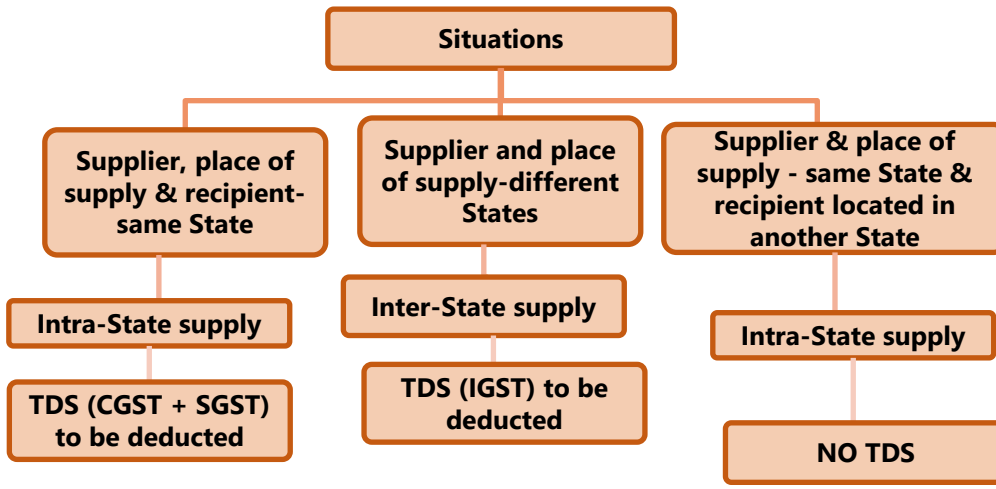
Manner of account of TDS by TDS deductor

1.	Such deductor need to get compulsorily registered under section 24 of the CGST/SGST Act.
2.	They need to remit such TDS collected by the 10th day of the month succeeding the month in which TDS was collected.
3.	The amount deposited as TDS will be reflected in the electronic cash ledger of the supplier.

Manner of account of TDS by supplier

- Any amount shown as TDS will be reflected in the electronic cash ledger of the concerned supplier.
- He can utilize this amount towards discharging his liability towards tax, interest fees and any other amount.

Applicability of TDS



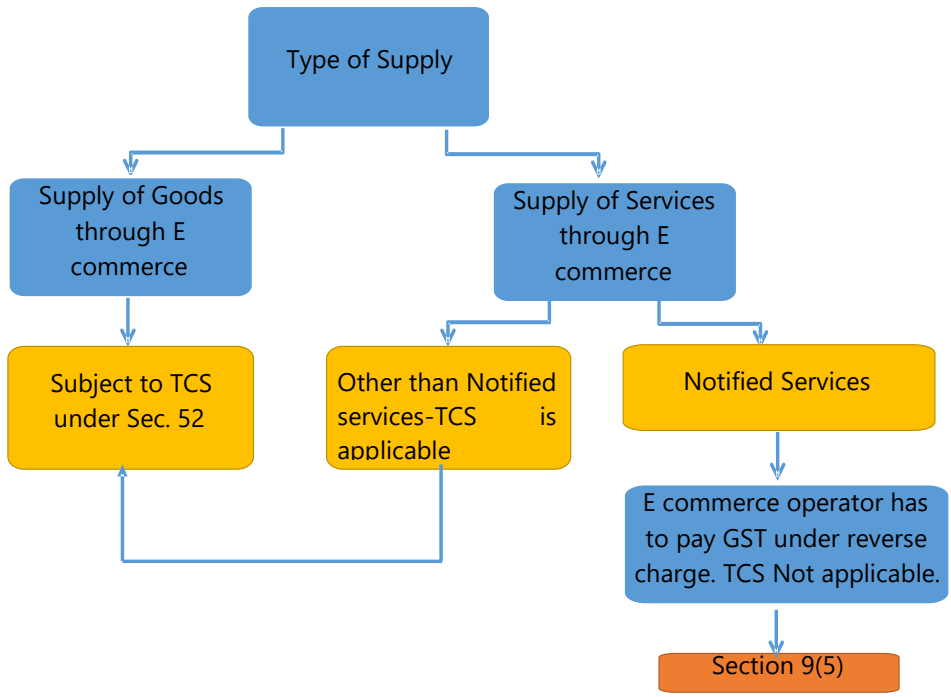
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Consequences of not complying with TDS provisions

S. No.	Event	Consequence
1.	TDS not deducted	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law
2.	TDS deducted but not paid to the Government or paid later than 10th of the succeeding month	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law

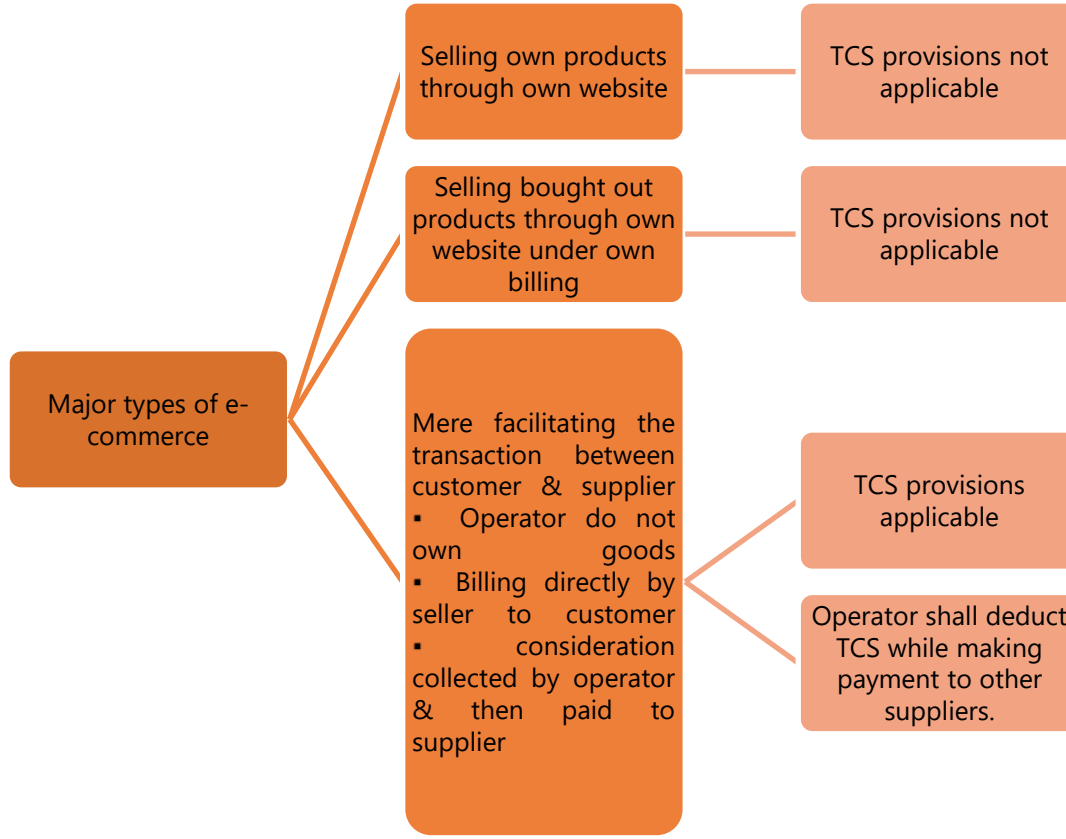
TCS

Type of supply liable to TCS

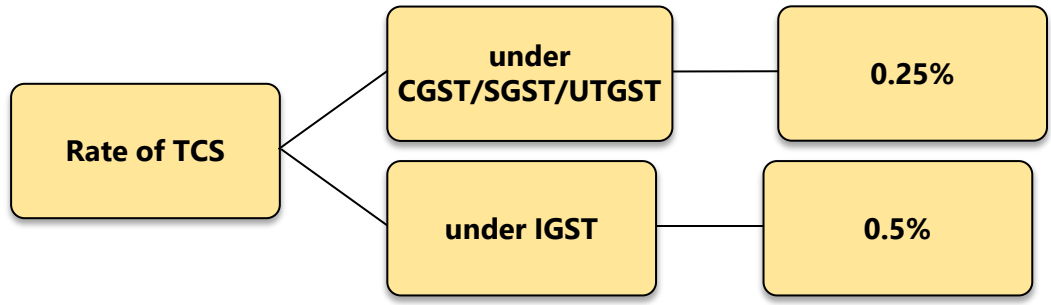


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TCS applicability in major types of E-commerce

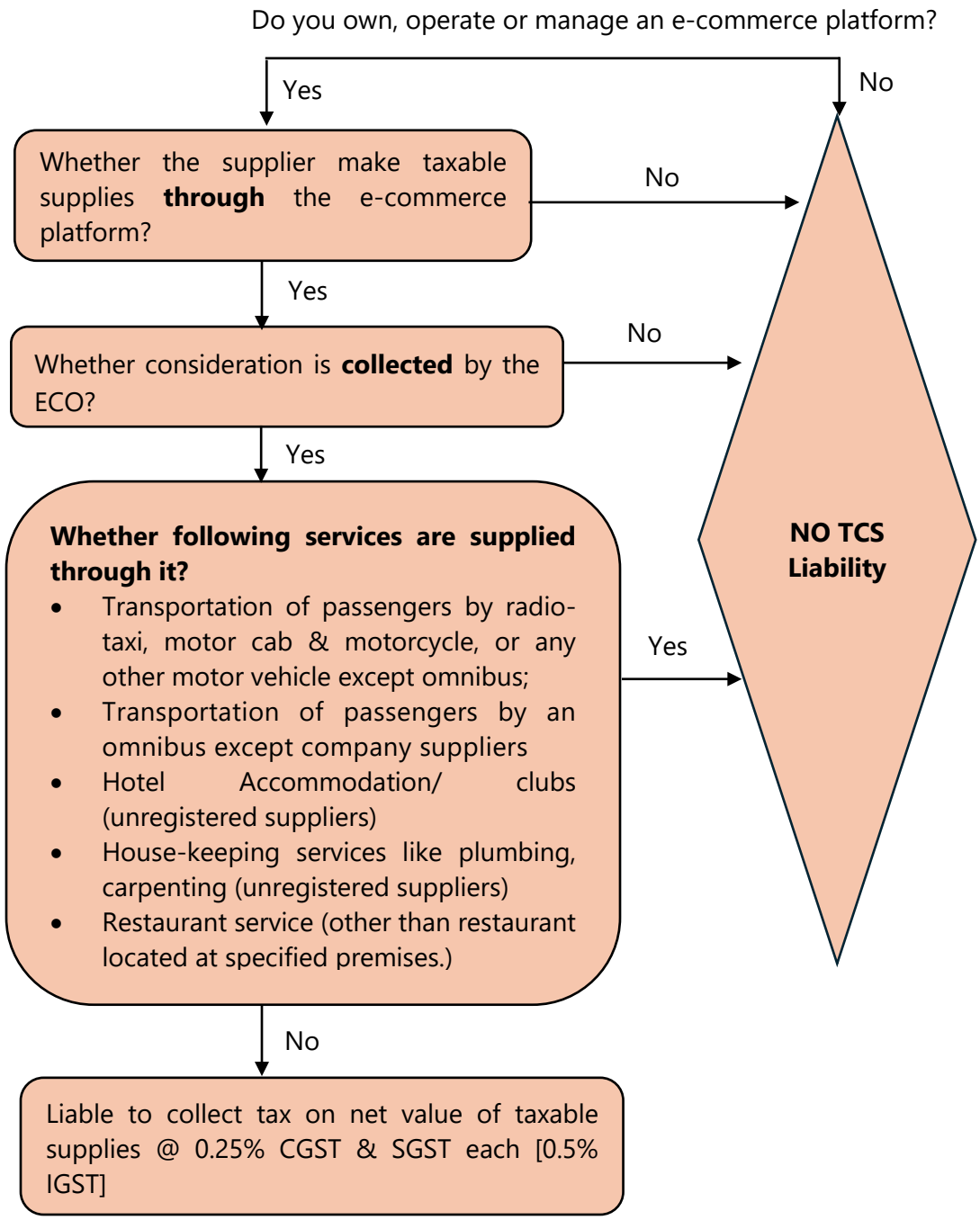


Rate of TCS



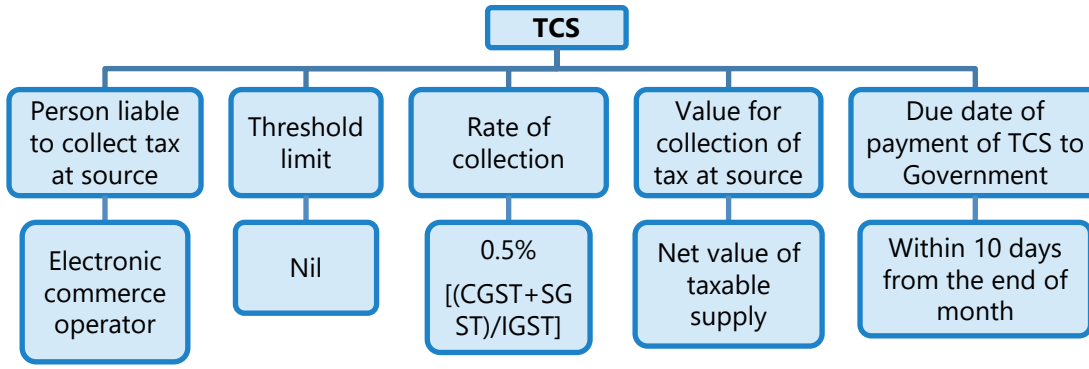
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Steps to determine whether ECO is liable to collect tax at source

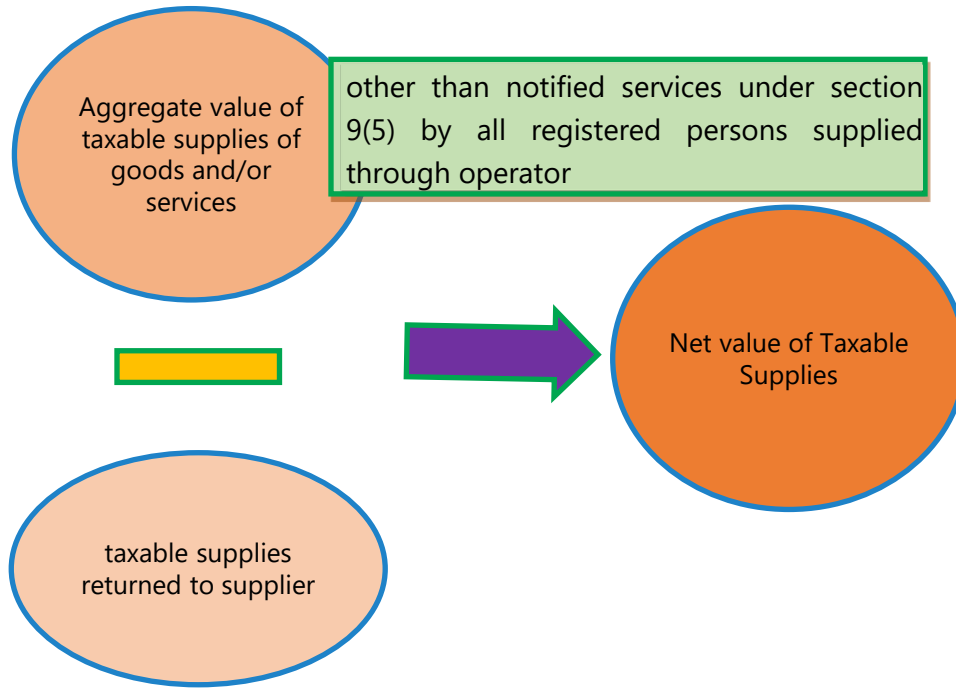


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Significant aspects of TCS



Net value of taxable supplies



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TEST YOUR KNOWLEDGE

1. *Whether the rate of tax of 0.5% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?*
2. *Is every e-commerce operator required to collect tax on behalf of actual supplier?*
3. *State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if Fitan Ltd. sells watch on its own through its own website?*
4. *There is no onus of filing any monthly & annual statements by ECO. Examine the technical veracity of the statement by explaining relevant provisions.*
5. *State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if ABC limited who is dealer of Royul brand sells watches through Slipkart, an electronic commerce operator?*

ANSWERS

1. The rate of TCS as notified under CGST Act is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 0.5%.

2. Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.

However, no TCS is required to be collected in the following cases:-

(i) on supply of services notified under section 9(5) of the CGST Act, 2017.

(ii) on exempt supplies

(iii) on supplies on which the recipient is required to pay tax on reverse charge basis.

3. As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent.,

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as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Hence, if the person sells on his own, provisions pertaining to tax collected at source (TCS) won't be applicable.

4. The given statement is invalid. An electronic statement has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made.

Additionally, the ECO is also mandated to file an Annual Statement on or before 31st day of December following the end of the financial year.

The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

5. As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it *by other suppliers* where the consideration with respect to such supplies is to be collected by the operator. If ABC limited who is dealer of Royul brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.

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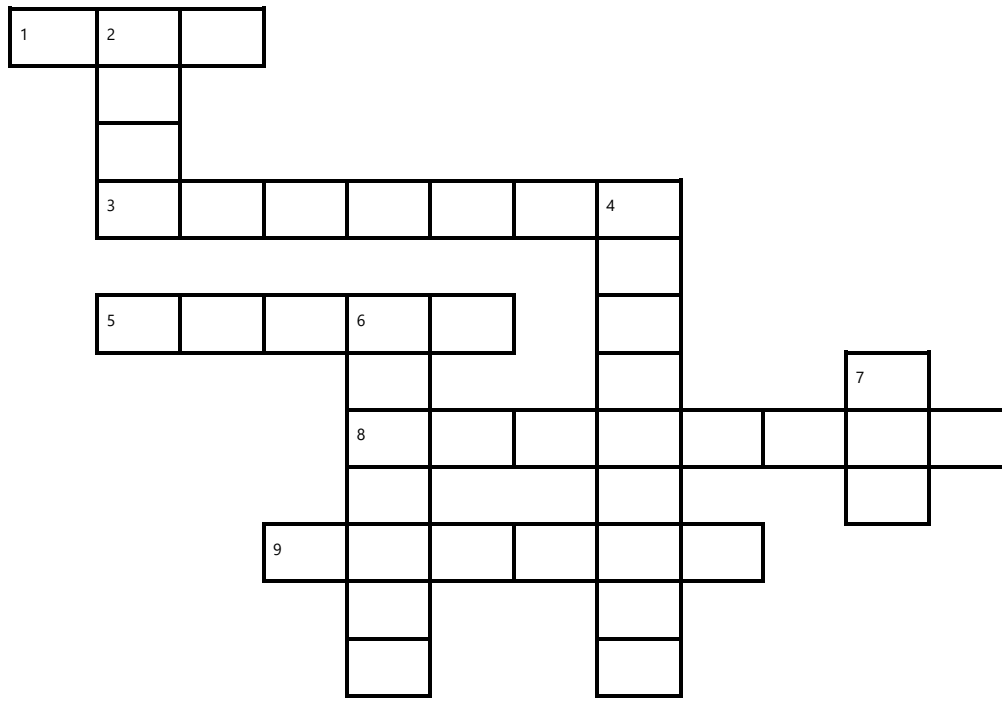


1. •Is it correct or not that public sector undertakings is liable to deduct TDS from payments made to the suppliers of taxable goods?
2. •What is the implication of TDS in case services are supplied from a public sector undertaking (PSU) to another PSU?
3. •Mr. X contends that tax is liable to be deducted if total value of supply of taxable goods under a contract is ₹ 2,50,000 exclusive of tax. Is his contention valid in law or not?
4. •What is the implication of TDS in case supplier, place of supply and recipient are in the same state?
5. •What is the implication of TDS in case location of supplier is in State A and place of supply as well as registration of recipient are in State B?
6. •What is the implication of TDS if supplier as well as the place of supply are in State A and the recipient is located in State B. ?
7. •What is the rate of TCS under CGST?
8. •Is it valid that services by way of transportation of passengers by motor cycle is to be included while computing net value of taxable supplies?

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ACROSS

1. TDS is not attracted if services are supplied from a PSU to another ---------- (Acronym)

3. Value of supply shall---------- tax & cess for the purpose of TDS under Section 51 of CGST Act, 2017.

5. The amount of tax deducted at source should be deposited to the Government account by 10th of the succeeding----------.

8. Net value of taxable supplies shall mean the aggregate value of taxable supplies of goods and/or services, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies---------- to the suppliers during the said month.

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9. ---------- sector undertakings are notified to deduct tax at source from payments made to the suppliers.

DOWNWARDS

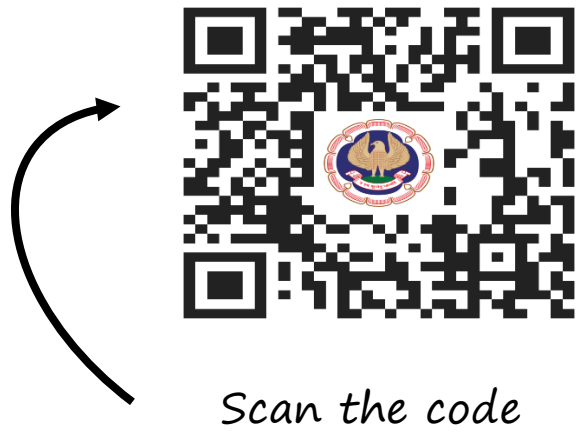
2. TDS would be deducted if supplier, place of supply and recipient are in the---------- State.

4. The TDS deductees are the suppliers whose total value of supply of taxable goods under a contract exceeds ₹ 2,50,000 ----------of tax & cess as per the invoice.

6. Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) on net value of taxable supplies made ----------it by suppliers.

7. The TCS amount collected by the ECO has to be remitted to the Government Treasury within------days after the end of the month in which the collection was made.

Scan the following QR code for accessing the answers to Rapid Fire Quiz and Cross word puzzle of this chapter.



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CHAPTER 15

RETURNS



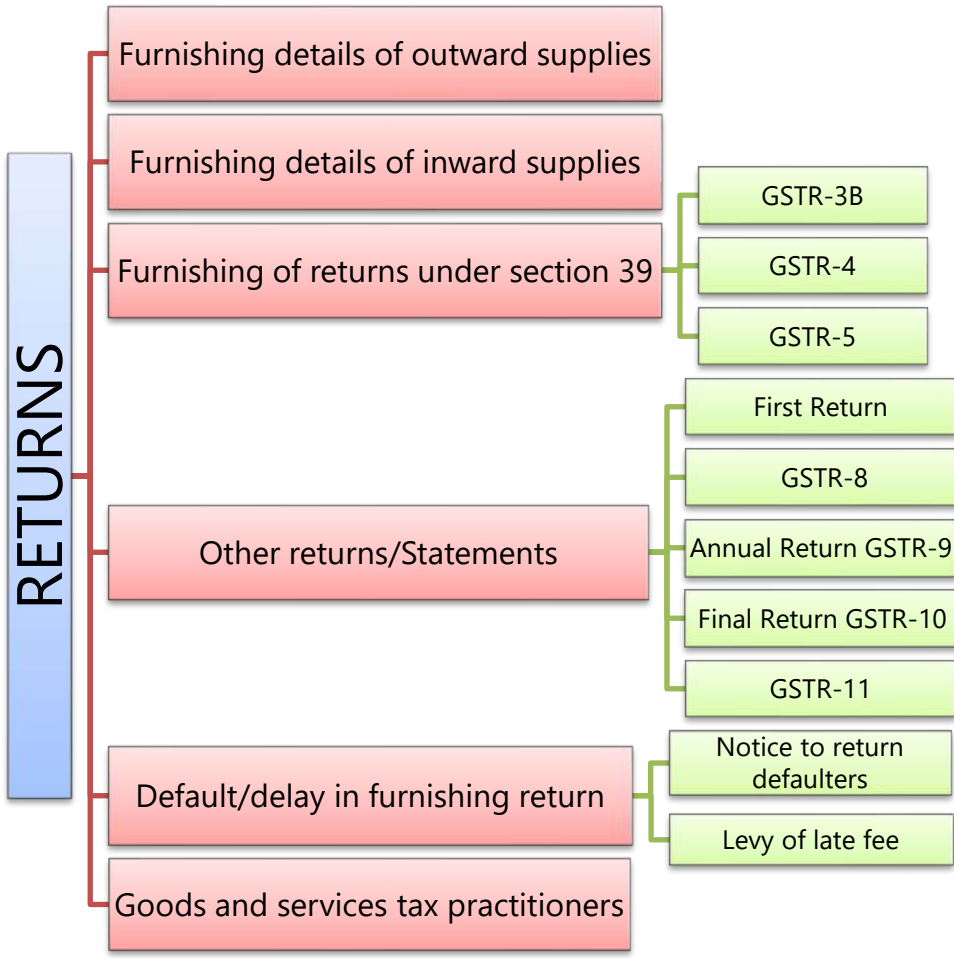
The section numbers referred to in the Chapter pertain to CGST Act and rule numbers referred to in the Chapter pertain to CGST Rules, unless otherwise specified. Examples/ Illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 30.04.2025.

LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- comprehend and analyse provisions relating to statements furnishing details of outward supplies and inward supplies
- understand and analyse provisions relating to furnishing of returns under section 39
- understand and analyse provisions relating to furnishing of other returns/statements
- provide an overview of provisions relating to default/delay in furnishing return
- explain the provisions relating to GST practitioner

CHAPTER OVERVIEW



1. INTRODUCTION

The term "return" ordinarily means statement of information (facts) furnished by the taxpayer, to tax administrators, at regular intervals. The information to be furnished in the return generally comprises of the details pertaining to the nature of activities/business operations forming the subject matter of taxation; the measure of



taxation such as sale price, turnover, or value; deductions and exemptions; and determination and discharge of tax liability for a given period.

In any tax law, "filing of returns" constitutes the most important compliance procedure which enables the Government/ tax administrator to estimate the tax collection for a particular period and determine the correctness and completeness of the tax compliance of the taxpayers.

The returns serve the following purposes:



a) Mode for transfer of information to tax administration;

b) Compliance verification program of tax administration;

c) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation;

d) Providing necessary inputs for taking policy decision;

e) Management of audit and anti-evasion programs of tax administration

The taxpayer is generally required to furnish the return in a specific statutory format. These formats are, therefore, designed to take care of all the provisions of the law that have a bearing on computation of tax liability of a taxpayer. Hence, a study of various fields contained in the form of return *vis-à-vis* the relevant corresponding provisions of the tax law, can facilitate overall understanding of the tax law in a better manner.

Filing of GST returns helps in determination of tax liability of the return filer and at the same time it also has a huge bearing on determination of tax liability of other persons with whom the former has entered into taxable activities.

Under the GST laws, the correct and timely filing of returns is of utmost importance because of two reasons. Firstly, under GST laws, a taxpayer is required to estimate his tax liability on "self-assessment" basis and deposit the tax amount along with the filing of such return. The return, therefore, constitutes a kind of working sheet/supporting document for the tax authorities that can be relied upon as the basis on which the tax has been

computed by the taxpayer. Secondly, under the GST regime, filing of returns not only determines the tax liability of the person filing the same, but it also has a huge bearing on determination of tax liability of other persons with whom the former has entered into transactions in course or furtherance of business.

Chapter IX of the CGST Act [Sections 37 to 48[1]] prescribe the provisions relating to filing of returns as under:

Section 37	Furnishing details of outward supplies
Section 38	Furnishing details of inward supplies
Section 39	Furnishing of returns
Section 40	First return
Section 44	Annual Return
Section 45	Final Return
Section 46	Notice to return defaulters
Section 47	Levy of late fee
Section 48	Goods and services tax practitioners

Apart from this, section 52, *inter alia,* prescribes a statement for tax collection at source to be furnished by Electronic Commerce Operator. *Provisions of section 41 relating to availment of input tax credit have already been discussed in Chapter 8 – Input Tax Credit in this Module of the Study Material; thus, said provisions are not discussed here.* The provisions relating to forms and manner, in which information is to be furnished through returns, are given under Chapter VIII of the CGST Rules [Rules 59-84[2]]. State GST laws also prescribe identical provisions in relation to filing of returns.

Provisions of returns, other than late fee, under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

[1] *Sections 42, 43 and 43A have been omitted.*

[2] *Rules 69, 70, 71, 72, 73, 74, 75, 76, 77 and 79 have been omitted.*

All the returns under GST laws are to be filed electronically. Taxpayers can file the statements and returns by various modes. Firstly, they can file their statement and returns directly on the GST common portal online. However, this may be tedious and time consuming for taxpayers with large number of invoices. For such taxpayers, offline utilities have been provided by GSTN that can be used for preparing the statements offline after downloading the auto populated details and uploading them on the common portal. GSTN has also developed an ecosystem of GST Suvidha Providers (GSP) that will integrate with the common portal.



The details furnished by the taxpayer in the form of returns shall be consolidated and stored at the common portal which will be common for both, i.e. Central Government and State Governments.

2. RELEVANT DEFINITIONS

- **Common portal** means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].
- **Credit note** means a document issued by a registered person under sub-section (1) of section 34 [Section 2(37)].
- **Casual taxable person** means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business whether as principal, agent or in any other capacity, in a State or a Union Territory where he has no fixed place of business [Section 2(20)].
- **Debit note** means a document issued by a registered person under sub-section (3) of section 34 [Section 2(38)].

- **Electronic cash ledger** means the electronic cash ledger referred to in sub-section (1) of section 49 [Section 2(43)].
- **Electronic commerce** means the supply of goods or services or both, including digital products over digital or electronic network [Section 2(44)].
- **Electronic commerce operator** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce [Section 2(45)].
- **Electronic credit ledger** means the electronic credit ledger referred to in sub-section (2) of section 49 [Section 2(46)].
- **Exempt supply** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply [Section 2(47)].
- **Goods and services tax practitioner** means any person who has been approved under section 48 to act as such practitioner [Section 2(55)].
- **Invoice or tax invoice** means the tax invoice referred to in section 31 [Section 2(66)].
- **Inward supply** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration [Section 2(67)].
- **Non-resident taxable person** means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India [Section 2(77)].
- **Outward supply** in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business [Section 2(83)].
- **Prescribed** means prescribed by rules made under this Act on the recommendations of the Council [Section 2(87)].

- **Proper officer** in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board [Section 2(91)].
- **Quarter** shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year [Section 2(92)].
- **Recipient** of supply of goods or services or both, means—
  - where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
  - where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
  - where no consideration is payable for the supply of a service, the person to whom the service is rendered,

  and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].
- **Registered person** means a person who is registered under section 25 but does not include a person having a Unique Identity Number [Section 2(94)].
- **Return** means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder [Section 2(97)].
- **Reverse charge** means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub- section (4) of section 5 of the Integrated Goods and Services Tax Act [Section 2(98)].
- **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.

However, a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims [Section 2(105)].

- **Tax period** means the period for which the return is required to be furnished [Section 106].
- **Taxable person** means a person who is registered or liable to be registered under section 22 or section 24 [Section 2(107)].
- **Taxable supply** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108)].
- **Valid return** means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full [Section 2(117)].

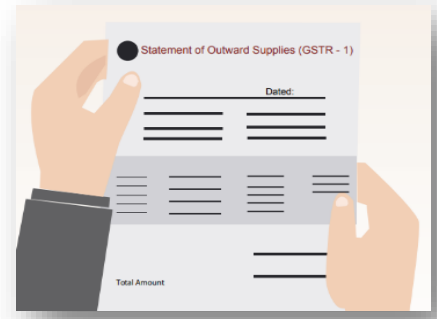
3. FURNISHING DETAILS OF OUTWARD SUPPLIES [SECTION 37 READ WITH RULE 59]

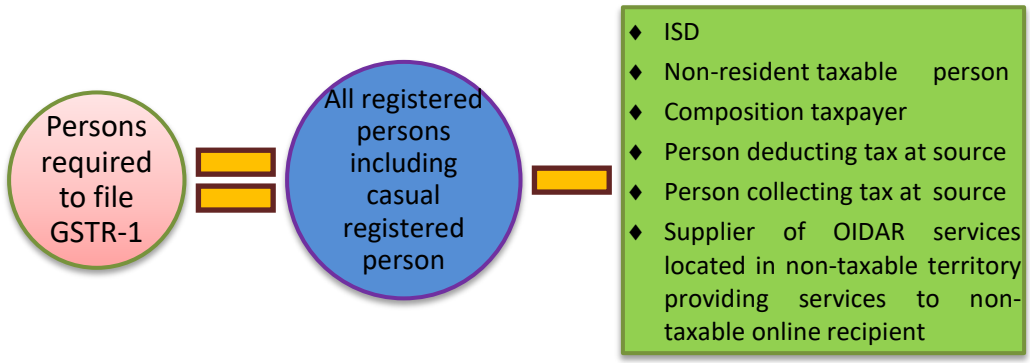
(i) Who is required to furnish the details of outward supplies? [Section 37(1) read with rule 59(1)]

The details of outward supplies (see definition) of both goods and services are required to be furnished by every registered person including casual registered person except the following:

- input service distributor (ISD)
- non-resident taxable person (NRTP)
- person paying tax under composition scheme

- person deducting tax at source
- person collecting tax at source i.e., e-commerce operator (ECO), not being an agent
- supplier of online information and database access or retrieval services (OIDAR) located in non-taxable territory and providing such services to a non-taxable online recipient[3].





(ii) What is the form for submission of details of outward supplies? [Section 37(1) read with rule 59(1)]

The details of outward supplies are required to be furnished, electronically, in **Form GSTR-1 for the month or quarter.** Such details can be furnished through the common portal, either directly or from a Facilitation Centre notified by the Commissioner.

Further, a Nil GSTR-1 can be filed through an SMS using the registered mobile number of the taxpayer.

---

[3] *Provisions for filing of returns by an input service distributor and a supplier of online information and database access or retrieval services (OIDAR) will be discussed at the Final level.*

(iii) What is the due date of submission of GSTR-1? [Section 37(1)]



GSTR-1 for a particular tax period is filed **on or before the 10th day of the immediately succeeding tax period.** In other words, GSTR-1 of a month/quarter can be filed any time between 1st and 10th day of the succeeding month/quarter. The due date of filing GSTR-1 may be extended by the Commissioner/ Commissioner of State GST/ Commissioner of UTGST for a class of taxable persons by way of a notification.

The time limit for furnishing the details of outward supplies in Form GSTR-1 is extended[4] as follows:

Class of registered person	Time limit for furnishing the details of outward supplies in Form GSTR-1 for each quarter/month
Registered persons opting for QRMP scheme[5]	**13th day** of the month succeeding such quarter
Others	**11th day** of the month succeeding such month

(iv) Invoice Furnishing Facility [IFF] for taxpayers opting for QRMP Scheme [Sub-rules (2) and (3) of rule 59]

Invoice Furnishing Facility (IFF) is a facility provided to quarterly taxpayers who are in QRMP scheme, to file their details of outward supplies in first two months of the quarter, to pass on the credit to their recipients.

Invoice furnishing facility (IFF) is not mandatory, but an optional facility made available to the registered persons under the QRMP scheme. At his option, a registered person may choose to furnish the details of outward supplies made during a quarter in Form GSTR-1 only, without using the IFF.

---

[4] vide Notification No. 83/2020 CT dated 10.11.2020

[5] QRMP scheme - a Quarterly Return scheme where payment has to be made on monthly basis - has been discussed in detail subsequently in this chapter.

The facility of furnishing details of invoices in IFF has been provided so as to allow details of such supplies to be duly reflected in the Form GSTR-2A and Form GSTR-2B of the concerned recipient.

Otherwise, in case where a buyer has made purchases from a person opting for QRMP scheme, he could not have claimed full ITC but due to introduction of IFF, such delay will not occur as the details submitted using IFF will be reflected in the GSTR-2A, GSTR-2B, GSTR-4A or GSTR-6A[6] of the recipients, as the case may be.

Taxpayers opting for QRMP Scheme may furnish the details of such outward supplies to a registered person, as he may consider necessary, for the 1st and 2nd months of a quarter, upto a cumulative value of ₹ 50 lakh in each of the first 2 months of the quarter using IFF electronically on the common portal. However, invoices pertaining to last month of a quarter are to be uploaded in GSTR-1 only.

The invoices are to be furnished in IFF between the 1st day of the succeeding month till the 13th day of the succeeding month. After 13th of the month, this facility for furnishing IFF for previous month would not be available.

As a facilitation measure, continuous upload of invoices would also be provided for the registered persons wherein they can save the invoices in IFF from the 1st day of the month till 13th day of the succeeding month.

The said facility would however be available, say for the month of July, from 1st August till 13th August. Similarly, for the month of August, the said facility will be available from 1st September till 13th September.

The details of invoices furnished using IFF in the first 2 months of the quarter are not required to be furnished again in GSTR-1 for the said quarter.



(1) A registered person who has availed the QRMP scheme wants to declare 2 invoices out of the total 10 invoices issued in the 1st month of quarter since the recipient of supplies covered by those 2 invoices desires to avail ITC in that month itself. Details of these 2 invoices may be furnished using IFF.

---

[6] *Form GSTR-6A is the system generated statement of inward supplies for an ISD. Provisions relating to ISD are discussed in detail at the Final level.*

The details of the remaining 8 invoices shall be furnished in Form GSTR-1 of the said quarter.

The two invoices furnished in IFF shall be reflected in Form GSTR-2B of the concerned recipient of the 1st month of the quarter and remaining 8 invoices furnished in Form GSTR-1 shall be reflected in Form GSTR-2B of the concerned recipient of the last month of the quarter.

However, if a registered person does not opt to upload invoices using IFF, then he has to upload invoice details for all the 3 months of the quarter in Form GSTR-1.

(v) What are the cases where a registered person is debarred from furnishing details of outward supplies in GSTR-1/IFF? [Section 37(4) read with rule 59(6)]

A registered person shall not be allowed to furnish the details of outward supplies for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies, even if he has not furnished the details of outward supplies for one or more previous tax periods [Section 37(4)].

Further, rule 59(6) stipulates that:

(i) a registered person shall not be allowed to furnish the details of outward supplies in Form GSTR-1, if he has **not furnished** the return in **Form GSTR-3B for the preceding month**.

(ii) a registered person, opting for QRMP scheme shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using IFF, if he has **not furnished the return in Form GSTR-3B for preceding tax period**.

(iii) a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88C(1) in respect of a tax period, shall not be allowed to furnish the details of outward supplies

in Form GSTR-1 or using IFF for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of rule 88C(2). Rule 88C has been discussed subsequently in this chapter.

(iv) a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88D(1) in respect of a tax period/periods, shall not be allowed to furnish GSTR-1/IFF for a subsequent tax period, unless he has either paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess ITC that still remains to be paid, as required under the provisions of rule 88D(2). Rule 88D has been discussed subsequently in this chapter.

(v) a registered person shall not be allowed to furnish GSTR-1/IFF, if he has not furnished the details of the bank account as per the provisions of rule 10A[7].

A taxpayer cannot file GSTR-1 before the end of the current tax period.

However, the following are the exceptions to this rule:

a. Casual taxpayers, after the closure of their business

b. Cancellation of GSTIN of a normal taxpayer

A taxpayer who has applied for cancellation of registration will be allowed to file GSTR-1 after confirming receipt of the application.

[7] *Provisions of rule 10A have been discussed in Chapter 9 – Registration in this Module of the Study Material.*

(vi) What are the contents of GSTR-1?

CONTENTS OF GSTR- 1

Basic & Other Details	Details of Outward Supplies
• GSTIN • Legal name • Trade name, if any • Aggregate turnover in previous year • Year and Month • HSN-wise summary of outward supplies • Details of documents issued during the tax period	• B2B including UIN holders • B2C inter-State supplies where invoice value > ₹ 1 lakh • Consolidated details of other B2C supplies • Zero rated and Deemed exports • Debit/ Credit notes issued • Nil rated/ Exempted/ Non-GST • Amendments for prior period • Advances received/advances adjusted



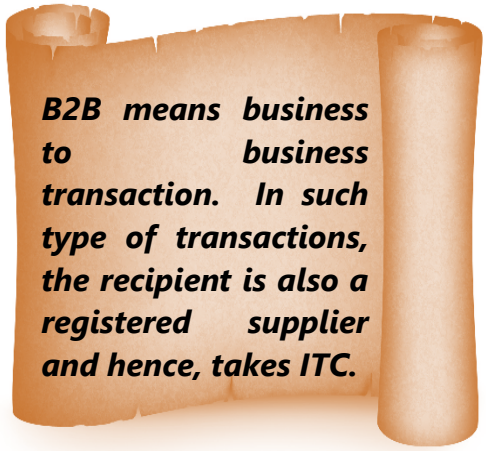
GST is a destination-based consumption tax. Hence, the tax revenue is transferred to the State which is the place of supply[8] of the particular transaction. Since, the place of supply is crucial for determining the share of every State in the tax revenue, GSTR-1 also captures information relating to place of supply.

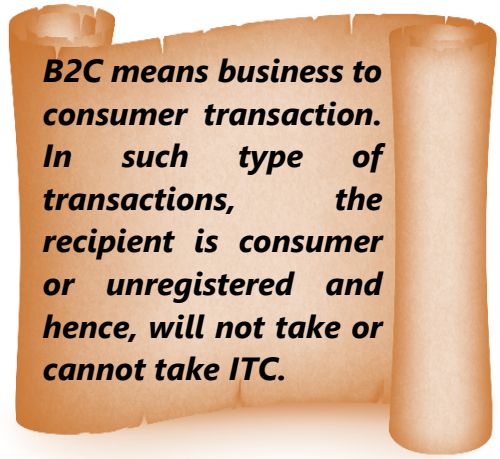
(vii) What kind of details of outward supplies are required to be furnished in GSTR-1 and IFF? [Explanation to section 37 read with sub-rules (4), (4A) and (5) of rule 59]

Uploading of invoices in IFF and GSTR-1 depends on whether the supply is B2B or B2C. Further, uploading of invoices in GSTR-1 also depends on whether the supply is intra-State or inter-State. Let us first understand what is B2B supply and what is B2C supply?

---

[8] *Principles determining the place of supply as contained in sections 10 and 12 of the IGST Act have been discussed in detail in Chapter 4 – Place of Supply in Module 1 of this Study Material.*





(A) Details of outward supplies required to be furnished in IFF

In the IFF, the registered person has to submit the B2B (business to business) invoice details of both inter-State and intra-State supply transactions along with debit and credit notes of the B2B invoices issued during the month.

The details of outward supplies furnished using IFF shall include the –

(a) invoice wise details of inter-State and intra-State supplies made to the registered persons;

(b) debit and credit notes, if any, issued during the month for such invoices issued previously.

From the above discussion, it can be inferred that IFF shall include invoices pertaining to B2B supplies irrespective of whether they are intra-State or inter- State supplies. This is so because the recipients will take ITC basis such invoices.

(B) Details of outward supplies required to be furnished in GSTR-1/GSTR-1A

The registered person is required to furnish:

(i) details of invoices and revised invoices issued in relation to supplies made by him **to registered and unregistered persons**

(i.e. B2B as well as B2C supplies) and debit notes and credit notes in GSTR-1, and

(ii) additional details or the amendments of the details of outward supplies of goods or services or both furnished in Form GSTR-1A, as per the requirement of the registered person in the following manner:

Sl. No.	Invoice-wise details of ALL	Consolidated details of ALL	Debit and credit notes
(i)	Inter-State and Intra-State supplies made to registered persons, i.e. B2B supplies.	Intra-State supplies made to unregistered persons for each rate of tax	Issued during the month for invoices issued previously
(ii)	Inter-State supplies made to unregistered persons with invoice value exceeding **₹ 1,00,000**, i.e. B2C supplies	Inter-State supplies made to unregistered persons with invoice value upto **₹ 1,00,000** for each rate of tax separately for each State	

From the above discussion, it can be inferred that for B2B supplies, details of all invoices need to be uploaded in GSTR-1/ Form GSTR-1A irrespective of whether they are intra-State or inter-State supplies. This is so because the recipient will take ITC basis such invoices.

For B2C supplies, uploading of details in general is not required as the buyer will not be taking ITC. However, still in order to implement the destination-based principle, details of invoices of value more than ₹ 1 lakh in inter-State B2C supplies need to be uploaded.

For inter-State invoices upto ₹ 1 lakh, State wise summary is sufficient and for all intra-State invoices, only consolidated details need to be given.



(2) Mr. XY makes intra-State taxable supplies for ₹ 10,000 and ₹ 50,000 to Mr. AB, a registered person and ₹ 1,00,000 to Mr. DE, an unregistered person. He also makes inter-State taxable supplies for ₹ 1,00,000 and ₹ 45,000 to Mr. RS, a registered person and ₹ 90,000 to Mr. OP, an unregistered person. Mr. XY will report invoice-wise details of intra-State supplies made to Mr. AB and inter-State supplies made to Mr. RS, in GSTR-1 to be filed by him.

Invoices related details can be uploaded any time during the tax period and not just at the time of filing of IFF/ GSTR-1.

Details related to invoices can be modified/deleted any number of times till the submission of IFF/ GSTR-1 of a tax period. The uploaded invoice details are in a draft version till the time IFF/GSTR-1 is submitted and can be changed irrespective of due date.

Scanned copies of invoices are not required to be uploaded. Only certain prescribed fields of information from invoices need to be furnished e.g., invoice no., date, value, taxable value, rate of tax, amount of tax etc.

In case there is no consideration, but the activity is a supply by virtue of Schedule I of CGST Act, the taxable value will have to be worked out as prescribed and furnished.

Description of each item in the invoice need not be furnished. Only HSN (Harmonized System of Nomenclature) code in respect of supply of goods and accounting code in respect of supply of services need to be fed.

Indication of HSN details

The minimum number of digits of HSN code that a filer has to upload depend on his turnover in the last year.

HSN would be disclosed as under[9]:

[9] *Notification No. 78/2020 CT dated 15.10.2020*

Aggregate Annual turnover in the preceding financial year	Number of Digits of HSN Code
Upto ₹ 5 crore	For B2B supply - 4 For B2C supply – 4 (optional)
More than ₹ 5 crore	6



HSN or HS (Harmonized Commodity Description and Coding System) is a standardized system of nomenclature of different goods developed by World Customs Organization, which is accepted globally.

HSN uses 6-digits uniform codes to classify different goods. India uses eight-digits codes for more specific and precise classification.



(3) The turnovers of Yellow Lemon Pvt. Ltd., Red Pepper Pvt. Ltd. and Blue Berry Pvt. Ltd. in the previous financial year are ₹ 1.5 crore, ₹ 4.8 crore and ₹ 6 crore respectively.

While Yellow Lemon Pvt. Ltd. and Red Pepper Pvt. Ltd. will be required to upload 4 digits of HSN code of the goods sold to registered persons, uploading of 4 digits HSN code will be optional for the two companies when the goods are sold to unregistered persons.

Blue Berry Pvt. Ltd. will have to upload 6 digits of HSN code of goods sold by it.

(viii) How are the details of outward supply furnished in the current period amended? [Proviso to rule 59(1)]



In cases where a taxpayer, after having filed Form GSTR-1, realizes that some amendment (downward or upward) is required to be made in his tax liability in Form GSTR-1, an optional Form GSTR-1A is provided to him.

This allows him to add any particulars of the current tax period missed out in reporting in Form GSTR-1 of current tax period or amend any particulars already declared in Form GSTR-1 of current tax period (including those declared in IFF, for the first and second months of a quarter, if any, for quarterly taxpayers).

A registered person may, after furnishing the details of outward supplies of goods or service or both in Form GSTR-1 for a tax period but before filing of return in Form GSTR-3B for the said tax period, at his own option, amend or furnish additional details of outward supplies of goods or services or both in Form GSTR-1A for the said tax period [Proviso to rule 59(1)].



(4) A supplier issued two invoices INV1 and INV2 in the month of January. Then, he furnished the details of the invoice INV1 on 8th Feb in Form GSTR-1. However, he misses one invoice INV2 and furnishes the details of the same in Form GSTR-1A on 15th Feb.

In this case, INV1 will go to Form GSTR-2B of the recipient for the month of January made available on 14th Feb. Further, INV2 will be made available in Form GSTR-2B of the recipient for the month of February made available on 14th March.



(5) A supplier issued two invoices INV 3 and INV 4 in the month of January. Then, he furnished the details of the invoice INV 3 on 15th Feb in Form GSTR-1.

However, he declared INV 4 in Form GSTR-1A on 16th Feb. In this case, both INV3 and INV4 will be made available in Form GSTR-2B of the recipient for the month of February made available on 14th March.

Key features of Form GSTR-1A are as follows:

- Form GSTR-1A is an optional facility.
- It can be filed only once for a return period.
- It allows to amend the records filed in the Form GSTR-1 of current tax period only.
- The corresponding effect of the changes made through Form GSTR-1A on the liability of the taxpayer shall be reflected in Form GSTR-3B for the same tax period.
- At the recipient's end, the ITC for the supplies declared or amended by the suppliers through Form GSTR-1A will be available to the recipient in Form GSTR-2B generated for the next tax period.
- It can be amended only electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.

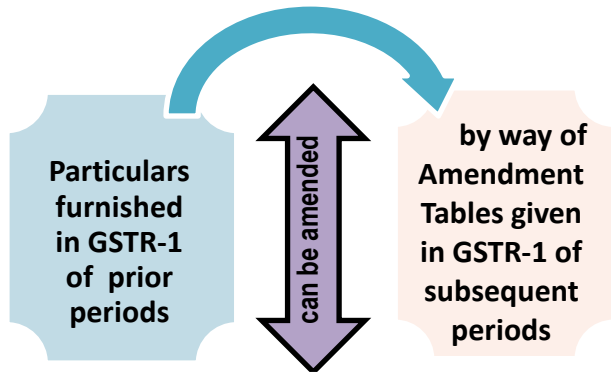
- There is no due date for filing of GSTR-1A. For the taxpayers filing Form GSTR-1 on monthly basis:
  - Form GSTR-1A will be available on the portal every month from the due date of filing of Form GSTR-1 or the actual date of filing of Form GSTR-1, whichever is later, and will be available till the actual filing of corresponding Form GSTR-3B of the same tax period.
  - From the liability perspective, the net impact of particulars declared or amended through Form GSTR-1A, along with the particulars declared in Form GSTR-1, shall be auto-populated in Form GSTR-3B for the same tax period as that of Form GSTR-1.
- For the QRMP taxpayers, who files FORM GSTR-1 on Quarterly basis:
  - Form GSTR-1A shall be available quarterly after actual filing of Form GSTR-1 (Quarterly) or the due date of filing of Form GSTR - 1 (Quarterly), whichever is later, and will be available till the actual filing of Form GSTR-3B of the same tax period.
  - The supplies reported in Form GSTR-1 of the current tax period (including those declared in IFF, for the first month, M1 and second month, M2 of a quarter, if any) can be amended through corresponding quarterly GSTR-1A.
  - From the liability perspective, the net impact of the particulars declared in GSTR 1A (Quarterly), along with particulars furnished in Form GSTR-1 (Quarterly) (or through IFF of Month M1 and M2, if filed), shall be auto-populated in Form GSTR-3B (Quarterly) of the same tax period.
  - There will be no separate amendment facility available for records furnished through IFF for the months M1 and M2, during the month M1 and M2.
- In case where change is required to be made in GSTIN of a recipient for a supply reported in Form GSTR-1 of a tax period, the same can be rectified through Form GSTR-1 for the subsequent tax period only.

(ix) How are the details of outward supply furnished in prior periods amended? [Section 37(3)]

(a) Scope of amendment/ correction entries

Tables 9, 10 and 11(II) of GSTR-1 provide for amendments in details of taxable outward supplies furnished in earlier periods (hereinafter referred to as "Amendment Table"). The details of original debit notes/ credit notes / refund vouchers issued by the taxpayer in the current tax period as also the revision in the debit notes/ credit notes / refund vouchers issued in the earlier tax periods are required to be shown in Table 9 of the GSTR-1.

Ordinarily, in Amendment Table, the supplier is required to give details of the original invoice (No and Date), the particulars of which have been wrongly entered in GSTR-1 of the earlier months and are now sought to be amended.



(b) Rectification of errors

If the supplier discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed, and pay the tax and interest, if any, in case there is short payment, in the return to be furnished for such tax period.



(6) A supplier discovers a mistake in details of the invoice furnished in GSTR-1 for the month of August, in October. He can rectify the said mistake in the GSTR-1 for the month of October.

(c) Time limit for rectification

In above example, suppose for some reason, supplier could not make correction at the time of filing of GSTR-1 for the month of October then he can make such amendments in the subsequent periods. However, the maximum time limit within which such amendments are permissible is earlier of the following dates:

- 30th day of November following the end of the financial year to which such details pertain or
- Date of filing of the relevant annual return



(7) An entity has furnished the annual return for the previous financial year on 15th August in the current financial year. An error is discovered in respect of a transaction pertaining to the month of November of the previous financial year. In this case, any error pertaining to the transaction in the month of November of the previous financial year cannot be rectified beyond 15th August in the current financial year.

It may be noted that, the expression 'due date' is missing in time limit prescribed for making amendments u/s 37(3) [GSTR-1]. Therefore, such date apparently means actual date of filing and not the due date.

(x) Nil GSTR-1 [Rule 67A]

Filing of GSTR-1 is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GSTR-1 is required to be filed as prescribed under rule 67A.

A Nil GSTR-1 does not have any entry. For example, a Nil GSTR-1 for a tax period cannot be filed, if the taxpayer has made any outward supply (including exempt, nil rated or non-GST supplies), or it has received supplies on which tax is payable under reverse charge or an amendment needs to be made to any of the supplies declared in an earlier return or any credit or debit notes is to be declared / amended etc. A Nil GSTR-1 can be filed through an

SMS using the registered mobile number of the taxpayer. GSTR-1 submitted through SMS is verified by registered mobile number-based OTP facility.

A taxpayer can file Nil GSTR-1, anytime from 1st day of the month subsequent of the tax period. For example, GSTR-1 for the calendar month of April, can be filed from 1st May onwards. GSTR-1 for the quarter of April to June can be filed from 1st July onwards.



✪ ***Taxpayer opting for voluntary cancellation of GSTIN has to file GSTR-1 for active period.***

✪ ***In cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer at the beginning of any financial year, GSTR-1 will be available for filing only for the period during which the taxpayer was registered as normal taxpayer. The GSTR-1 for the said period, even if filed with delay would accept invoices for the period prior to conversion.***

What are the precautions that a taxpayer is required to take for a hassle-free compliance under GST?

One of the most important things under GST is the timely uploading of the details of outward supplies in GSTR-1. How best this can be ensured will depend on the number of B2B invoices that the taxpayer issues.

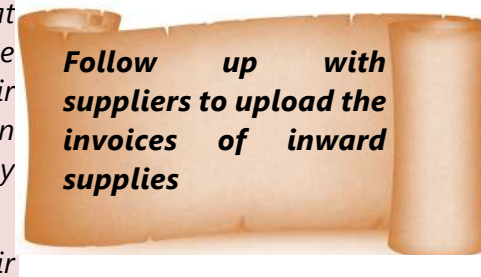
If the number is small, the taxpayer can upload all the information in one go. However, if the number of invoices is large, the invoices (or debit/ credit notes) should be uploaded on a regular basis.



GST common portal allows regular uploading of details of invoices. Till the return is actually submitted, the system also allows the taxpayer to modify the uploaded invoices' details.

Therefore, it would always be beneficial for the taxpayers to regularly upload the invoices. Last minute rush makes uploading difficult and comes with higher risk of possible failure and default.

The second thing would be to ensure that taxpayers follow up on uploading the invoices of their inward supplies by their suppliers. This would be helpful in ensuring that ITC is available without any hassle and delay.



Recipients can also encourage their suppliers to upload their invoices on a regular basis instead of doing it on or close to the due date. The system would allow recipients to see if their suppliers have uploaded invoices pertaining to them.

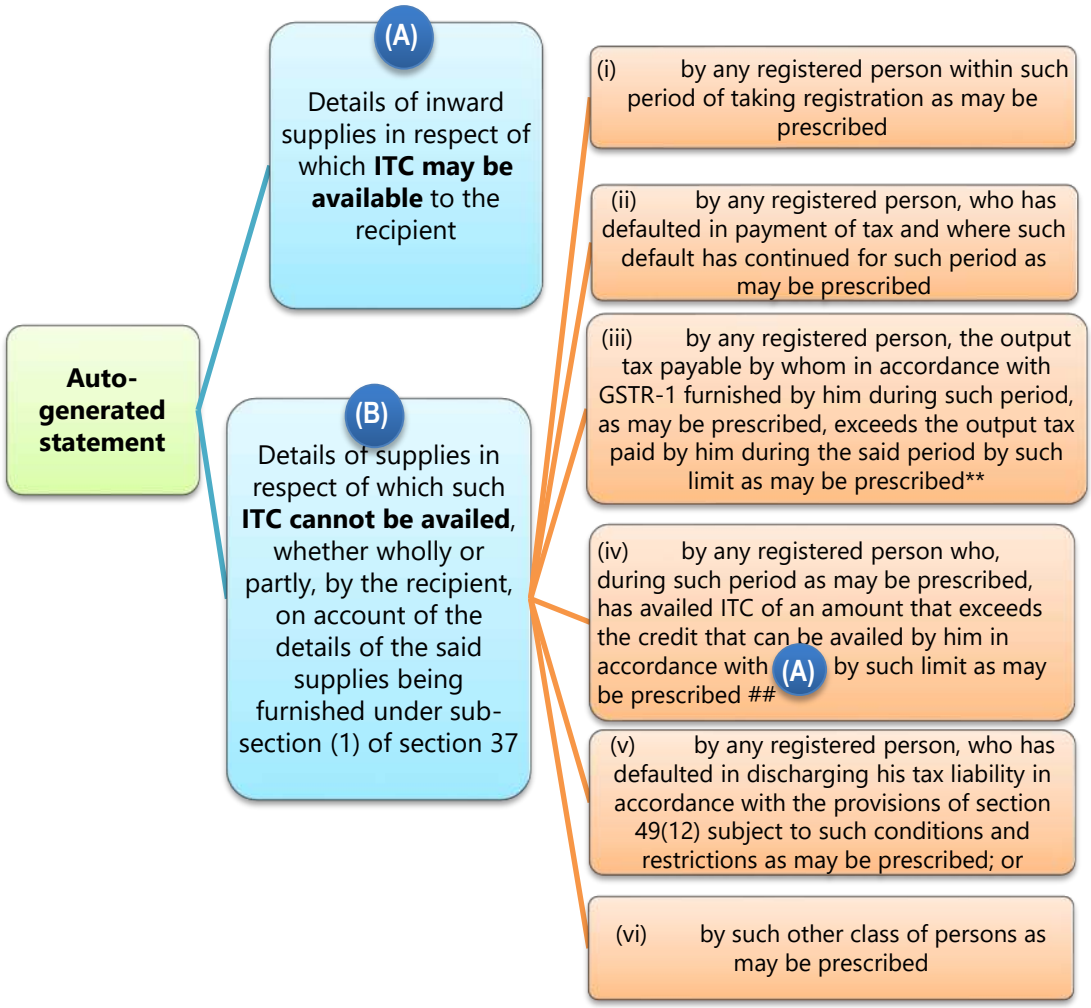
(xi) Maximum time-limit for furnishing Form GSTR-1 [Section 37(5)]

Maximum time-limit upto which a registered person can furnish the details of outward supplies in Form GSTR-1 for a tax period is **3 years** from the due date of furnishing such details.

This time limit can be extended by the Government for a registered person or a class of registered persons subject to such conditions and restrictions as may be specified therein.

4. COMMUNICATION OF DETAILS OF INWARD SUPPLIES AND INPUT TAX CREDIT [SECTION 38 READ WITH RULE 60]

The details of outward supplies furnished by the registered persons under section 37(1) and of such other supplies as may be prescribed, and an Auto-Generated Statement containing the details of ITC shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.



**** Manner of dealing with difference in liability reported in Form GSTR-1 and Form GSTR-3B that reported in return [Rule 88C]**

Rule 88C provides the mechanism for dealing with difference in liability reported in statement of outward supplies between Form GSTR-1 (as amended in Form GSTR-1A, if any) and Form GSTR-3B. Accordingly, where the tax liability as per Form GSTR-1 for a tax period exceeds the tax liability as per Form GSTR-3B for that period by more than a specified extent, the registered person would be intimated on the portal of such difference and be directed to either (i) pay the differential tax liability along with interest, or (ii) explain the difference, within 7 days' period.

Unless the taxpayer either deposits the amount specified in the said intimation or furnishes a reply explaining the reasons for any amount remaining unpaid, such a person should not be allowed to file Form GSTR-1/ IFF for the subsequent tax period.

Rule 88C reads as follows:

Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in Form GSTR-1 (as amended in Form GSTR-1A, if any) or using the IFF in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in Form GSTR-3B, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference.

Such registered person shall be intimated in prescribed form, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address*.

In said intimation, the said difference between GSTR-1 and GSTR-3B will be highlighted and he will be directed to:

(a) pay the differential tax liability, along with interest under section 50, through prescribed form; or

(b) explain the aforesaid difference in tax payable on the common portal,

within a period of 7 days.

**email address which registered person has provided at the time of registration or as amended from time to time*

Such registered person shall, upon receipt of the aforesaid intimation, either:

(a) pay the amount of the differential tax liability, as specified in intimation, fully or partially, along with interest under section 50, and furnish the details thereof electronically on the common portal; or

(b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any,

within the period of 7 days.

Where any amount specified in the said intimation remains unpaid within 7 days' period and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79[10].

Manner of dealing with difference in ITC available in Form GSTR-2B and Form GSTR-3B [Rule 88D]

Rule 88D provides the mechanism which allows system-based intimation to the taxpayer about the excess availment of ITC in Form GSTR-3B vis-a-vis that reported in Form GSTR-2B, above a particular threshold and with provision for self-compliance on the portal by the said taxpayer. Consequently, new rule 88D has been introduced to give a system-based intimation to the registered person in those cases where difference between the ITC availed as per GSTR-3B and that available as per GSTR-2B exceeds such amount and such percentage as may be recommended by the Council. In such cases, the registered person shall be directed to pay an amount equal to the said excess amount of ITC availed along with interest or to give a reasonable explanation and if neither of these is done, then the amount can be demanded under section 73 or section 74 ***or section 74A***[11].

This provision would help in safeguarding the revenue by controlling the difference in ITC availed in Form GSTR-3B and that available as per Form GSTR-2B of the taxpayers and will reduce the ITC mismatches.

New rule 88D provides as follows:

Where the amount of ITC availed by a registered person in the return for a tax period(s) furnished by him in Form GSTR-3B exceeds the ITC available to such person in accordance with the auto-generated statement containing the details of

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[10] Provisions of section 79 – Recovery of tax - has been discussed at the Final level.

[11] Section 74A contains the provisions relating to determination of tax not paid/short paid or erroneously refunded or ITC wrongly availed/utilized for any reason pertaining to Financial Year 2024-25 onwards. Detailed provisions of section 74A will be discussed at the Final level. Further, the provisions of sections 73 and 74 are applicable for tax determination relating to the past period up to the Financial Year 2023–24.

ITC in Form GSTR-2B in respect of the said tax period(s), by specified amount and percentage, the said registered person shall be given an intimation in prescribed form electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time. Said intimation shall highlight the said difference and will direct him to —

(a) pay an amount equal to the excess ITC availed in the said Form GSTR-3B, along with interest payable under section 50, through prescribed form, or

(b) explain the reasons for the aforesaid difference in ITC on the common portal,

within a period of 7 days.

Such registered person shall, upon receipt of said intimation, either,

(a) pay an amount equal to the excess ITC, as specified in intimation, fully or partially, along with interest payable, through prescribed form and furnish the details thereof, electronically on the common portal, or

(b) furnish a reply, electronically on the common portal, incorporating reasons in respect of the amount of excess ITC that has still remained to be paid,

within 7 days' period.

Where any amount specified in the intimation remains to be paid within 7 days' period and where no explanation/reason is furnished by the registered person in default or where the explanation/reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73/ section 74 ***or section 74A***[12].

[12] *Section 74A contains the provisions relating to determination of tax not paid/short paid or erroneously refunded or ITC wrongly availed/utilized for any reason pertaining to Financial Year 2024-25 onwards. Detailed provisions of section 74A will be discussed at the Final level. Further, the provisions of sections 73 and 74 are applicable for tax determination relating to the past period up to the Financial Year 2023–24.*

Form and manner of ascertaining details of inward supplies – GSTR-2A and GSTR-2B

Form GSTR-2A

Form GSTR-2A - is a **system generated read only statement of inward supplies** for a recipient. This statement is **updated on a real time basis**.

GSTR-2A

Details of outward supplies furnished by the supplier in Form GSTR-1 or Form GSTR-1A or using the IFF is made available electronically to the concerned registered persons (recipients) in Form GSTR-2A. Further, Form GSTR-4A is the system generated statement of inward supplies for composition taxpayer [13].

Details of invoices furnished by a non-resident taxable person (NRTP) in Form GSTR-5[14], details of TDS by deductor furnished in Form GSTR-7 and details of TCS by an e-commerce operator furnished in Form GSTR-8, are made available to the recipient, deductee or concerned person, in Form GSTR-2A.

Further, details of the IGST paid on the import of goods or goods brought in DTA from SEZ unit/developer on a bill of entry are also made available in Form GSTR-2A.

The details become available to the recipient for view/download and are updated incrementally as and when supplier(s) upload or change details in their respective form of return/statement, for the given tax period.

Form GSTR-2B

Form GSTR-2B – an **auto-generated statement** containing the details of **eligible ITC** - is made available to the registered person (recipient) for every month.

GSTR-2B

It is a **static statement** and is **available only once a month**.

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[13] *System generated statement of inward supplies for an ISD is GSTR-6A. Provisions relating to ISD are discussed in detail at the Final level.*

[14] *Details of invoices furnished by an ISD in Form GSTR-6 are also made available to a recipient in GSTR-2A.*

It consists of –

(i) the details of outward supplies furnished by the suppliers in Form GSTR-1, other than a supplier who has opted for QRMP scheme, between the day immediately after the due date of furnishing of Form GSTR-1 for the previous month to the due date of furnishing of Form GSTR-1 for the month.

(ii) the details of invoices furnished by a non-resident taxable person in GSTR-5[15] and the details of outward supplies furnished by his supplier who has opted for QRMP scheme, in Form GSTR-1 or using the IFF, as the case may be,-

(a) **for the 1st month of the quarter**, between the day immediately after the due date of furnishing of Form GSTR-1 for the preceding quarter to the due date of furnishing details using the IFF for the 1st month of the quarter;

(b) **for the 2nd month of the quarter**, between the day immediately after the due date of furnishing details using the IFF for the 1st month of the quarter to the due date of furnishing details using the IFF for the 2nd month of the quarter;

(c) **for the 3rd month of the quarter**, between the day immediately after the due date of furnishing of details using the IFF for the 2nd month of the quarter to the due date of furnishing of Form GSTR-1 for the quarter.

(iii) additional details or amendments in details of outward supplies furnished by his supplier in Form GSTR-1A filed between the day immediately after the due date of furnishing of Form GSTR-1 for the previous tax period to the due date of furnishing of Form GSTR-1 for the current tax period

(iv) the details of IGST paid on the import of goods or goods brought in the DTA from SEZ unit/developer on a bill of entry in the month.

Form GSTR-2B consists of all documents filed by suppliers/ISD in their Form GSTR-1, 5 & 6, between the cut-off dates. It also consists of import data for the period which are received within 13th of the succeeding month. In case of monthly Form

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[15] Details of invoices furnished by an ISD in his return in GSTR-6 are also reflected in GSTR-2B. ISD provisions will be discussed at the Final level.

GSTR-1, the cut-off date is 00:00 hours on 12th of the relevant month to 23:59 hours, on 11th of the succeeding month. Whereas for quarterly Form GSTR-1/IFF, Form GSTR-5 and Form GSTR-6, the cut-off date is 00:00 hours on 14th day of relevant month to 23:59 hours, on 13th day of succeeding month.

The details filed in Form GSTR-1 & 5 (by supplier) & Form GSTR-6 (by ISD) would reflect in the next open Form GSTR-2B of the recipient irrespective of supplier's/ISD's date of filing.



(8) If a supplier opting for QRMP files an invoice dated 15th July on 13th August, it will get reflected in GSTR-2B of July (generated on 14th August).

The statement in Form GSTR-2B for every month shall be made available to the registered person,-

(a) for the 1st and 2nd month of a quarter, a day after the due date of furnishing of details of outward supplies for the said month,

- ❑ in the IFF by a registered person opting for QRMP, or
- ❑ in Form GSTR-1 by a registered person other than opting for QRMP,

whichever is later.

(b) in the 3rd month of the quarter, a day after the due date of furnishing of details of outward supplies for the said month, in Form GSTR-1 by a registered person opting for QRMP.



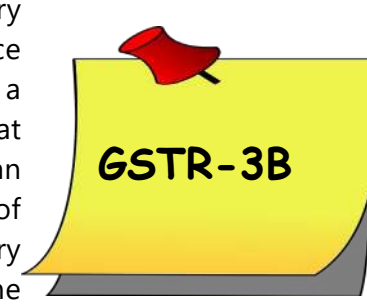
(9) For the quarter July-September, Form GSTR-2B for a registered person (recipient) who has received supplies from QRMP suppliers as well as from other suppliers will be generated as follows:

Month	Date of generation of GSTR 2B
July	14th August
August	14th September
September	14th October

5. FURNISHING OF RETURNS UNDER SECTION 39

1. GSTR-3B [Section 39(1) read with rule 61 & 61A]

(a) Person eligible to file return [Section 39(1)]



Section 39(1) prescribes a monthly return for every registered person, other than an input service distributor or a non-resident taxable person or a composition taxpayer, a person deducting tax at source, a person collecting tax at source, i.e. an electronic commerce operator and supplier of OIDAR services located in non-taxable territory providing such services to non-taxable online recipient in such form and manner, and within such time, as may be prescribed.

However, the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to the specified conditions and restrictions. Under this proviso, QRMP scheme has been notified which has been discussed in subsequent paras.

(b) Return to be filed in Form GSTR-3B

GSTR-3B is the form prescribed for filing return under section 39. It contains summary of outward supplies, inward supplies liable to reverse charge, eligible ITC, payment of tax etc. Thus, GSTR-3B does not require invoice-wise data of outward supplies.

GSTR-3B can be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner. Further, a Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-3B can be filed monthly or quarterly.

(c) Due date for filing return

(1) **Monthly GSTR-3B** -on or before **20th of the month** succeeding the month for which return is furnished.

(2) **Quarterly GSTR-3B-** on or before **22nd or 24th of the month** succeeding the quarter for which return is furnished in case of a taxpayer opting for QRMP scheme - *(discussed below)*.

(d) Quarterly Return Monthly Payment (QRMP) Scheme

Quarterly Return Monthly Payment (QRMP) Scheme is a trade facilitation measure which further eases the process of doing business.





QRMP Scheme is an **optional return filing scheme**, introduced for small taxpayers having aggregate annual turnover (PAN based) of upto ₹ 5 crore in the preceding financial year to **furnish their Form GSTR-1 and Form GSTR-3B on a quarterly basis while paying their tax on a monthly basis** through a simple challan.

This will significantly reduce the compliance burden on such taxpayers as now the taxpayers need to file only 4 GSTR-3B returns instead of 12 GSTR-3B returns in a year. Similarly, they would be required to file only 4 GSTR-1 returns since Invoice Filing Facility (IFF) is provided under this scheme.



Opting of QRMP scheme is GSTIN wise. Distinct persons can avail QRMP scheme option for one or more GSTINs. It implies that some GSTINs for a PAN can opt for the QRMP scheme and remaining GSTINs may not opt for the said scheme.

(A) Eligibility for QRMP scheme

Registered persons[16], having an **aggregate turnover up to ₹ 5 crore** in the preceding financial year, and who have opted to furnish quarterly return under QRMP scheme[17] as the class of persons who shall **furnish a return for every quarter and pay the tax due every month**[18].

Thus, the taxpayers whose aggregate turnover is up to ₹ 5 crore in the preceding financial year are eligible for QRMP scheme. For computing

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[16] *other than supplier of online information and database access or retrieval services (OIDAR) located in non-taxable territory and providing such services to a non-taxable online recipient*

[17] *opted under rule 61A of the CGST Rules, 2017*

[18] *in accordance with the proviso to section 39(7)*

aggregate turnover, details furnished in returns for tax periods in the preceding financial year shall be taken into account.

Condition to be fulfilled for becoming eligible to opt for QRMP scheme

Registered persons under QRMP scheme must have furnished the return for the preceding month, as due on the date of exercising such option.

A registered person shall not be eligible to opt for QRMP scheme if he has not **furnished the last return due on the date of exercising such option**.



(10) If a registered person intending to avail of QRMP scheme for the quarter 'July to September' is exercising his option on 27th July for the said quarter, he must have furnished the return for the month of June which was due on 20th July.

(B) Manner of exercising option of QRMP scheme

A registered person intending to opt for QRMP scheme for any quarter shall indicate his preference for furnishing of return on a quarterly basis from 1st day of the 2nd month of the preceding quarter till the last day of the 1st month of the quarter for which the option is being exercised.



(11) A registered person intending to avail of QRMP scheme for the quarter 'July to September' can exercise his option from 1st May to 31st July.

No need to exercise this option every quarter

Registered persons under QRMP scheme are not required to exercise the option every quarter. Where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the said option.

Further, where such option has been exercised once, the said registered person shall continue to furnish the return on a quarterly basis for future tax periods, unless he–

(a) becomes ineligible for this scheme as per the conditions and restrictions notified in this regard; or

(b) opts for furnishing of return on a monthly basis, electronically, on the common portal.

(C) Option of QRMP scheme to lapse

In case where a registered person's aggregate turnover crosses ₹ 5 crore during a quarter in a financial year, he shall not be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter.

He shall opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which his aggregate turnover exceeds ₹ 5 crore.

The facility for opting out of the scheme for a quarter will be available from 1st day of 2nd month of preceding quarter to the last day of the 1st month of the quarter.

(D) Form and manner of filing return – GSTR-3B under QRMP scheme

Due date for filing return in case of a taxpayer opting for QRMP scheme - Quarterly GSTR-3B **on or before 22nd or 24th of the month** succeeding the quarter for which return is furnished (Refer the Table given below for details**).

****Due dates for taxpayers opting for QRMP scheme**

Class of registered persons	Due date
Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Union territories of Daman & Diu & Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	**22nd day** of the month succeeding such quarter.
Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand,	**24th day** of the month succeeding such quarter.

Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	

(e) Nil GSTR-3B

Filing of GSTR-3B is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GSTR-3B is required to be filed.

A Nil GSTR-3B does not have any entry in any of its tables. For example, a Nil GSTR-3B for a tax period cannot be filed, if the taxpayer has made any outward supply (including nil-rated, exempt or non-GST supplies) or has received any supplies which are taxable under reverse charge or it intends to take ITC etc.

A Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-3B submitted through SMS is verified by registered mobile number-based OTP facility.

A taxpayer may file Nil GSTR-3B, anytime on or after the 1st day of the subsequent month/quarter for which the return is being filed for.

(f) Maximum time-limit for furnishing Form GSTR-3B [Section 39(11)]

Maximum time-limit upto which a registered person can furnish the return in Form GSTR-3B for a tax period is **3 years** from the due date of furnishing such return.

This time limit can be extended by the Government for a registered person or a class of registered persons subject to such conditions and restrictions as may be specified therein.

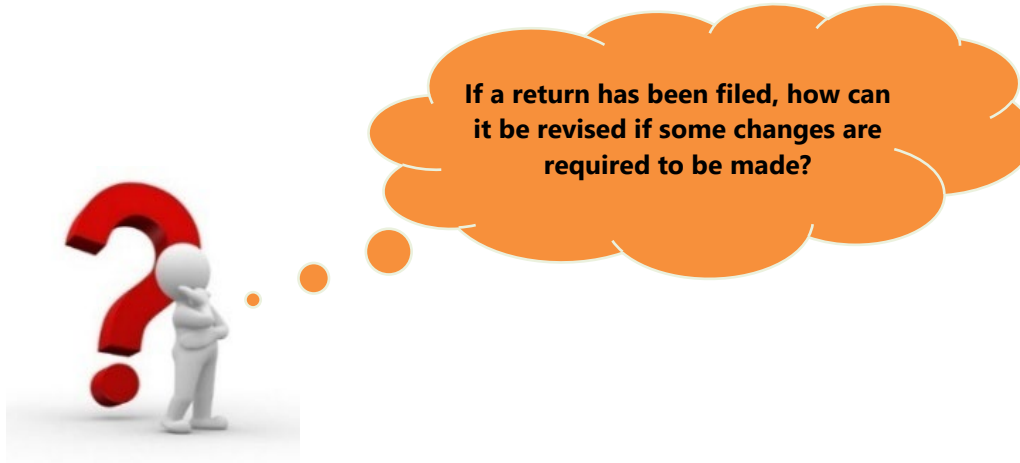
(g) Broad contents of GSTR-3B

The broad contents of GSTR-3B are given below

CONTENTS OF GSTR- 3B

Basic Details	Other details relating to supplies
• GSTIN • Legal name of the registered person • Year and Month/Quarter	• Summarised details of outward supplies and inward supplies liable to reverse charge • Summarised details of inter-State supplies made to unregistered persons, composition taxable persons and UIN holders • Eligible and ineligible ITC • Values of exempt, nil-rated and non-GST inward supplies • Payment of tax • TDS/TCS credit

(h) Rectification of errors/omissions [Section 39(9)]



In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1 in the tables specifically provided therein for the purposes of amending previously declared details.

Omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the tax period during which such omission or incorrect particulars are noticed.

Any tax payable as a result of such error or omission will be required to be paid along with interest.

Exception

It is important to note that section 39(9) does not permit rectification of error or omission discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities.

Hence, taxpayer may not be able to pass on the ITC to the receiver in respect of tax payments made by him in pursuance of any of the aforementioned situations.

Time limit for making rectification

The maximum time limit within which the rectification of errors/omissions is permissible is earlier of the following dates:

- 30th day of November following the end of the financial year to which such details pertain or
- Actual date of filing of the relevant annual return

The last date of filing of annual return for a financial year is 31st December of next financial year.

Hence, if annual return for a financial year is filed before 30th November (of next financial year), then no rectification of errors/omissions in returns pertaining to the said financial year would be permitted thereafter.



✪ ***A return furnished under section 39(1) on which self-assessed tax has been paid in full is considered as a valid return.***

✪ ***Filing of returns for current month is possible only when returns for any of the previous tax periods and GSTR-1 for the said tax period has been furnished by him[19].***

✪ ***A taxpayer needs to electronically sign the submitted returns otherwise it will be considered not-filed.***

✪ ***Taxpayers can electronically sign their returns using a DSC (mandatory for all types of companies and LLPs), E-sign (Aadhaar-based OTP verification), or EVC (Electronic Verification Code sent to the registered mobile number of the authorized signatory)***

2. GSTR-4 – Return for composition supplier [Section 39(2) and second proviso to section 39(7) read with rule 62]

(a) Person eligible to file return, periodicity and form of return

A registered person paying tax under composition levy (provisions of section 10), shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods and/or services, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.



Every registered person paying tax under section 10, i.e. a composition supplier is required to file a return on yearly basis in **Form GSTR-4.**

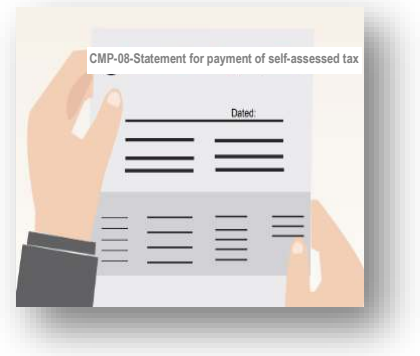
GSTR-4 for a financial year or part of a financial year should be filed electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

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[19] *The Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period [Proviso to section 39(10)].*

Quarterly statement for payment of self-assessed tax

Every composition supplier shall pay to the Government, the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.



The composition supplier are required to furnish a statement in the **Form GST CMP-08** containing details of payment of **self-assessed tax**, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.



While a composition supplier is required to file the return GSTR-4 annually, he is required to pay the tax quarterly.

(b) Due date for filing Form GSTR-4 and Form GST CMP-08

GSTR-4 for a financial year[20] should be furnished by ***30th June*** of the succeeding financial year.

Due date of filing GSTR-4 for a financial year → **By 30th day of June following the end of such financial year**

GST CMP-08 (quarterly statement for payment of self-assessed tax) should be furnished by 18th day of the month succeeding such quarter.

Due date of filing GST CMP-08 for a quarter → **By 18th day of the month succeeding such quarter**

[20] *from FY 2024-25 onwards*

(c) What kind of details of supplies are required to be furnished in GSTR-4?

GSTR-4 shall include the—

(a) invoice-wise inter-State and intra-State inward supplies received from registered and unregistered persons; and

(b) consolidated details of outward supplies made.

(d) Auto-population of inward supplies in GSTR-4A

The inward supplies of a composition supplier received from registered persons filing GSTR-1 will be auto populated in **Form GSTR-4A** for viewing.

☑ Consolidated details of outward supplies

Composition taxpayers are neither entitled for any ITC nor entitled to pass on any ITC to its customers. Therefore, composition taxpayers are required to provide consolidated details of outward supplies in GSTR-4 (Table 6) and not invoice-wise details. However, details of inter-State and intra-State inward supplies received from registered and un-registered persons are to be provided invoice-wise (Table 4).

☑ Tax liability

Since composition suppliers are not eligible to take ITC, they discharge their tax liability only by debiting electronic cash ledger.

(e) Nil GST CMP-08 [Rule 67A]

Filing of GST CMP-08 is mandatory for all taxpayers who have opted to pay tax under composition scheme, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GST CMP-08 is required to be filed.

A Nil GST CMP-08 does not have any entry in any of its tables. For example, a Nil GST CMP-08 for a tax period cannot be filed, if the taxpayer has made any outward supplies or has received any supplies which are taxable under reverse charge.

A Nil GST CMP-08 can be filed through an SMS using the registered mobile number of the taxpayer. A Nil GST CMP-08 submitted through SMS is verified by registered mobile number-based OTP facility.

(f) Broad contents of GSTR-4

The broad contents of GSTR-4 are given below.

CONTENTS OF GSTR- 4

Basic & Other Details	Details regarding Inward and Outward Supplies
• GSTIN • Legal name and Trade name • TDS/TCS credit received [Table 7] • Tax, interest, late fee payable and paid [Table 8] • Refund claimed from Electronic cash ledger [Table 9]	• Invoice-wise details of all inward supplies (i.e., intra and inter-State supplies and from registered and unregistered persons) including reverse charge supplies and import of services [Table 4] • Summary of self-assessed liability as per GST CMP-08 (Net of advances, credit & debit notes and any other adjustments due to amendments etc.) [Table 5] • Tax rate wise details of outward supplies/inward supplies attracting reverse charge (Net of advances, credit & debit notes and any other adjustments due to amendments etc.) - Consolidated details of outward supplies [Table 6]

(g) Statements/ return for the period prior to opting for composition scheme

If a registered person opts to pay tax under composition scheme from the beginning of a financial year, he will, where required, furnish statements/return relating to the period prior to paying tax under composition scheme till the

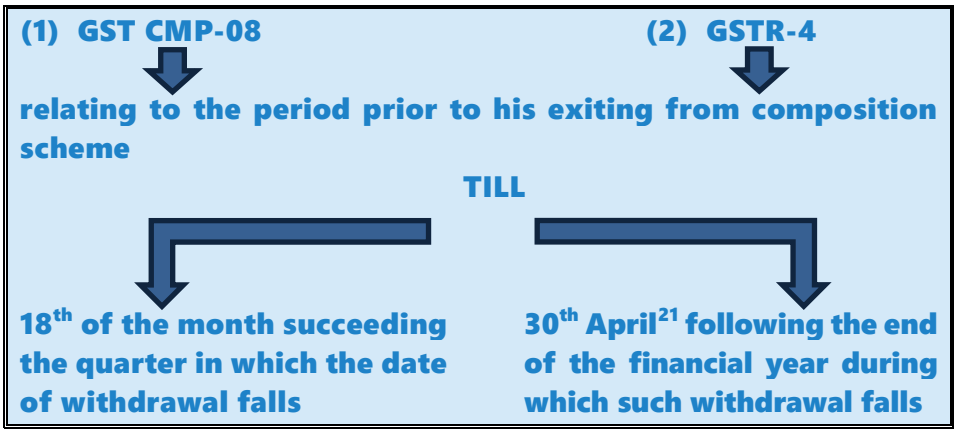
- due date of furnishing the return for the month of September of the succeeding financial year, or
- furnishing of annual return of the preceding financial year,

whichever is earlier.

The composition supplier will not be eligible to avail ITC on receipt of invoices or debit notes from the supplier for the period prior to their opting to pay tax under composition scheme.

(h) GSTR-4 for the period prior to exiting from composition scheme

A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer will, where required, furnish-



The provisions explained in points (f) and (g) above have been explained by way of a diagram given at next page:

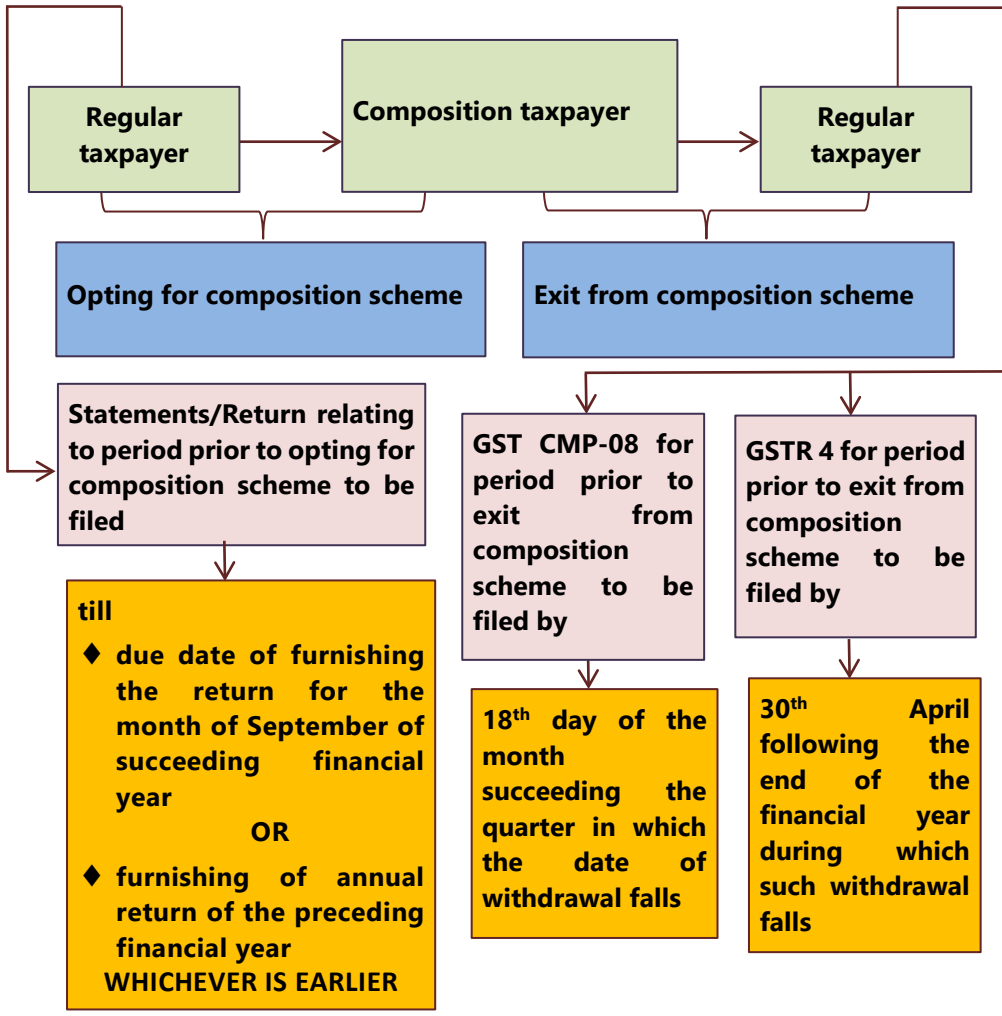
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[21] *As stated earlier, due date for filing Form GSTR-4 shall be 30th June following the end of such financial year, from FY 2024-25 onwards.*

As per section 29(2), a proper officer is empowered to cancel the registration of a taxable person if, *inter alia*,:

(a) a person paying tax under composition scheme has not furnished his GSTR-4 for a financial year beyond 3 months from the due date of furnishing the said return.

(b) any other taxable person has not furnished returns for such continuous tax period as may be prescribed.



3. GSTR-5 - Return for Non-Resident Taxable Persons [Section 39(5) read with rule 63]

Non-Resident Taxable Persons (NRTPs) are those suppliers who do not have a business establishment in India and have come for a short period to make supplies in India. They would normally import their products into India and make local supplies. *The concept of Non-Resident Taxable Person has been discussed in detail in Chapter 9 – Registration in this Module of the Study Material.*

(a) Monthly return

A registered NRTP is not required to file the Statement of Outward Supplies and return which are otherwise applicable for a normal taxpayer.



In place of the same, a simplified monthly tax return has been prescribed in **Form GSTR-5** for a NRTP for every calendar month or part thereof. The details of outward supplies and inward supplies of an NRTP are incorporated in GSTR-5.

(b) Last date of filing return

GSTR-5 should be furnished within **13 days** after the end of the calendar month **or within 7 days** after the last day of validity period of the registration, whichever is earlier[22].

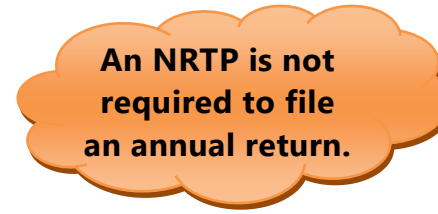
(c) Payment of interest, penalty, fees or any other amount payable

An NRTP should pay the tax, interest, penalty, fees or any other amount payable under the CGST Act or the provisions of the Returns Chapter under CGST Rules till the last date of filing GSTR-5.

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[22] *As per rule 63, GSTR-5 needs to be furnished within **20 days** after the end of the tax period or within 7 days after the last day of the validity period of registration, whichever is earlier.*





4. GSTR-7 - Return for tax deducted at source [Section 39(3) read with rule 66]

Normally, whenever taxable goods or services or both are supplied to a Central/ State Government's Department/ establishment or, local authority, or Governmental agencies, recipient is required to deduct tax at source under section 51 where the total value of such supply exceeds ₹ 2,50,000.

(a) Monthly return



Deductor shall furnish a monthly return in **Form GSTR-7** ***for every calendar month of the deductions made during the month. Dedcutor shall furnish said return for every calendar month whether or not any deductions have been made during the said month.***

(b) Last date of filing return

The details in GSTR-7 should be furnished ***on or before 10th day of the month succeeding the calendar month.***

(c) TDS details available to deductee on common portal

The details of TDS furnished by the deductor in GSTR-7 shall be made available electronically to each of the deductees on the common portal after filing of Form GSTR-7. The supplier can take this amount as credit in his electronic cash ledger after validation and use the same for payment of tax or any other liability.

(d) Tax Deduction at Source (TDS) Certificate

A TDS certificate is required to be issued by deductor (the person who is deducting tax) in Form GSTR-7A to the deductee (the supplier from

whose payment, TDS is deducted), within 5 days of crediting the amount to the Government. It contains the details pertaining to value on which tax has been deducted, rate of deduction, amount of tax deducted at source and amount paid to the Government.

6. DUE DATE FOR PAYMENT OF TAX [SECTION 39(7)]

Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.

However, every registered person furnishing return under QRMP scheme shall pay to the Government, in such form and manner, and within such time, as may be prescribed –

(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, ITC availed, tax payable and such other particulars during a month; or

(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.

Due dates for payment of tax in respect of the persons required to file monthly GSTR-3B, GSTR-5 and GSTR-7 are linked with the due dates for filing of such returns, i.e. the last dates (due dates) of filing such returns are also the due dates for payment of tax in respect of persons required to file such returns.

However, due dates for payment of tax in respect of the persons required to file quarterly GSTR-3B under QRMP Scheme for 1st two months of the quarter is delinked. Every registered person under QRMP scheme shall pay the tax due for each of the first 2 months of the quarter, by depositing the said amount in, by the 25th day of the month succeeding such month.

Similarly, in case of registered persons paying tax under composition scheme, the due date for payment of tax and filing of GSTR-4 is delinked. While GSTR-4 for a financial year is required to be filed by **30th June** of the following year, tax for a quarter is to be paid by 18th of the month succeeding such quarter.

Further, NRTPs or casual taxable persons are required to make advance deposit of an amount equivalent to their estimated tax liability for the period for which registration is sought or extension of registration is sought in terms of section 27(2).

Every registered person required to furnish return[23] shall, discharge their liability towards tax, interest, penalty, fees or any other amount payable under GST law by debiting the electronic cash ledger or electronic credit ledger and include the details in the return.

Monthly payment of tax under QRMP Scheme

The registered person under the QRMP Scheme would be required to pay the **tax due in 1st month or 2nd month or both** the months of the quarter by depositing the tax due[24]. The payment is to be made **by 25th day of the month succeeding such month**.



However, the Commissioner may, on the recommendations of the Council, by notification, extend the due date for depositing the said amount in Form GST PMT-06, for specified class of taxable persons. Further, any extension of time limit notified by the Commissioner of State tax/UT shall be deemed to be notified by the Commissioner:

While making a deposit of tax, such a registered person may –

(a) for the 1st month of the quarter, take into account the balance in the electronic cash ledger.

(b) for the 2nd month of the quarter, take into account the balance in the electronic cash ledger excluding the tax due for the 1st month.

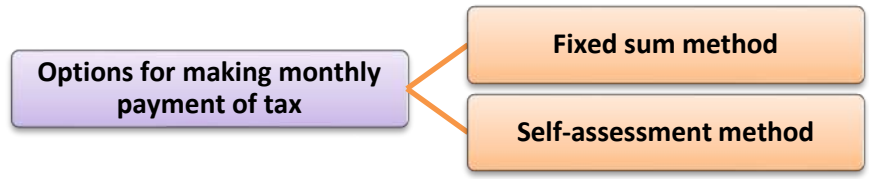
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[23] *subject to the provisions of section 49*

[24] *under first proviso to sub-section (7) of section 39*

At the time of filing the return for the said quarter in Form GSTR-3B, the amount deposited by the registered person in the first 2 months of the quarter shall be debited. This amount is debited solely for the purposes of offsetting the liability furnished in that quarter's Form GSTR-3B. However, any amount left after filing of that quarter's Form GSTR-3B may either be claimed as refund or may be used for any other purpose in subsequent quarters.

While generating the challan, taxpayers should select **"Monthly payment for quarterly taxpayer"** as reason for generating the challan. The said person can use any of the following two options provided below for monthly payment of tax during the first 2 months –



(a) **Fixed sum method:** If a taxpayer chooses this option, a facility is available on the GST portal for generating an auto-generated/pre-filled challan in Form GST PMT-06. The challan amount is calculated by the system which cannot be edited. The amount is equal to:

(i) **35% of the tax paid in cash** in the return for the preceding quarter where the return was **furnished quarterly**; or

(ii) **tax liability paid in cash** **in the return** for the last month of the immediately preceding **quarter** **where the return was furnished monthly.**

For easy understanding, the same is explained by way of examples given below:

(i) **In case the last return filed was on quarterly basis for quarter ending March:**

Tax paid in cash in quarter (January - March)		Tax required to be paid in each of the months – April and May	
CGST	100	CGST	35

SGST	100	SGST	35
IGST	500	IGST	175
Cess	50	Cess	17.5

(ii) In case the last return filed was monthly for tax period March:

Tax paid in cash in March	Tax required to be paid in each of the months – April and May		
CGST	50	CGST	50
SGST	50	SGST	50
IGST	80	IGST	80
Cess	-	Cess	-

However, no such amount may be required to be deposited-

(a) **for the 1st month of the quarter**, where the balance in the electronic cash ledger/electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability;

(b) **for the 2nd month of the quarter**, where the balance in the electronic cash ledger/electronic credit ledger is adequate for the cumulative tax liability for the 1st and the 2nd month of the quarter or where there is nil tax liability

Monthly tax payment through this method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month.

A **complete tax period** means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period.

(b) **Self-Assessment Method:** The said persons, in any case, can pay the tax due by considering the tax liability on inward and outward supplies and the ITC available, in Form GST PMT-06. In order to facilitate ascertainment of the ITC available for the month, an auto-drafted input

tax credit statement has been made available in Form GSTR-2B, for every month.

The registered person under QRMP is free to avail either of the two tax payment methods above in any of the two months of the quarter.

As already discussed earlier, at the time of filing the return for a quarter in Form GSTR-3B, the amount deposited by the registered person in the first 2 months of the quarter shall be debited. Further, any amount left after filing of that quarter's Form GSTR-3B may either be claimed as refund or may be used for any other purpose in subsequent quarters.

However, such refund claim shall be permitted only after the return in Form GSTR-3B for the said quarter has been furnished. Further, this deposit cannot be used by the taxpayer for any other purpose till the filing of return for the quarter.

Applicability of interest

A. For registered person making payment of tax by opting Fixed Sum Method

No interest would be payable in case the tax due is paid in the first 2 months of the quarter by way of depositing auto-calculated fixed sum amount (as discussed above) by the due date.

In other words, if while furnishing return in Form GSTR-3B, it is found that in any or both of the first 2 months of the quarter, the tax liability net of available credit on the supplies made /received was higher than the amount paid in challan, then, no interest would be charged provided they deposit system calculated amount for each of the first 2 months and discharge their entire liability for the quarter in Form GSTR-3B of the quarter by the due date.

In case such payment of tax by depositing the system calculated amount in Form GST PMT-06 is not done by due date, interest would be payable at the applicable rate, from the due date of furnishing Form GST PMT-06 till the date of making such payment.

Further, in case Form GSTR-3B for the quarter is furnished beyond the due date, interest would be payable as per the provisions of section 50 for the tax liability net of ITC.



(12) A registered person, who has opted for the QRMP Scheme, had paid a total amount of ₹ 100/- in cash as tax liability in the previous quarter of October to December.

He opts to pay tax under fixed sum method. He therefore pays ₹ 35/- each on 25th February and 25th March for discharging tax liability for the first 2 months of quarter viz. January and February.

In his return for the quarter, it is found that liability, based on the outward and inward supplies, for January was ₹ 40/- and for February it was ₹ 42/-. However, no interest would be payable for the lesser amount of tax (i.e. ₹ 5 and ₹ 7 respectively) discharged in these 2 months provided that he discharges his entire liability for the quarter in the Form GSTR-3B of the quarter by the due date.



(13) A registered person, who has opted for the QRMP Scheme, had paid a total amount of ₹ 100/- in cash as tax liability in the previous quarter of October to December.

He opts to pay tax under fixed sum method. He therefore pays ₹ 35/- each on 25th February and 25th March for discharging tax liability for the first 2 months of quarter viz. January and February.

In his return for the quarter, it is found that total liability for the quarter net of available credit was ₹ 125, but he files the return on 30th April. Interest would be payable at applicable rate on ₹ 55 [₹ 125 – ₹ 70 (deposit made in cash ledger in first and second month)] for the period between due date of quarterly GSTR 3B and 30th April.

B. For registered person making payment of tax by opting Self-assessment method

Interest amount would be payable as per the provision of section 50 for tax or any part thereof (net of ITC) which remains unpaid / paid beyond the due date for the first 2 months of the quarter.

Interest payable, if any, shall be paid through Form GSTR-3B.

Note: It is clarified that no late fee is applicable for delay in payment of tax in first 2 months of the quarter.

7. OTHER RETURNS/ STATEMENTS

(i) First return [Section 40]



When a person becomes liable to registration after his turnover crosses the threshold limit, he may apply for registration within 30 days of so becoming liable. Thus, there might be a time lag between a person becoming liable to registration and grant of registration certificate. During the intervening period, such person might have made the outward supplies, i.e. after becoming liable to registration but before grant of the certificate of registration.

Now, in order to enable such registered person to declare the taxable supplies made by him for the period between the date on which he became liable to registration till the date on which registration has been granted so that ITC can be availed by the recipient on such supplies, firstly, the registered person may issue revised tax invoices against the invoices already issued during said period within 1 month from the date of issuance of certificate of registration [Section 31(3)(a) read with rule 53– *Discussed in detail in Chapter-10: Tax Invoice, Credit and Debit Notes*]. Further, section 40 provides that registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration. The format for this return is the same as that for regular return.

(ii) GSTR – 8 - Statement for tax collection at source [Sub-sections (3), (4), (6) and (7) of section 52 read with rule 67]

(a) Monthly statement



An ECO liable to collect tax at source shall furnish a monthly statement in **Form GSTR-8** electronically through the common portal. Form GSTR-8 contains the details of supplies of goods or services or both effected through ECO, including the supplies of goods or services or both returned through it and the amount of tax collected at source.

(b) Last date of filing statement and for deposit of tax collected at source

The details in GSTR-8 should be furnished on/before 10th of the month succeeding the calendar month in which tax has been collected at source.

The due date of filing GSTR-8 may be extended by the Commissioner/Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of a notification.

Further, the amount of tax collected by ECO (TCS amount) is also required to be deposited by the 10th of the month succeeding the calendar month in which tax has been collected at source.

(c) TCS details available to suppliers on common portal and claiming of TCS by suppliers

The details of TCS furnished by the ECO in GSTR-8 shall be made available electronically to each of the suppliers who supplied goods and/or services through ECO on the common portal after filing of GSTR-8. The supplier can take this amount reflected in GSTR-8 as credit in his electronic cash ledger after validation and use the same for payment of tax or any other liability.

(d) Rectification of errors/omissions in GSTR-8

If after submission of GSTR-8, the ECO discovers any discrepancy therein on his own - not being the result of any scrutiny, audit, inspection or enforcement proceedings - he should rectify such discrepancy in GSTR-8 to be filed for the month during which such discrepancy is noticed, subject to payment of interest under section 50.

The rectification is not allowed after 30th November following the end of the financial year or the actual date of filing of the relevant annual statement [GSTR-9B], whichever is earlier.

(g) Maximum time-limit for furnishing Form GSTR-8

Maximum time-limit upto which ECO can furnish Form GSTR-8 is **3 years** from the relevant due date of filing such statement. This time limit can be extended by the Government for an ECO or a class of ECOs subject to such conditions and restrictions as may be specified therein.

(iii) GSTR – 9/9A and GSTR-9B - Annual Return [Sections 44, 52(5) read with rule 80]

(a) Who is required to furnish the annual return and what is the due date for the same?



All registered persons are required to file an annual return. However, following persons are not required to file annual return:

(i) Casual taxable persons

(ii) Non-resident taxable person

(iii) Input service distributors[25]

(iv) Persons authorized to deduct/collect tax at source under section 51/52, and

The Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section.

The annual return for a financial year needs to be filed by 31st December of the next financial year.

(b) What is the prescribed form for annual return/statement?

The annual return is to be filed electronically in **Form GSTR-9** through the common portal.

Person registered under composition levy: A person paying tax under composition scheme is required to file the annual return in **Form GSTR-9A.**

It may be noted that an ECO required to collect tax at source is required to file an annual statement referred to in section 52(5) in Form GSTR-9B (yet to be notified). The statement for a financial year needs to be filed by 31st December of the next financial year.

[25] *Provisions relating to ISD have been discussed at the Final level.*

(c) Who is required to furnish a self-certified reconciliation statement?

(i) All registered persons are required to file furnish a self-certified reconciliation statement alongwith annual return if their aggregate turnover during a financial year exceeds ₹ 5 crores. However, following persons are not required to file self-certified reconciliation statement:

(a) Casual taxable persons

(b) Non-resident taxable person

(c) Input service distributors

(d) Persons authorized to deduct/collect tax at source under section 51/52, and

(ii) Such registered person should furnish, electronically, the annual return along with a copy of **self-certified reconciliation statement**, duly certified, in **Form GSTR-9C**.

Self-certified reconciliation statement will reconcile the value of supplies declared in the return furnished for the financial year with the audited annual financial statement.



Value of supplies declared in Annual

Value of supplies declared in audited Annual Financial

(d) Exemption from the requirement of furnishing annual return including self-certified reconciliation statement

The department of the Central/State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force, are exempt from the requirement of furnishing an annual return including self-certified reconciliation statement.

(e) Maximum time-limit for furnishing annual return

Maximum time-limit upto which a registered person can furnish an annual return for a financial year is **3 years** from the due date of furnishing said annual return. This time limit can be extended by the Government for a registered person or a class of registered persons subject to such conditions and restrictions as may be specified therein.

(iv) GSTR - 10 - Final Return [Section 45 read with rule 81]

(a) Who is required to furnish final return?



Every registered person who is required to furnish return u/s 39(1) and whose registration has been cancelled is required to file a **final return** electronically in **Form GSTR-10** through the common portal.

(b) What is the time-limit for furnishing final return?

The final return has to be filed within 3 months of the:

(i) date of cancellation

or

(ii) date of order of cancellation

whichever is **later**.

(v) GSTR – 11 - Details of inward supplies of persons having UIN [Rule 82]

(a) When UIN is issued for claiming refund of taxes paid on inward supplies



Such person shall furnish the details of those inward supplies of taxable goods and/or services on which refund of taxes has been claimed in **Form GSTR-11**, **along with application for such refund claim.**

(b) When UIN is issued for purposes other than refund of taxes paid

Such person shall furnish the details of inward supplies of taxable goods and/or services as may be required by the proper officer in **Form GSTR-11.**

8. DEFAULT/DELAY IN FURNISHING RETURN [SECTIONS 46 & 47]

(i) Notice to return defaulters [Section 46 read with rule 68]



A notice in prescribed form is issued, electronically, to a registered person who fails to furnish return under section 39 [Normal Return] or section 44 [Annual Return] or section 45 [Final Return] or section 52 [TCS Statement].

The notice requires the registered person to furnish the return within 15 days, failing which the tax liability will be assessed under section 62, based on the relevant material available with the proper officer. In addition to tax so assessed, applicable interest and penalty will also be payable.

(ii) Late fees for delay in filing return [Section 47]

Late fee is applicable for delay in furnishing of return / details of outward supply as per the provision of section 47. Delay in filing the Statement of Outward Supplies [Section 37], Returns (including returns under QRMP Scheme) [Section 39], Final Return [Section 45] and TCS Statement [Section 52] by their respective due dates, attracts prescribed late fee.

The late fee payable by a registered person for delayed filing of a return and/or annual return under section 47 is with reference to only the CGST Act. An equal amount of late fee is payable by such person under the respective SGST/UTGST Act as well.

The late fee can be waived off partially or fully by the Central Government [Section 128[26]]. In view of this, late fees for delayed filing of Forms GSTR-1, GSTR-3B, GSTR-4, GSTR-7 and GSTR-9 have been rationalized[27].

The amount of late fee prescribed by section 47 and the amount of late fee after waiver have been given as Annexure to this chapter for information of the students and is not relevant for the examination purposes.

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[26] *Section 128 has been discussed at the Final level.*

[27] vide *Notification No. 4/2018 CT dated 23.01.2018, Notification No. 73/2017 CT dated 29.12.2017, Notification No. 76/2018 CT dated 31.12.2018, Notification Nos 19-22/2021 CT all dated 01.06.2021 and Notification No. 07/2023 CT dated 31.03.2023*

9. GOODS AND SERVICES TAX PRACTITIONERS [SECTION 48]

Section 48 provides for the authorisation of an eligible person to act as approved Goods and Services Tax Practitioner (GSTP). A registered person may authorise an approved GSTP to furnish information, on his behalf, to the Government.



The manner of approval of GSTPs, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning have been prescribed in the rules 83, 83A and 84.

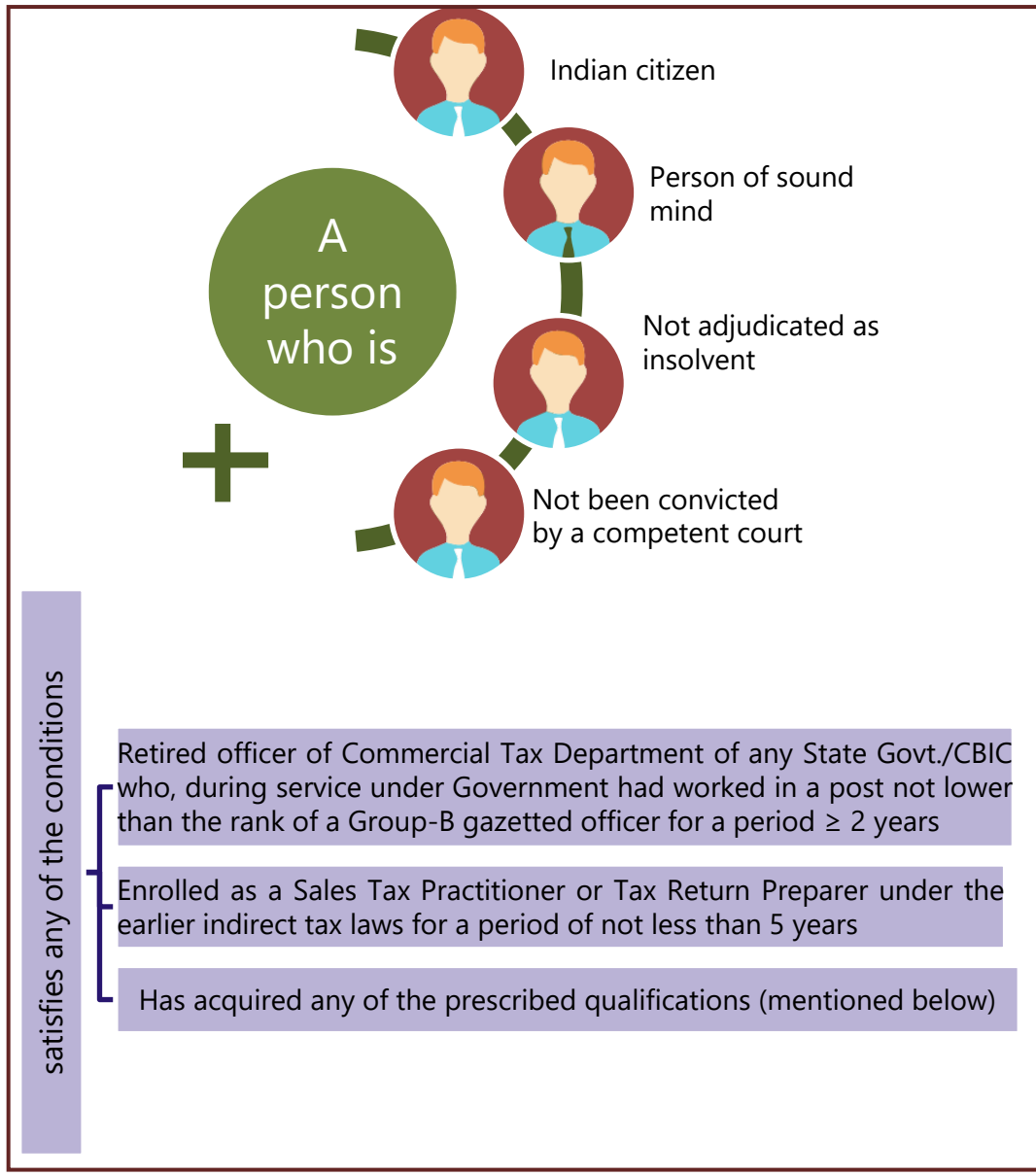
GSTN provides separate user ID and Password to GSTP to enable him to work on behalf of his clients without asking for their user ID and passwords. They can do all the work on behalf of taxpayers as allowed under GST Law. A taxpayer may choose a different GSTP by simply unselecting the previous one and then choosing a new GSTP on the GST portal.

Standardized formats have been prescribed for making application for enrolment as GSTP, certificate of enrolment, show cause notice for disqualification, order of rejection of application of enrolment, list of approved GSTPs, authorisation letter and withdrawal of authorisation.

A GSTP enrolled in any State or Union Territory shall be treated as enrolled in the other States/Union territories.

(i) What is the eligibility criteria for GSTP?

The eligibility criteria for GSTP has been explained on next page:


A person who is
+
Indian citizen
Person of sound mind
Not adjudicated as insolvent
Not been convicted by a competent court
satisfies any of the conditions
Retired officer of Commercial Tax Department of any State Govt./CBIC who, during service under Government had worked in a post not lower than the rank of a Group-B gazetted officer for a period ≥ 2 years
Enrolled as a Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax laws for a period of not less than 5 years
Has acquired any of the prescribed qualifications (mentioned below)

Prescribed Qualifications

- (i) Graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force
- (ii) Degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned in sub-clause (i)
- (iii) Any other examination notified by the Government, on the recommendation of the Council, for this purpose
- (iv) Any degree examination of an Indian University or of any Foreign University recognized by any Indian University as equivalent of the degree examination
- (v) Has passed final examination of ICAI/ ICSI/ Institute of Cost Accountants of India.

(ii) What are the activities which can be undertaken by a GSTP?

A GSTP can undertake any/all of the following activities on behalf of a registered person, if so authorised by him:

- Furnish details of outward supplies
- Furnish monthly, annual or final return
- Make deposit for credit into electronic cash ledger
- Furnish information for generation of e-way bill
- Furnish details of challan in the prescribed form
- File an application for amendment or cancellation of enrolment under rule 58
- File an intimation to pay tax under the composition scheme or withdraw from the said scheme
- File a claim for refund
- File an application for amendment/ cancellation of registration

Also allowed to appear as authorised representative before any officer of Department, Appellate Authority or Appellate Tribunal, on behalf of such a registered person provided he is enrolled as GSTP under rule 83.

Confirmation from the registered person shall be sought

Furnishing returns through GSTP: When a registered person opts to furnish his return through GSTP, such registered person:

- Gives his consent in prescribed form to any GSTP to prepare and furnish his return
- Before confirming submission of any statement prepared by GSTP, ensures that the facts mentioned in the return are true and correct.

Thus, the responsibility for correctness of any particulars furnished in the return or other details filed by the GSTP continues to rest with the registered person on whose behalf such return and details are furnished. The registered person before confirming, should ensure that the facts mentioned in the return are true and correct before signature. However, failure to respond to request for confirmation is treated as deemed confirmation.

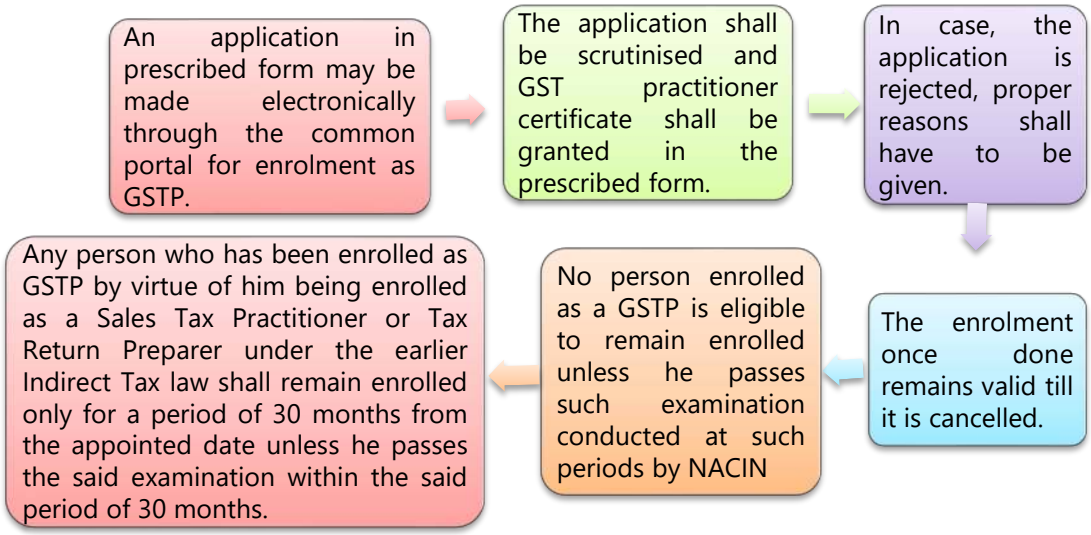
(iii) Other points

- A registered person gives his consent and authorises a GSTP in the prescribed form by listing the authorised activities in which he intends to authorise the GSTP. The GSTP accepts the authorisation in Part B of the same form.
- The GSTP can undertake only such tasks as indicated in the prescribed form. The registered person may, at any time, withdraw such authorization.
- Any statement furnished by the GSTP is made available to the registered person on the common portal. For every statement furnished by the GSTP, a confirmation is sought from the registered person over email or SMS.
- The GSTP should prepare all statements with due diligence and affix his digital signature on the statements prepared by him or electronically verify using his credentials.
- If the GSTP is found guilty of misconduct, his enrolment will be liable to be cancelled and a show cause notice would be issued to him.

(iv) What is the procedure for enrolment as GSTP?

The procedure for enrolment of GSTP has been depicted by way of a diagram is given below:

ENROLMENT OF GSTP



LET US RECAPITULATE

1. Meaning of Returns

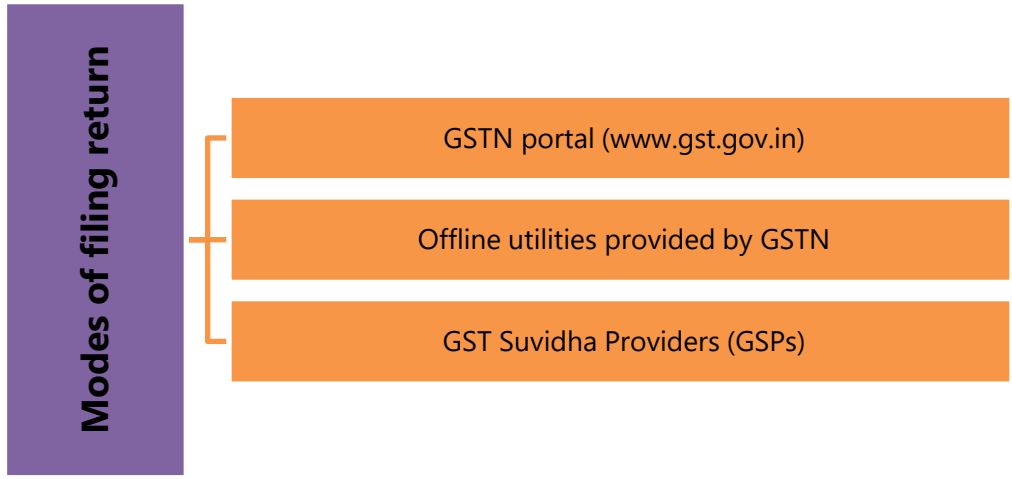
Return

A statement of information furnished by the taxpayer, to tax administrators, at regular intervals.

Filing of returns constitutes the most important compliance procedure which enables the Government/ tax administrator to estimate the tax collection for a particular period and determine the correctness and completeness of the tax compliance of the taxpayers.

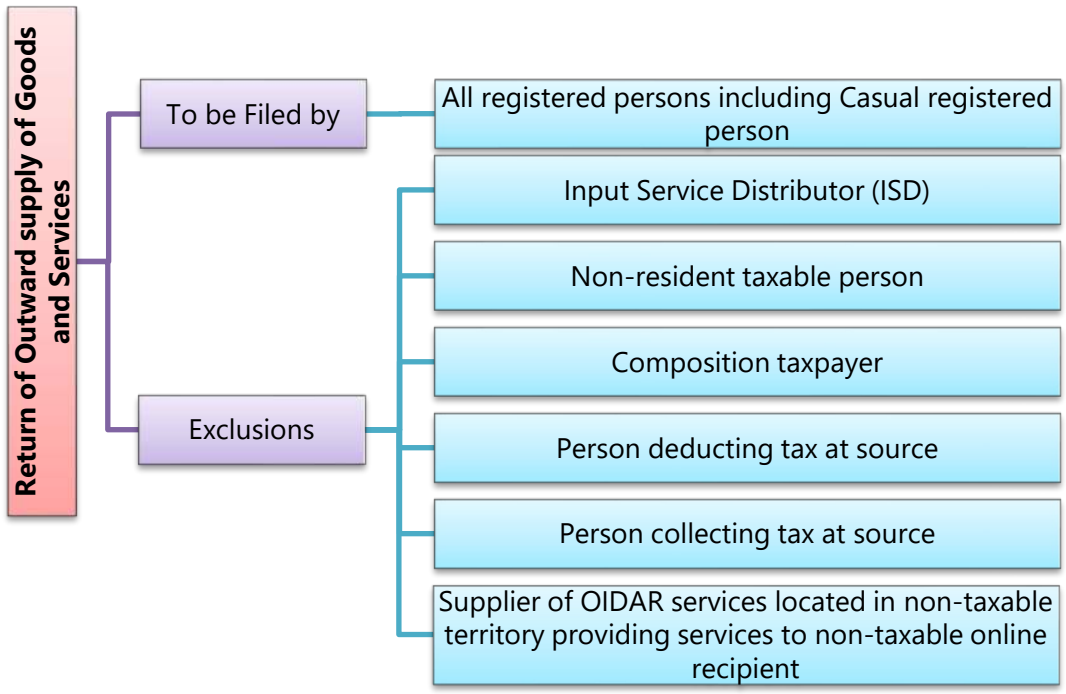
2. Modes of filing returns

All the returns are to be filed online.

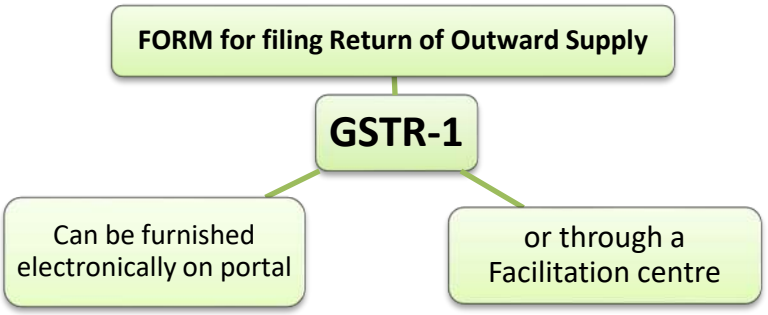


3. Furnishing details of outward supplies [Section 37 read with rule 59]

Who is required to furnish the details of outward supplies?



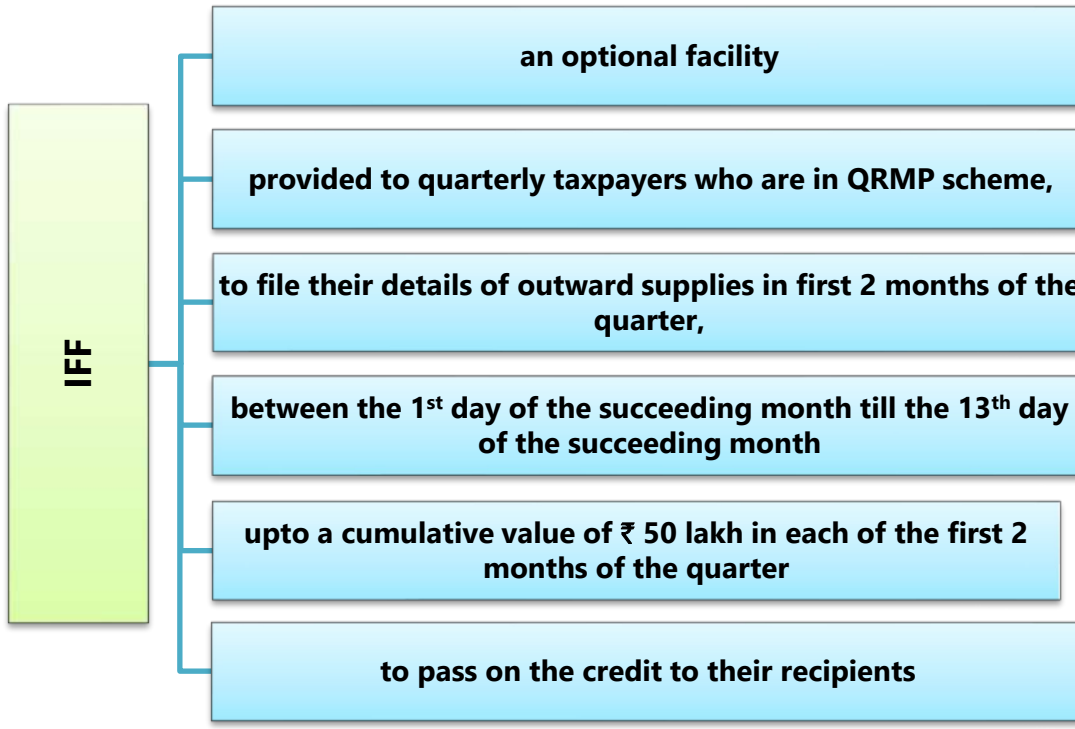
What is the form for submission of details of outward supplies?



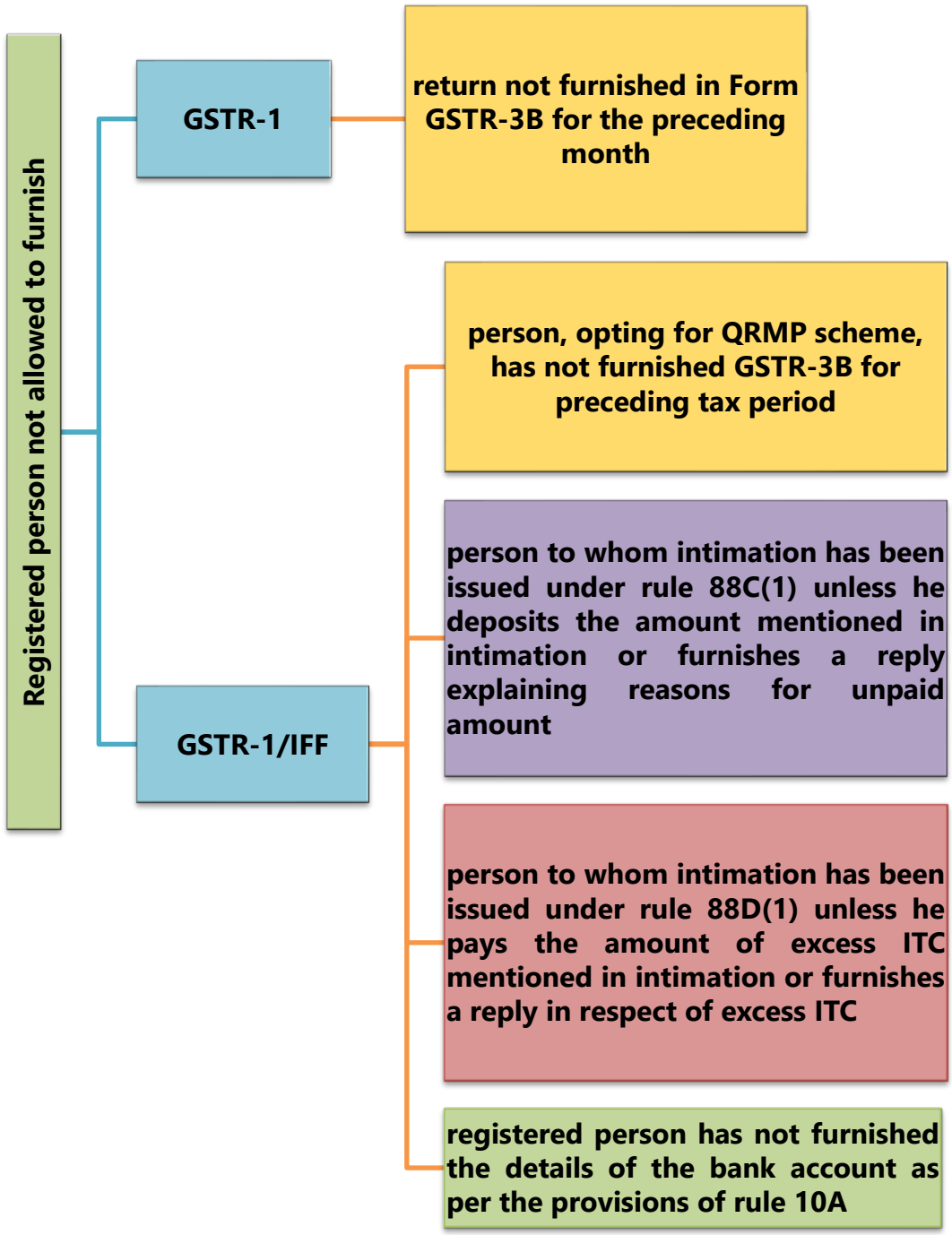
Due Dates for Submission of Form GSTR-1

Class of registered person	Time limit for furnishing the details of outward supplies in Form GSTR-1 for each quarter/month
Registered persons opting for QRMP scheme	13th day of the month succeeding such quarter
Others	11th day of the month succeeding said month

Invoice Furnishing Facility [IFF] for taxpayers opting for QRMP Scheme

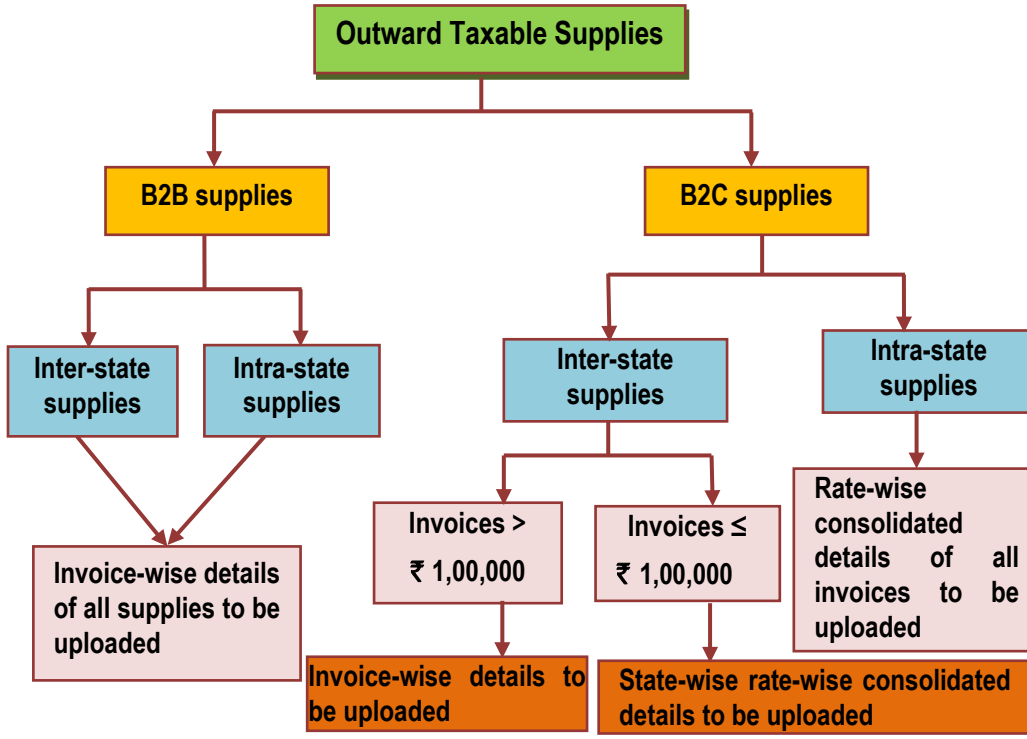


What are the cases where a registered person is debarred from furnishing details of outward supplies in GSTR-1/IFF?

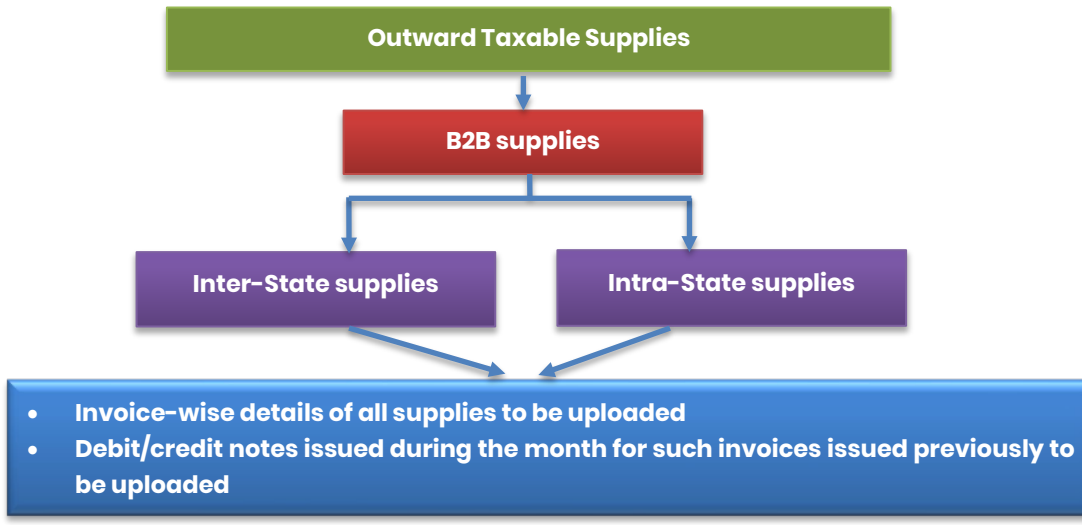


What kind of details of outward supplies are required to be furnished in GSTR-1/GSTR-1A and IFF?

Details to be furnished in GSTR-1/GSTR-1A



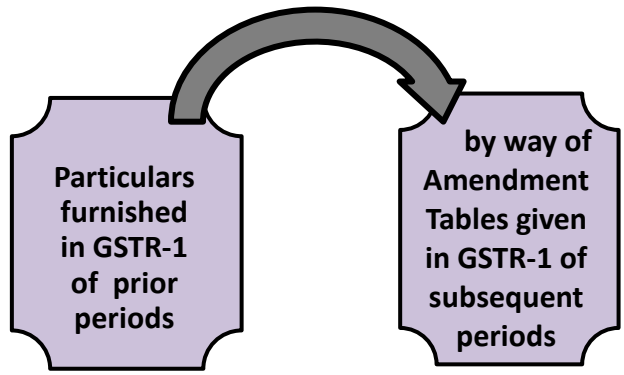
Details to be furnished through IFF



Amendment of GSTR-1 for current period

GSTR-1A	an optional facility
	to add new records which taxpayer missed out while filing in form GSTR-1, and/or
	to amend records which were already reported in same period in form GSTR-1
	after furnishing GSTR-1 for a tax period but before filing GSTR-3B for said tax period.

Rectification of errors in GSTR-1 filed for previous periods



Maximum time limit within which such amendments are permissible is earlier of the following dates:

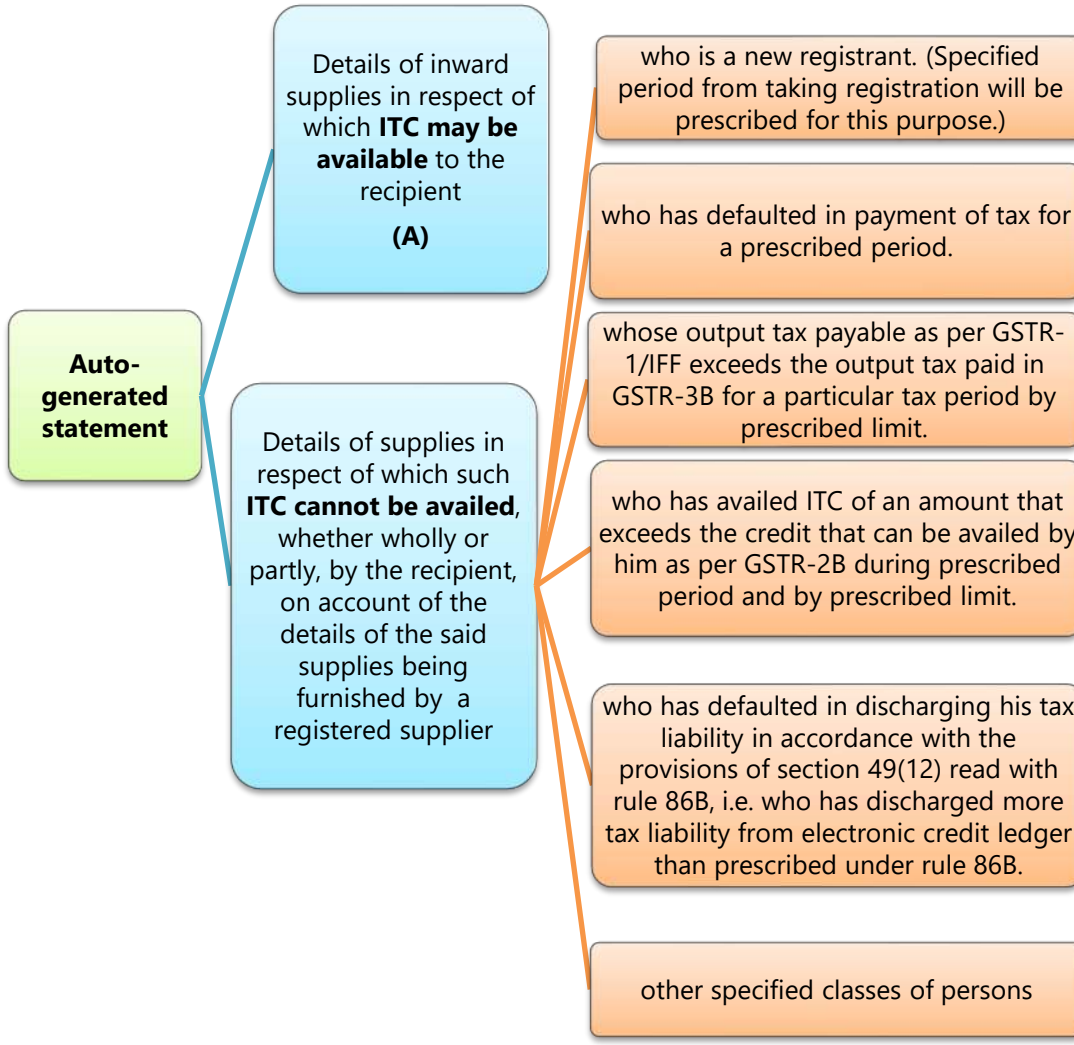
- 30th day of November following the end of the financial year to which such details pertain or
- Date of filing of the relevant annual return

Filing of Nil GSTR-1

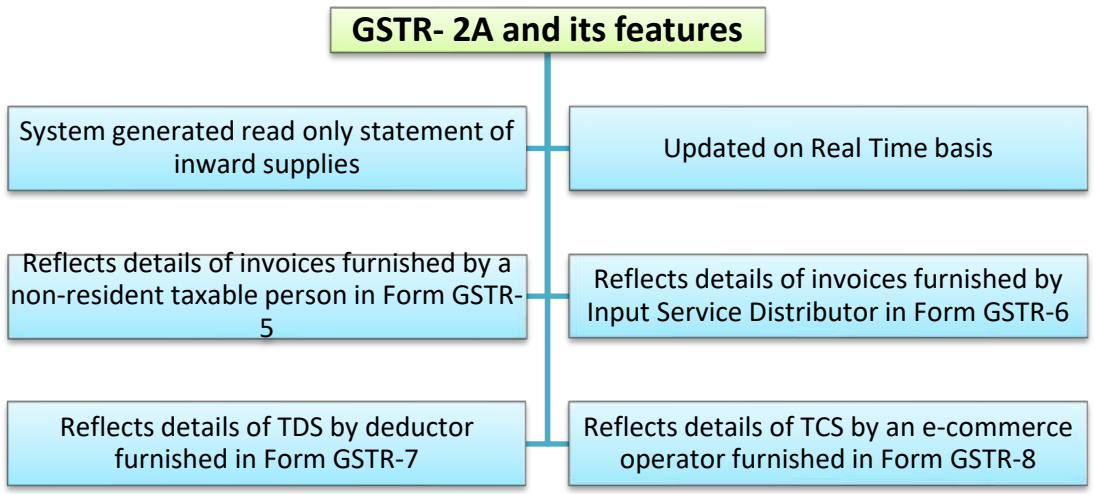
Nil GSTR-1

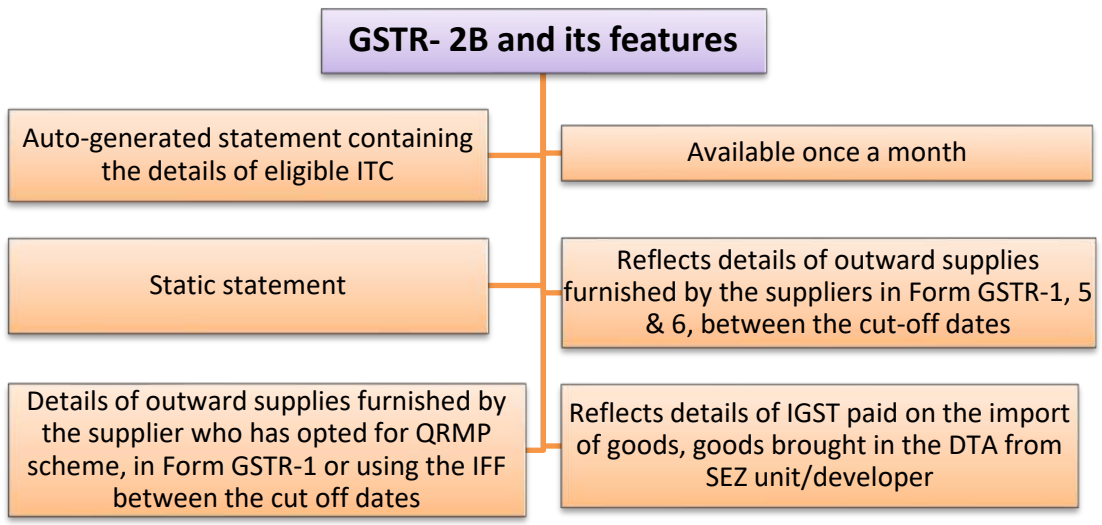
- Filing of GSTR-1 is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period.

4. Furnishing details of inward supplies [Section 38 read with rule 60]

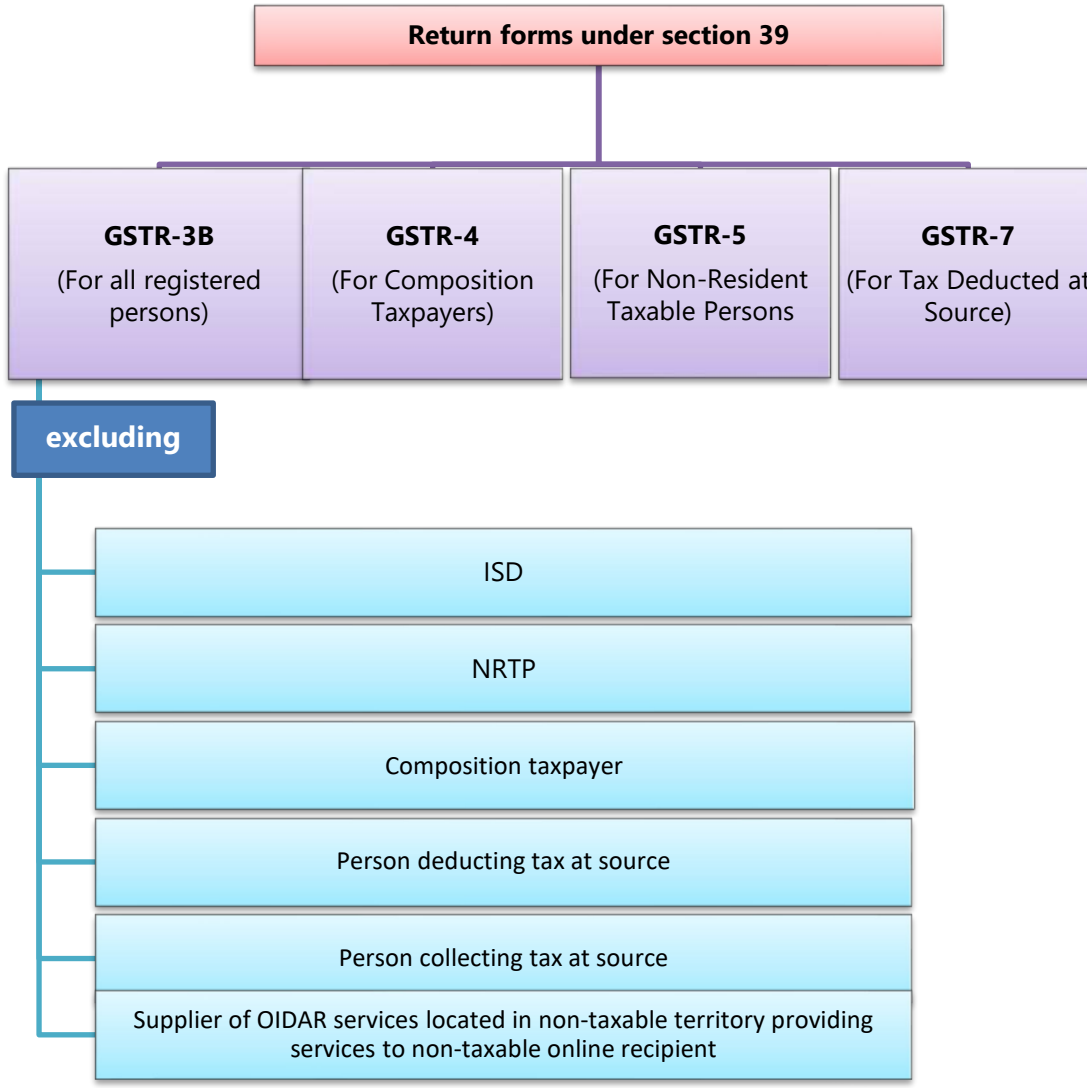


Form and manner of ascertaining details of inward supplies – GSTR-2A and GSTR-2B





5. Furnishing of returns under section 39



Due dates for furnishing Form GSTR-3B

GSTR-3B can be filed monthly or quarterly and due date for filing are as follows:

- **Monthly GSTR-3B** on or before **20th** of the month succeeding the month for which return is furnished.

- **Quarterly GSTR-3B** on or before **22nd** and **24th** of the month (Depending upon State) succeeding the quarter for which return is furnished in case of a taxpayer opting for QRMP scheme.

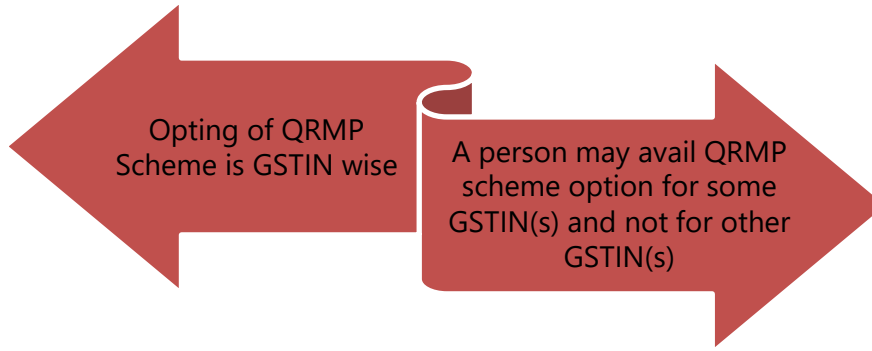
QRMP scheme

Optional return filing scheme

Quarterly Return

Monthly payment

Eligibility	•Taxpayers having aggregate turnover of up to ₹ 5 crore in the preceding financial year
Condition to be fulfilled for becoming eligible	•Taxpayer must have furnished the last return, as due on the date of exercising such option
Manner of Exercising option	•Taxpayers can opt in for any quarter from 1st day of 2nd month of preceding quarter to the last day of the first month of the quarter for which the option is being exercised
Validity of option once exercised	•Taxpayers are not required to exercise their option every quarter. Where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the said option.



Opting out of the QRMP Scheme

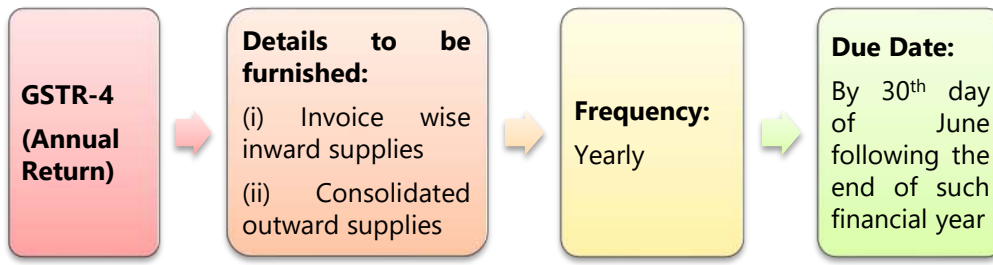
Taxpayers opting out of the QRMP Scheme	•Aggregate turnover has exceeded ₹ 5 crore in the financial year
Availability of facility of opting out of QRMP Scheme for a quarter	•Available from from 1st day of 2nd month of preceding quarter to the last day of the first month of the quarter

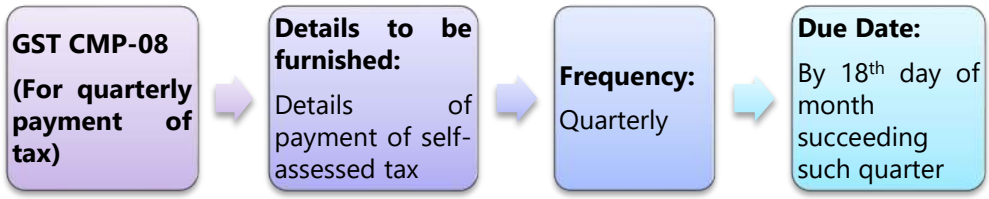
Nil GSTR-3B

Nil GSTR-3B	• Filing of GSTR-3B is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period.

3. Form GSTR-4 and GST CMP-08: For Composition dealers

❖ A composition supplier is required to file the return GSTR-4 annually and is required to pay the tax quarterly in Form GST CMP-08.



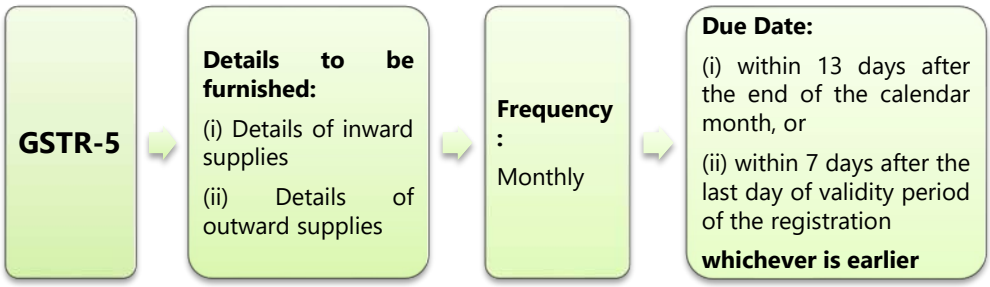


Note:

(1) The inward supplies of a composition supplier received from registered persons filing GSTR-1 will be auto populated in **FORM GSTR-4A** for viewing.

(2) Filing of NIL GST CMP-08 is mandatory for all taxpayers who have opted to pay tax under composition scheme if there is no business activity in any tax period.

4. Form GSTR-5: For Non-Resident Taxable Person (NRTPs)

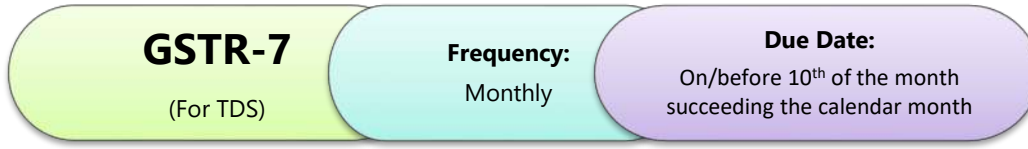


Note: A NRTP is not required to file an Annual Return.

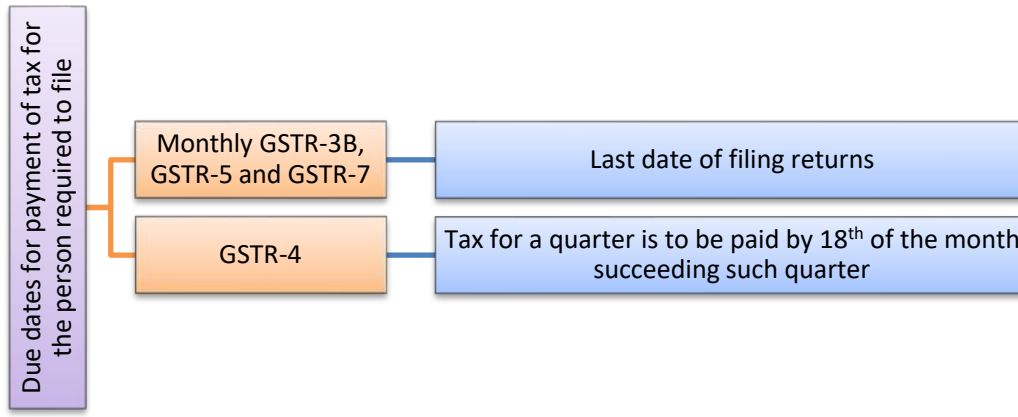
5. Form GSTR-7: For Tax Deducted at Source (TDS)

❖ GSTR-7 is a return for tax deducted at source, whenever taxable goods or services or both are supplied to a Central/ State Government's Department/ establishment or, local authority, or Governmental agencies, recipient is required to deduct tax at source and total value of supply exceeds ₹ 2,50,000.

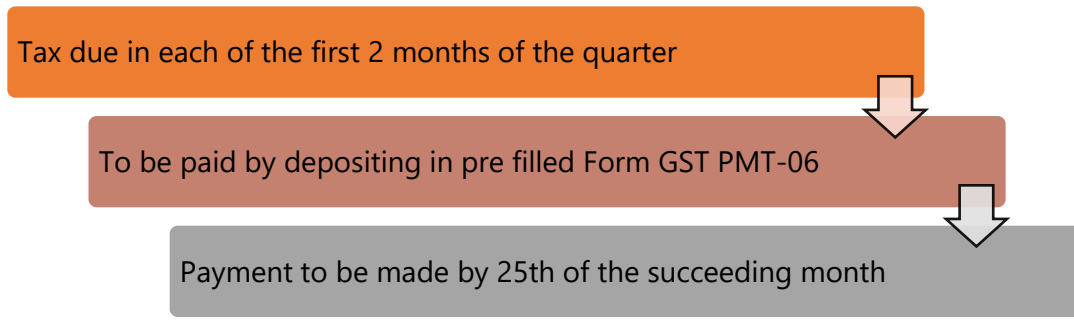
❖ **GSTR-7A-** Form for issue of TDS certificate by deductor to the deductee.



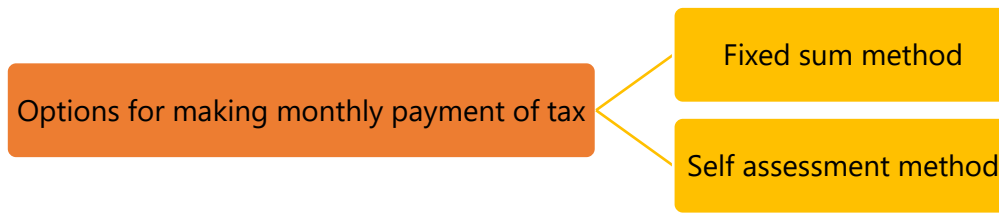
7. Due date for payment of tax



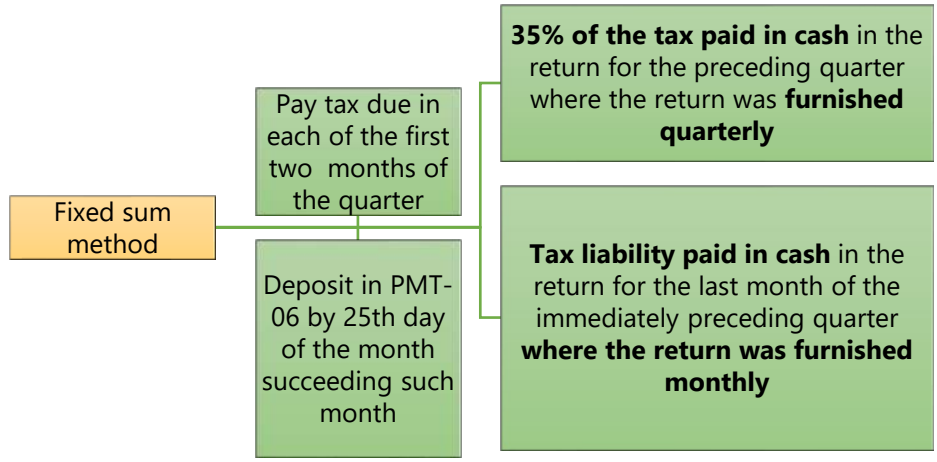
Payment of tax under QRMP scheme



Options for making monthly payment of tax under QRMP scheme

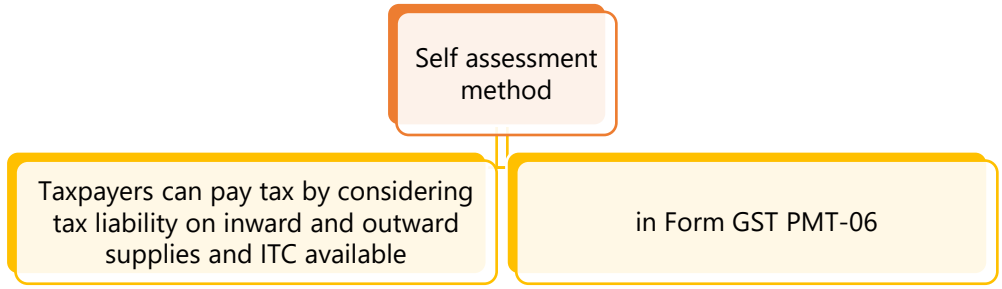


Method 1: Fixed Sum Method



Monthly tax payment through this method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month.

Method 2: Self Assessment Method



Applicability of Interest -
(1) For Fixed Sum method taxpayers

Where auto-calculated fixed sum amount for first 2 months of quarter is paid by due date	•No interest would be applicable even if the liability for the said month was found higher •If GSTR-3B of the quarter is filed by the due date by discharging the entire liability
Where tax payer makes monthly payment beyond due date	•Interest is payable at the applicable rate from due date of furnishing GST PMT-06 till date of making payment
Where Form GSTR-3B is furnished beyond due date	•Interest payable as per provisions of section 50 of the CGST Act, 2017 for the tax liability net of ITC

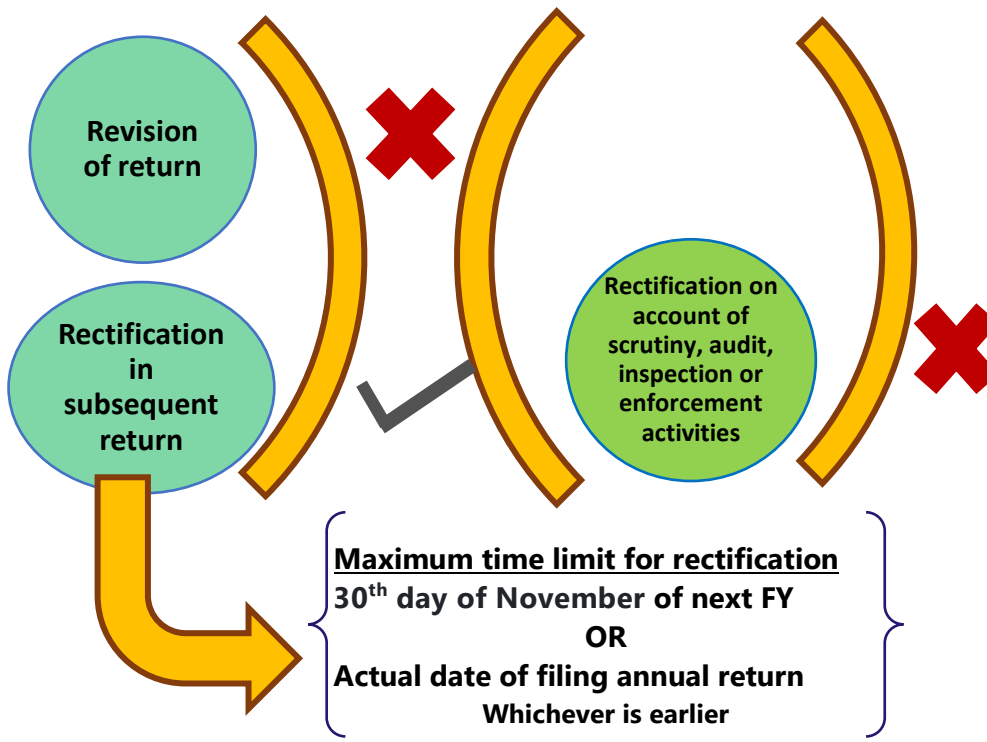
(2) For Self-assessment method taxpayers

Interest payable as per provisions of section 50 of the CGST Act

for tax or any part thereof (net of ITC) which remains unpaid/ paid beyond the due date

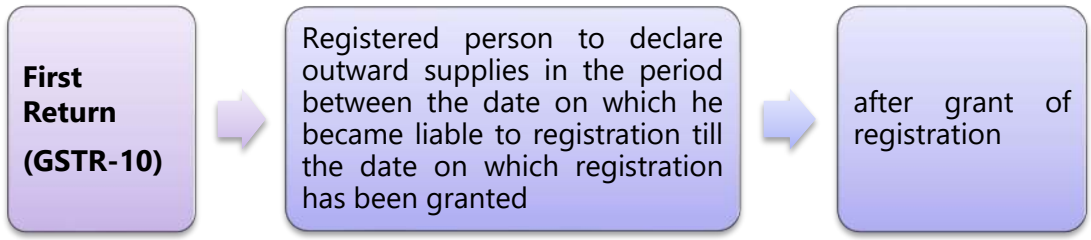
for the first 2 months of the quarter

8. Rectification of errors/omissions



6. OTHER RETURNS/ STATEMENTS

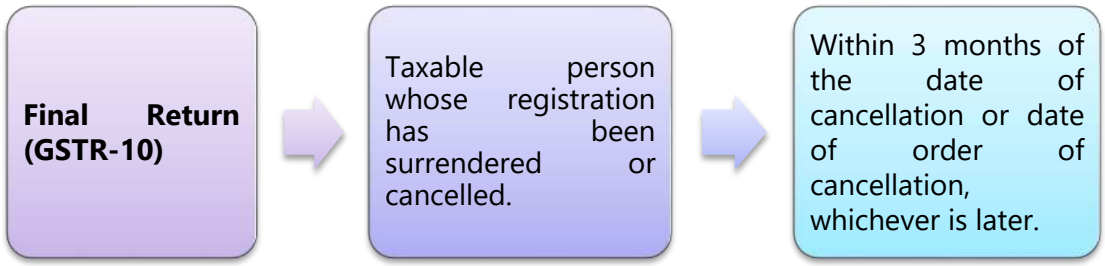
(i) First return



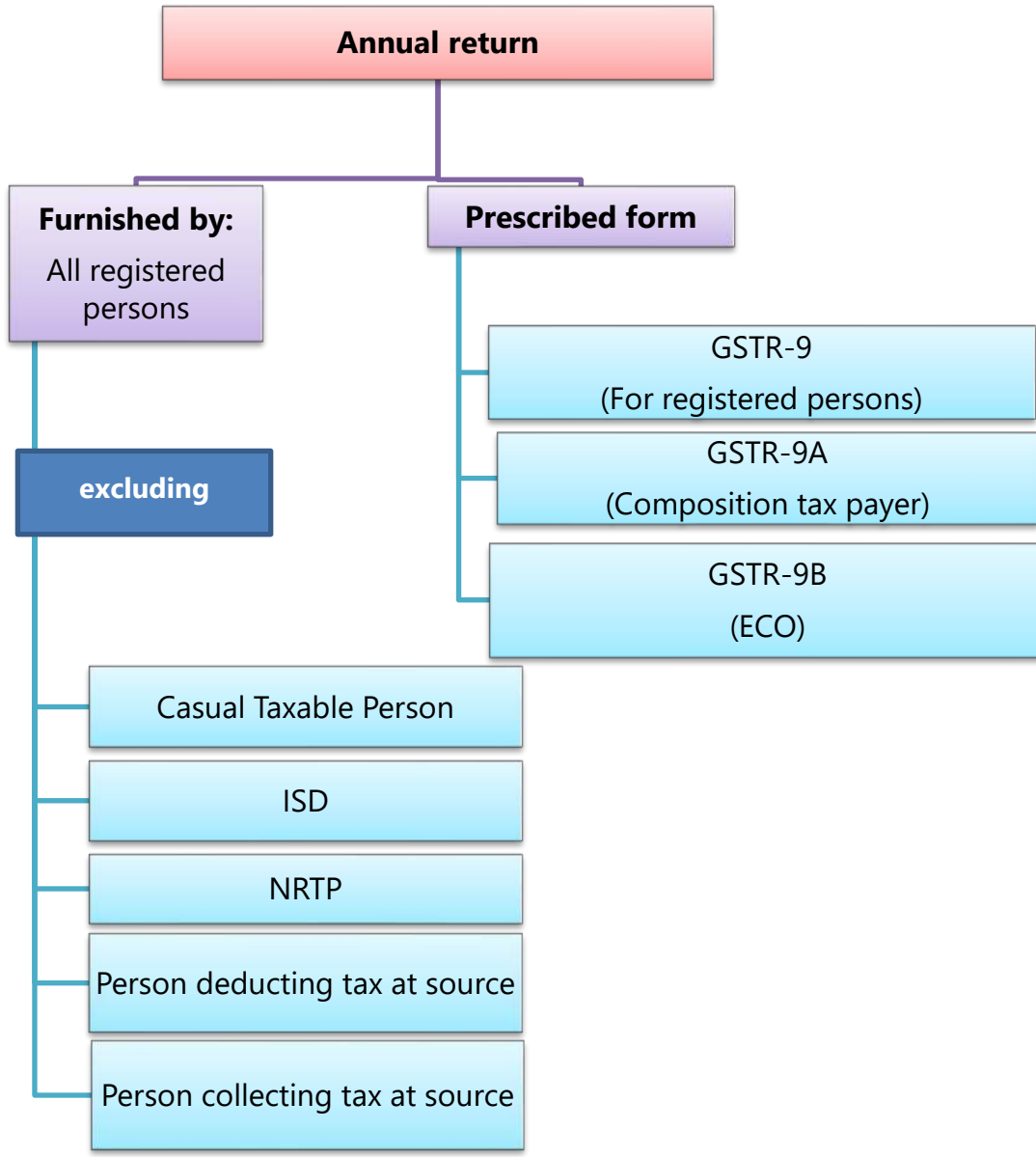
(ii) GSTR – 8 - Statement for tax collection at source

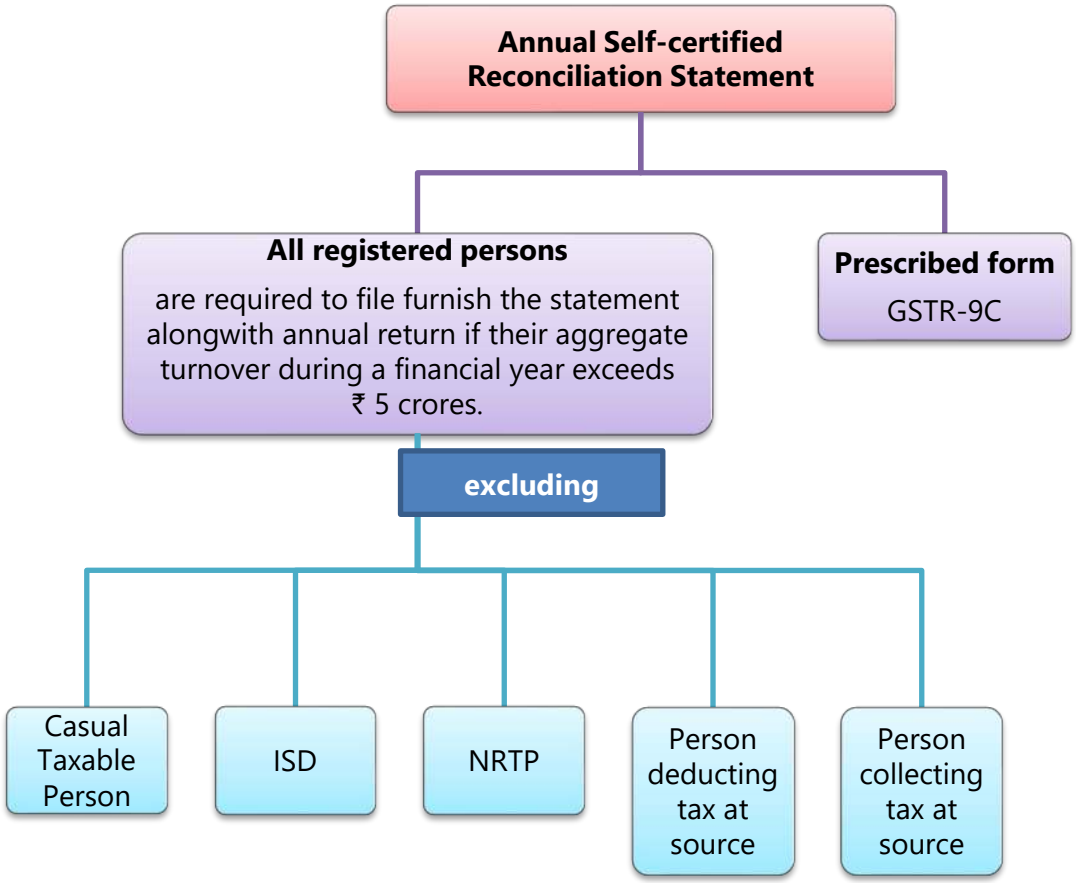


(iii) Final return

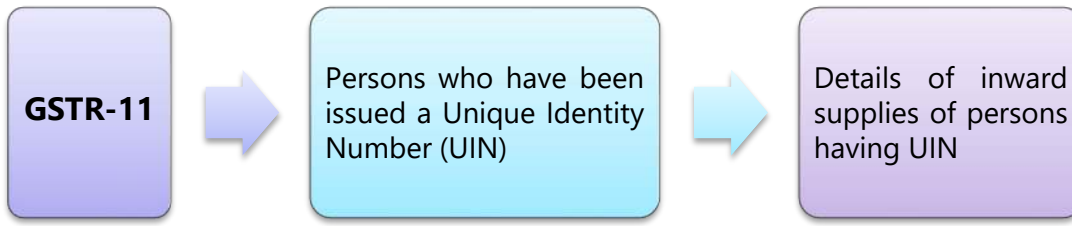


(iv) Annual Return & Annual Statement





(v) GSTR – 11 - Details of inward supplies of persons having UIN





TEST YOUR KNOWLEDGE

1. *Mr. X, a registered taxpayer under regular scheme, did not make any taxable supply during the month of July.*

   Is he required to file a GSTR-3B if he is monthly filer?

2. *"All taxpayers are required to file GSTR-1 only after the end of the tax period." Examine the validity of the statement.*

3. *Mr. Kohli is a registered supplier in the State of Gujarat. He is filing GSTR-1 every month. During the month of February, he went out of India and thus, could not do any business transaction during that month. He believes that as there is no transaction, there is no need to file GSTR-1 for the month of February.*

   Is he correct if he is a monthly filer? Explain.

4. *Mrs. Zarina, a registered dealer in Rajasthan, did not file GSTR-3B for the month of June but she wants to file GSTR-3B for the month of July.*

   Is it possible? Answer with reference to section 39.

5. *List the details of outward supplies which can be furnished using Invoice Furnishing Facility (IFF).*

6. *A is a chartered accountant in practice and is registered under GST. On a query regarding return filing process by a potential client, A has represented him as a GST practitioner. A is of the view that since he is a qualified chartered accountant with a GST registration in the name of his proprietorship firm, he also qualifies as GST practitioner.*

   Is the understanding of A correct? Discuss.

7. *Quicktax, a GST return filing service provider, has asked its clients to provide the scanned copies of the tax invoices issued to B2B customers for uploading on the GST portal and filing the return.*

   Whether the process followed by Quicktax is correct?

8. *X Ltd., a normal taxpayer, is winding up its business in Rajasthan. The Tax Consultant of X Ltd. has suggested that X Ltd. will have to file either the annual return or the final return at the time of voluntary cancellation of registration in the state of Rajasthan.*

   Do you agree with the stand taken by Tax Consultant of X Ltd.? Offer your comments.



ANSWERS

1. A registered taxpayer is required to furnish a return u/s 39 for every month (every quarter in case of quarterly filers) even if no supplies have been effected during such period. In other words, filing of Nil GSTR-3B is also mandatory.

Therefore, being a monthly filer, Mr. X is required to file GSTR-3B even if he did not make any taxable supply during the month of July.

2. The statement is partially valid.

A taxpayer cannot file Form GSTR-1 before the end of the current tax period. However, following are the exceptions to this rule:

a. Casual taxpayers, after the closure of their business

b. Cancellation of GSTIN of a normal taxpayer.

A taxpayer who has applied for cancellation of registration will be allowed to file Form GSTR-1 after confirming receipt of the application.

3. No, Mr. Kohli is not correct. GSTR-1 needs to be filed even if there is no business activity in the tax period. Therefore, in the given case, even though Mr. Kohli was out of India and thus, could not do any business transaction during the month of February, he is still required to file GSTR-1 for that month.

4. As per section 39(10), a registered person is not allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

Therefore, in the given case, Mrs. Zarina cannot file GSTR-3B for July if she has not filed GSTR-3B for the preceding month, i.e., June.

5. Details of outward supplies which can be furnished using IFF are as follows:

(a) invoice wise details of inter-State and intra-State supplies made to the registered persons;

(b) debit and credit notes, if any, issued during the month for such invoices issued previously.

6. The understanding of A is not correct.

A chartered accountant can become a GST practitioner (GSTP). However, holding a certificate of practice as a chartered accountant and having GST registration does not imply that such chartered accountant is a GST practitioner as well. For becoming a GSTP, even a chartered accountant in practice has to follow the enrolment process of GSTP as provided under the GST law and only upon approval of such enrolment can a chartered accountant represent himself as a GSTP.

7. No, the process followed by Quicktax is not correct.

The registered persons supplying goods or services to B2B customers are required to upload the invoice wise details of supplies made during the tax period. However, there is no requirement to upload the scanned copies of the invoices issued to the customers on the GST portal at the time of filing returns. Only information required as per the format of GST returns is to be captured in the return filing utility and the same is to be uploaded on the GST portal and not the scanned copies of the actual invoices.

8. No, the stand taken by Tax Consultant of X Ltd. is not correct.

Annual return is required to be filed by every registered person paying tax as a normal taxpayer. Final return is filed by the registered persons who have applied for cancellation of registration within 3 months of the date of cancellation or the date of cancellation order.

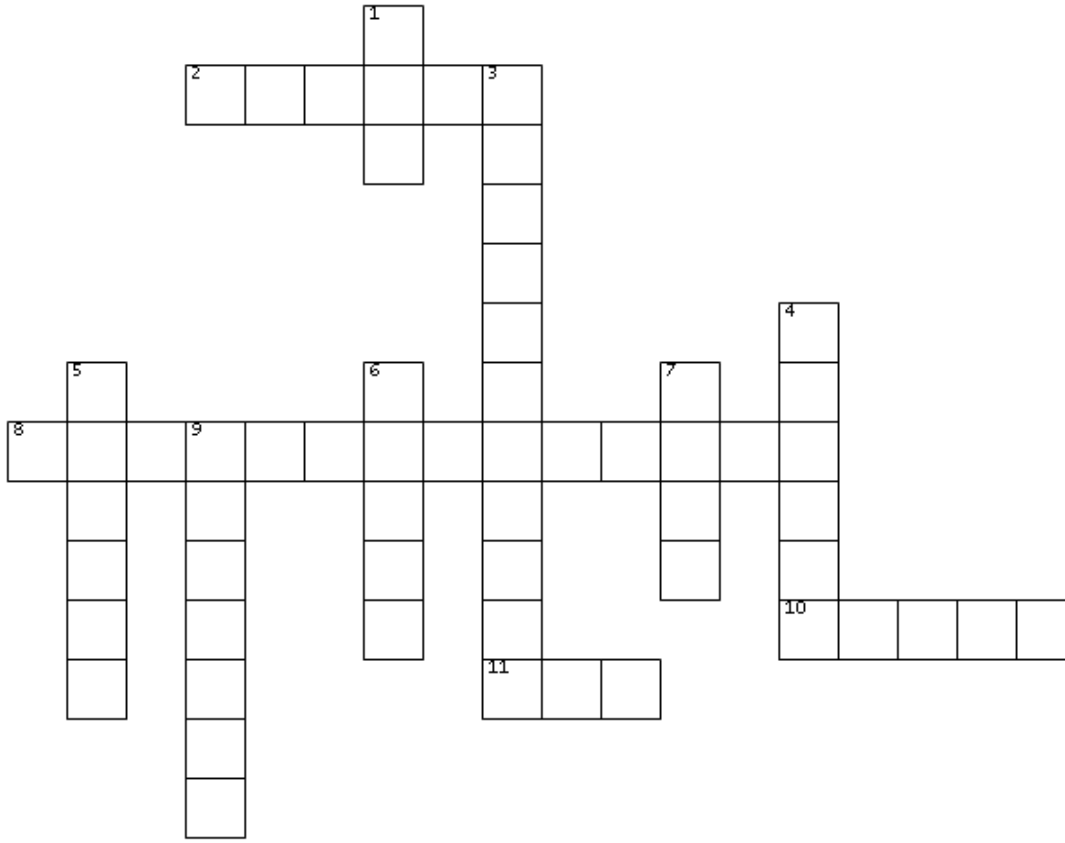
In the given case, X Ltd., a registered person, is winding up its business and has thus, applied for cancellation of registration. Therefore, it is required to file both annual return and final return.



1. •What is the due date for payment of tax by a composition supplier for a particular quarter?
2. •Whether a composition supplier is required to file return quarterly or yearly?
3. •Who's the person who owns, operates or manages digital or electronic facility or platform for electronic commerce?
4. •Determine whether Form GSTR-1 furnishes the details of Inward supplies or Outward supplies.
5. •Whether GSTR-2B is a real time updated statement or a static statement?
6. •Under IFF, what is the cumulative value of invoice in each of the 1st two months of the quarter beyond which invoice wise details cannot be submitted?
7. •Whether GSTR-2A is a real time updated statement or a static statement?
8. •How many GSTR-3B returns are to be submitted in a year by a person who has opted for QRMP Scheme?
9. What is the due date for filing of return for a month by a TDS deductor?
10. •Which return is to be furnished by a registered person required to furnish return under section 39(1) and whose registration has been surrendered or cancelled?



CROSSWORD



ACROSS

2. Form GSTR-2B is a _____statement and is available only once a month.

8. All registered persons are required to file furnish a self-certified _____ statement alongwith annual return if their aggregate turnover during a financial year exceeds ₹ 5 crores.

10. Final return is to be filed by a taxable person whose registration has been cancelled within 3 months of the date of cancellation or date of order of cancellation, whichever is _____.

11. When there is no business activity in any particular tax period, _____GSTR-1 is to be filed.

DOWN

1. Form GSTR-2B contains the details of eligible_____.(Acronym)
3. _____ taxpayers are required to pay tax on quarterly basis in Form CMP-08.
4. A Non Resident Taxable Person is not required to file an_____return.
5. A composition supplier is required to file a return on_____basis.
6. Every registered person who is required to furnish return u/s 39(1) and whose registration has been surrendered is required to file a _____return.
7. A TDS certificate is required to be issued by deductor in Form GSTR-7A to the deductee within _____days of crediting the amount to the Government.
9. GSTR-3B does not require invoice-wise data of _____supplies.

Scan the following QR code for accessing the answers to Rapid Fire Quiz and Cross word puzzle of this chapter.

Scan the code

AMENDMENTS MADE VIDE THE FINANCE ACT, 2025

The Finance Act, 2025 has come into force from 29.03.2025. However, most of the amendments made under the CGST Act and the IGST Act vide the Finance Act, 2025 would become effective only from a date to be notified by the Central Government in the Official Gazette. Such a notification has not been issued till 30.04.2025. Therefore, **the applicability or otherwise of such amendment for May 2026, September 2026 and/or, January 2027 examinations shall be informed by the ICAI by way of an announcement.**

In the table given below, the existing provisions of sections 38 and 39 are compared with the provisions as amended by the Finance Act, 2025.

Once the announcement for applicability of such amendments for examination(s) is made by the ICAI, students should read the amended provisions given hereunder in place of the related provisions discussed in the chapter.

Section	Existing provisions	Provisions as amended by the Finance Act, 2025	Remarks
38(1)	The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and ~~***an auto-generated statement***~~ containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such	The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and ***a statement*** containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and	Section 38(1) is to be amended to omit the expression "auto generated" with respect to statement of input tax credit in the said sub section.

	conditions and restrictions as may be prescribed.	restrictions as may be prescribed.	
38(2)	The ~~***auto-generated statement under***~~ sub-section (1) shall consist of- (a) details of inward supplies in respect of which credit of input tax may be available to the recipient; ~~***and***~~ (b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,-- (i) by any registered person within such period of taking registration as may be	The ***statement referred in*** sub-section (1) shall consist of- (a) details of inward supplies in respect of which credit of input tax may be available to the recipient; (b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, ***including*** on account of the details of the said supplies being furnished under sub-section (1) of section 37,-- (i) by any registered person within such period of taking	Section 38(2) is to be amended by omitting the expression "auto generated" with respect to statement of input tax credit in said sub section and also to insert the expression "including" after the words "by the recipient" in clause (b) of said sub-section to make the said clause more inclusive. Further, a new clause (c) is to be inserted in the said sub-section to provide for an enabling clause to prescribe other details to be made available in statement of input tax credit.

	prescribed; or (ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or (iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed,	registration as may be prescribed; or (ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or (iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as	

	exceeds the output tax paid by him during the said period by such limit as may be prescribed; or	may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or	
	(iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or	(iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or	
	(v) by any registered person,		

	who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or (vi) by such other class of persons as may be prescribed.	(v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or (vi) by such other class of persons as may be prescribed. ***(c) such other details as may be prescribed.***	
39(1)	Every registered person, other than an Input Service Distributor or a non-resident taxable person	Every registered person, other than an Input Service Distributor or a non-resident taxable	Section 39(1) is to be amended so as to provide for an enabling clause to prescribe conditions

	or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, within such time, as may be prescribed:	person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, within such time, ***and subject to such conditions and restrictions,*** as may be prescribed:	and restriction for filing of return under the said sub-section.

Annexure

The quantum of late fees leviable in case of delay in filing return has been given hereunder only for information of the students and is not relevant for the examination purposes.

As seen in the discussion this chapter, late fee is applicable for delay in furnishing of return / details of outward supply as per the provision of section 47. Delay in filing any of the following by their respective due dates, attracts late fee:

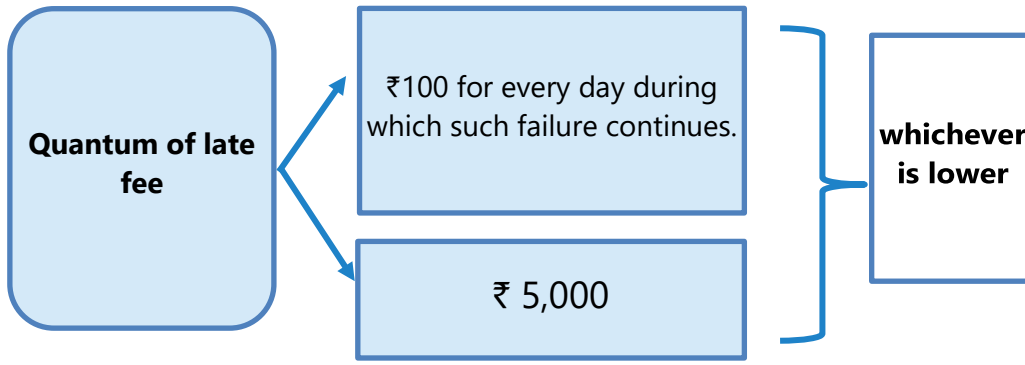
(A) Statement of Outward Supplies [Section 37]

(B) Returns (including returns under QRMP Scheme) [Section 39]

(C) Final Return [Section 45]

(D) TCS Statement [Section 52]

Quantum of late fee prescribed by section 47 is as under:





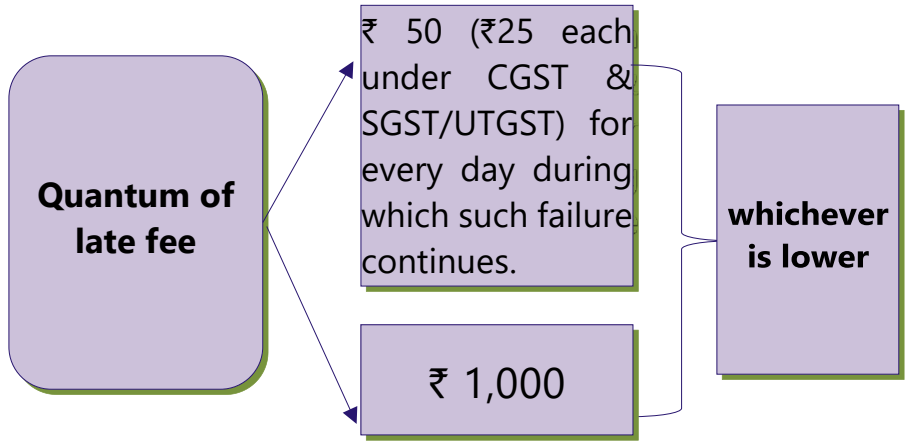
It may be noted that the late fee payable by a registered person for delayed filing of a return and/or annual return under section 47 is with reference to only the CGST Act. An equal amount of late fee is payable by such person under the respective SGST/UTGST Act as well. Hence, the late fee amount mentioned herein pertains to both CGST as well as SGST/UTGST.

Rationalisation of late fees for delayed filing of Forms GSTR-1, GSTR-3B, GSTR-4, GSTR-7 and GSTR-9

The late fee can be waived off partially or fully by the Central Government [Section 128[28]]. In view of this, late fees for delayed filing of Forms GSTR-1, GSTR-3B, GSTR-4, GSTR-7 and GSTR-9 have been rationalized[29] as follows:

(i) For delayed filing of GSTR-7:-

Total amount of late fee payable under section 47 by any registered person, required to deduct tax at source under the provisions of section 51 for delayed filing of GSTR-7, shall be as follows:



Where the total amount of central and State tax deducted at source in a month is Nil, the total amount of late fee stands waived.

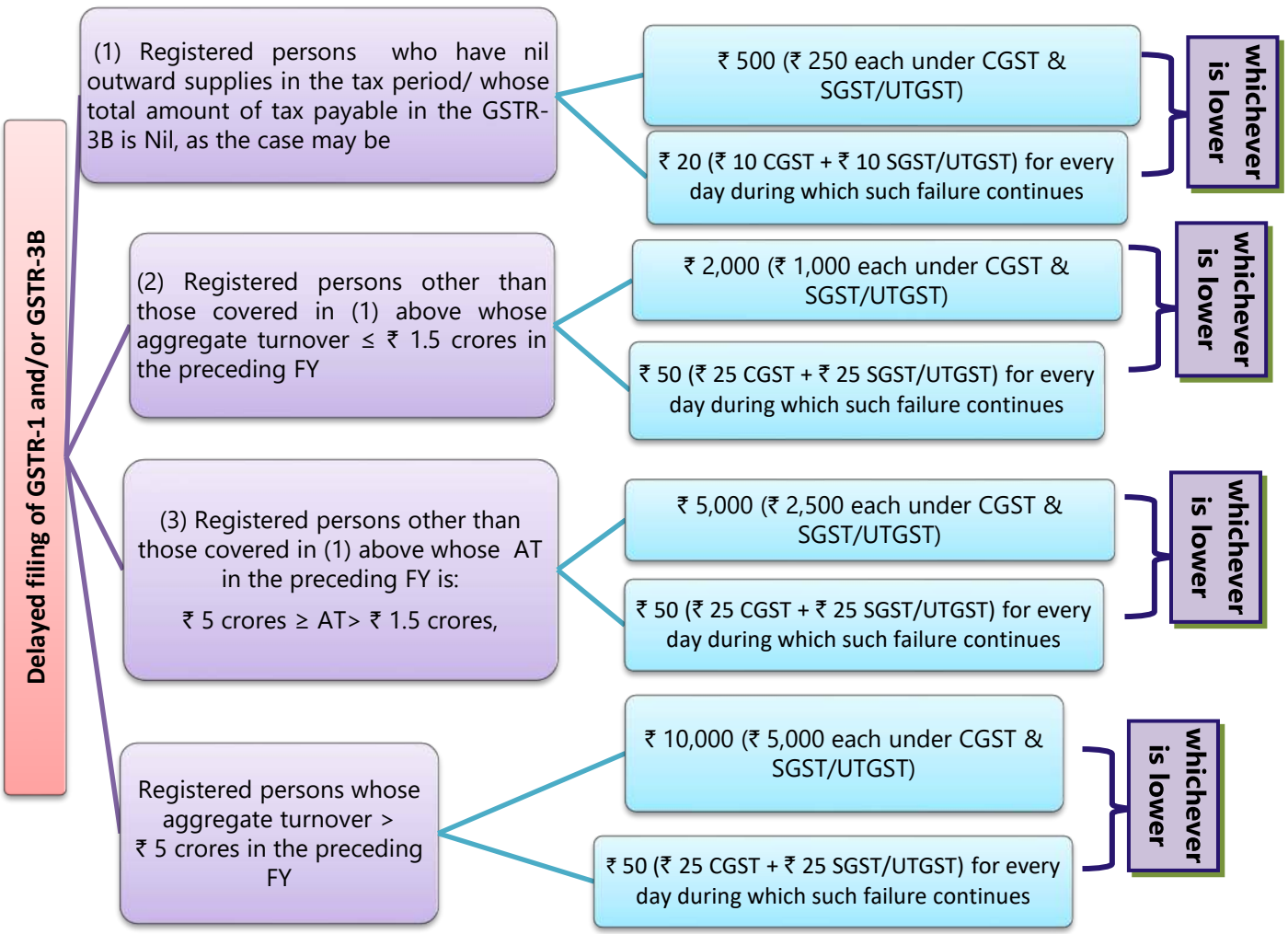
(ii) For delayed filing of GSTR-1 and/or GSTR-3B:-

Amount of late fee payable under section 47 by the registered person who fail to furnish Form GSTR-1 and/or Form GSTR-3B by the due date, shall be as follows:

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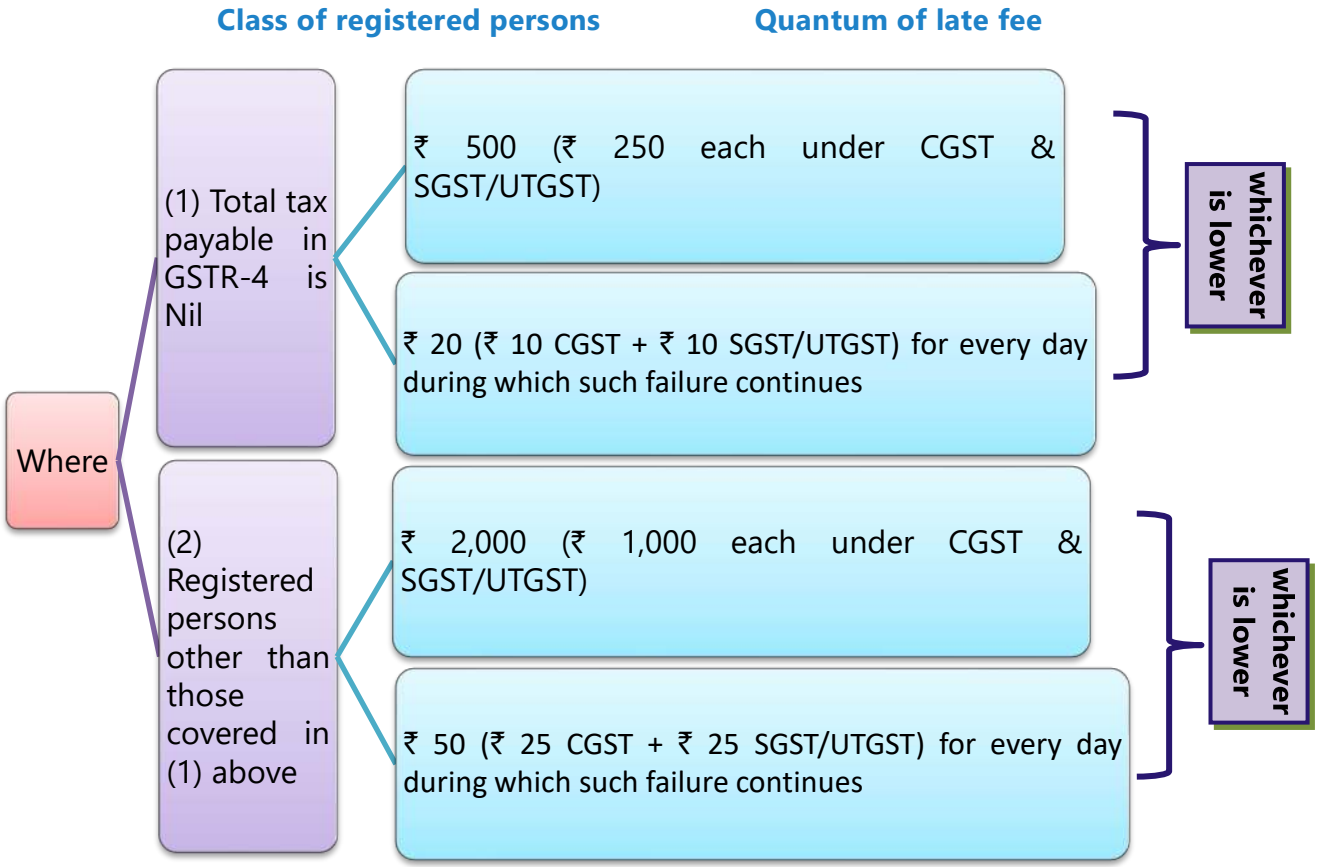
[28] *Section 128 has been discussed at the Final level.*

[29] vide *Notification No. 4/2018 CT dated 23.01.2018, Notification No. 73/2017 CT dated 29.12.2017, Notification No. 76/2018 CT dated 31.12.2018, Notification Nos 19-22/2021 CT all dated 01.06.2021 and Notification No. 07/2023 CT dated 31.03.2023*


Delayed filing of GSTR-1 and/or GSTR-3B
(1) Registered persons who have nil outward supplies in the tax period/ whose total amount of tax payable in the GSTR-3B is Nil, as the case may be
₹ 500 (₹ 250 each under CGST & SGST/UTGST)
₹ 20 (₹ 10 CGST + ₹ 10 SGST/UTGST) for every day during which such failure continues
whichever is lower
(2) Registered persons other than those covered in (1) above whose aggregate turnover ≤ ₹ 1.5 crores in the preceding FY
₹ 2,000 (₹ 1,000 each under CGST & SGST/UTGST)
₹ 50 (₹ 25 CGST + ₹ 25 SGST/UTGST) for every day during which such failure continues
whichever is lower
(3) Registered persons other than those covered in (1) above whose AT in the preceding FY is:
₹ 5 crores ≥ AT> ₹ 1.5 crores,
₹ 5,000 (₹ 2,500 each under CGST & SGST/UTGST)
₹ 50 (₹ 25 CGST + ₹ 25 SGST/UTGST) for every day during which such failure continues
whichever is lower
Registered persons whose aggregate turnover > ₹ 5 crores in the preceding FY
₹ 10,000 (₹ 5,000 each under CGST & SGST/UTGST)
₹ 50 (₹ 25 CGST + ₹ 25 SGST/UTGST) for every day during which such failure continues
whichever is lower

(iii) For delayed filing of GSTR-4:-

Amount of late fee payable under section 47 by a composition supplier who fails to furnish Form GSTR-4 by the due date, shall be as follows:



(iv) For delayed filing of GSTR-9:-

