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## **INCOME FROM HOUSE PROPERTY AND ITS COMPUTATION**

(A) Basis of Charge [Section 22]:

Income from house property shall be taxable under this head if following conditions are satisfied: The house property should consist of any building or land appurtenant thereto; The taxpayer should be the owner of the property. Owner includes deemed owner. The house property should not be used for the purpose of business or profession carried on by the taxpayer.

(B) Deemed owner [Section 27]:

Income from house property is taxable in the hands of its owner. However, in the following cases, legal owner is not considered as the real owner of the property and someone else is considered as the deemed owner of the property to pay tax on income earned from such house property: An individual, who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred; The holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate; A member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme shall be deemed to be the owner of that building or part thereof; A person who is allowed to take or retain 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 deemed to be the owner of that building or part thereof; A person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in section 269UA (f), shall be deemed to be the owner of that building or part thereof.

(C) Meaning of composite rent:

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When apart from recovering rent of the building, in some cases the owner gets rent of other assets (like furniture) or he charges for different services provided in the building (for instance, charges for lifts, security, air conditioning, etc.). The amount so recovered is known as “composite rent”. i) Tax treatment of composite rent of building let out along with other assets Composite rent includes rent of building and rent towards other assets or facilities. The tax treatment of composite rent is as follows:- In a case where letting out of building and letting out of other assets are inseparable (i.e., both the lettings are composite and not separable, e.g., letting of equipped theatre), entire rent (i.e. composite rent) will be charged to tax under the head “Profits and gains of business and profession” or “Income from other sources”, as the case may be. Nothing is charged to tax under the head “Income from house property”. In a case where, letting out of building and letting out of other assets are separable (i.e., both the lettings are separable, e.g., letting out of refrigerator along with residential bungalow), rent of building will be charged to tax under the head “Income from house property” and rent of other assets will be charged to tax under the head “Profits and gains of business and profession” or “Income from other sources”, as the case may be. This rule is applicable, even if the owner receives composite rent for both the lettings. In other words, in such a case, the composite rent is to be allocated for letting out of building and for letting of other assets. ii) Tax treatment of composite rent in a case of letting of building along with provision of services In a case letting of building along with provision of services, composite rent includes rent of building and charges for different services (like lift, watchman, water supply, etc.): In this situation, the composite rent is to be bifurcated and the sum attributable to the use of property will be charged to tax under the head “Income from house property” and charges for various services will be charged to tax under the head “Profits and gains of business and profession” or “Income from other sources” (as the case may be). iii) Rental income from sub-letting Rental income in the hands of owner is charged to tax under the head “Income from house property”. Rental income of a person other than the owner cannot be charged to tax under the head “Income from house property”. Hence, rental income received by a tenant from sub-letting cannot be charged to tax under the head “Income from house property”. Such income is taxable under the head “Income from other sources” or profits and gains from business or profession, as the case may be. iv) Rental income from a shop Rental income from a property, being building or land appurtenant thereto, of which the taxpayer is the owner is charged to tax under the head “Income from house property”. To tax the rental income under the head “Income from house property”, the rented property should be building

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or land appurtenant thereto. Shop being a building, rental income will be charged to tax under the head "Income from house property".

(D) Meaning of Self-occupied property:

A self-occupied property means a property owned by the taxpayer which is occupied throughout the year by the owner for the purposes of his own residence and is not actually let out during the whole or any part of the year. Thus, a property not occupied by the owner for his residence cannot be treated as a self occupied property. However, there is one exception to this rule. If the following conditions are satisfied, then the property can be treated as self-occupied and the annual value of a property will be "Nil", even though the property is not occupied by the owner throughout the year for his residence: The taxpayer owns a property; Such property cannot actually be occupied by him owing to his employment, business or profession carried on at any other place and he has to reside at that other place in a building not owned to him; The property mentioned in (a) above (or part thereof) is not actually let out at any time during the year; No other benefit is derived from such property.

(E) Computation of income from house property: Income from a house property shall be determined in the following manner:

Particulars	Amount
<b>Gross Annual Value</b>	XXXX
<b>Less: Municipal Taxes paid during the year</b>	XXXX
<b>Net Annual Value (NAV)</b>	XXXX
<b>Less: Deduction under section 24(a) @ 30% of NAV (Standard Deduction)]</b>	XXXX
<b>Less: Deduction under section 24(b) on account of interest on borrowed capital</b>	XXXX
<b>Income from house property</b>	<b>XXXX</b>

**Computation of gross annual value of a let out property. [Sec. 23(1)]**

**Gross Annual Value of a property is let out throughout the year is determined in the following manner**

<b>Step 1</b>	Compute reasonable expected rent of the property (manner of computation is discussed in later part)
<b>Step 2</b>	Compute actual rent of the property (manner of computation is discussed in later part).
<b>Step 3</b>	Compute gross annual value (manner of computation is discussed in later part)

Computation of reasonable expected rent of a let out property (i.e. step 1). Reasonable expected rent will be higher of the following: Municipal value of the property (Note 1); or Fair rent of the property (Note 2). If a property is covered under Rent Control Act, then the reasonable expected rent cannot exceed standard rent (Note 3).

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Note 1: Meaning of Municipal Value For collection of municipal taxes, local authorities make periodic survey of all buildings in their jurisdiction. Such value determined by the municipal authorities in respect of a property, is called as municipal value of the property.

Note 2: Meaning of Fair Rent It is the reasonable expected rent which the property can fetch. It can be determined on the basis of rent fetched by a similar property in the same or similar locality.

Note 3: Meaning of Standard Rent It is the maximum rent which a person can legally recover from his tenant under the Rent Control Act. Standard rent is applicable only in case of properties covered under Rent Control Act. Illustration for better understanding From the following information compute the reasonable expected rent of each property:

Particulars	Property A (₹.)	Property B (₹.)	Property C (₹.)
Municipal Value	8,48,484	8,48,484	8,48,484
Fair Rent	2,52,252	2,52,252	2,52,252
Standard Rent	Not Applicable	84,252	9,84,000

Based on above discussion, the computation of reasonable expected rent will be as follows:

Analysis of Step -1: Computation of reasonable expected rent

Property A (Rs.)	Property B (Rs.)	Property C (Rs.)
Reasonable expected rent will be ₹.8,48,484 (being higher of municipal value and fair rent).	Reasonable expected rent will be ₹.84,252 (being higher of municipal value and fair rent, but restricted to standard rent).	Reasonable expected rent will be ₹.8,48,484 being higher of municipal value and fair rent, but restricted to standard rent (standard rent is higher and hence restriction of standard rent will not apply in this case).

Analysis of Step – 2: Computation of actual rent of a let out property Actual rent means the rent for which the property is let out during the year. While computing actual rent, rent pertaining to vacancy period is not to be deducted. However, unrealized rent is to be deducted from actual rent if conditions specified in this regard are satisfied. Unrealised rent is the rent of the property which the owner of the property could not recover from the tenant, i.e., rent not paid by the tenant. If following conditions are satisfied, then unrealised rent is to be deducted from actual rent of the year: The tenancy is bona fide.→ The defaulting tenant has vacated the property, or steps have been taken to compel him to vacate the property.→ The defaulting tenant is not in occupation of any other property of the taxpayer.→ The taxpayer has taken all steps to recover such amount, including legal proceedings or he satisfies the Assessing Officer→ that legal proceedings would be useless. Illustration for better understanding Mr. Raj owns a bungalow. Throughout the year 2016-17 the bungalow is rented to Mr. Kumar at a monthly rent of 84,000. Due to internal dispute, Mr. Kumar did not

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pay rent for the month of March, 2017. What will be the amount of actual rent to be used to compute gross annual value of the property? Rent for the month of March, 2017 is not received and, hence, unrealised rent will come to 84,000. While computing gross annual value of the property, unrealised rent of 84,000 will be deducted from actual rent. Thus, actual rent to be considered while computing gross annual value will come to 9,24,000 (84,000 \* 12 months = 10,08,000 – 84,000 unrealised rent). Unrealised rent of 84,000 will be deducted from actual rent if all the conditions discussed in this regard are satisfied.

If any of the conditions specified in this regard is not satisfied, then while computing gross annual value, actual rent will be taken as 10,08,000 (i.e., rent for entire year without deducting unrealised rent of 84,000). Analysis of step -2: Computation of gross annual value of a let out property. Gross annual value of a property which is let-out throughout the year will be higher of amount computed at step 1 or step 2 (as discussed earlier). Illustration for better understanding From the information provided by Mr. Raja in respect of 3 properties rented out by him compute the gross annual value of all the properties.

Particulars	Property A (₹.)	Property B (₹.)	Property C (₹.)
Municipal Value	8,48,484	8,48,484	2,52,252
Fair Rent	2,52,252	2,52,252	8,48,484
Standard Rent	Not Applicable	84,252	9,84,000
Amount at Step 1	9,60,000	60,000	9,60,000
Unrealised Rent	1,60,000	Nil	80,000

**Step 3: Compute gross annual value.**

**Step 1:** Computation of reasonable expected rent; it will be higher of municipal value or fair rent (subject to standard rent). Computation will be as follows:

Particulars	Property A (₹.)	Property B (₹.)	Property C (₹.)
Municipal Value	8,48,484	8,48,484	2,52,252
Fair Rent	2,52,252	2,52,252	8,48,484
Standard Rent	Not Applicable	84,252	9,84,000
Amount at Step 1	8,48,484	84,252	8,48,484

**Step 2:** Computation of actual rent after deducting unrealised rent. The computation will be as follows

Particulars	Property A (₹.)	Property B (₹.)	Property C (₹.)
Amount at Step 2	8,00,000	60,000	8,80,000

(\*) Actual rent after deducting unrealised rent will come to ₹. 8,00,000 (₹.9,60,000 – ₹.1,60,000) in case of property A, ₹.60,000 in case of property B and ₹.8,80,000 (₹. 9,60,000 – ₹. 80,000) in case of property C.

**Step 3:** Gross annual value will be higher of amount computed at Step 1 or Step 2. The computation will be as follows:

Particulars	Property A (₹.)	Property B (₹.)	Property C (₹.)
Amount at Step 1	8,48,484	84,252	8,48,484
Amount at Step 2	8,00,000	60,000	8,80,000
Amount at Step 3	8,48,484	84,252	8,80,000
Gross annual value (being higher of above)			

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Note: Pre-construction period is the period commencing from the date of borrowing of loan and ends on earlier of the following: Date of repayment of loan; or 31st March immediately prior to the date of completion of the construction/acquisition of the property. Interest pertaining to pre-construction period is allowed as deduction in five equal annual instalments, commencing from the year in which the house property is acquired or constructed. Thus, total deduction available to the taxpayer under section 24(b) on account of interest will be 1/5th of interest pertaining to pre-construction period (if any) + Interest pertaining to post construction period (if any). (G) Deduction in respect of interest on housing loan in case of self-occupied property The provisions relating to deduction under section 24(b) on account of interest on housing loan in case of self-occupied property are same as applicable in case of let-out property. In other words, deduction available to taxpayer under section 24(b) in respect of self-occupied property will be 1/5th of interest pertaining to pre-construction period (if any) + Interest pertaining to post-construction period (if any) [provisions of section 24(b) are already discussed earlier]. However, in the case of self-occupied property, deduction under section 24(b) cannot exceed Rs 2,00,000 or Rs. 30,000 (as the case may be). If all the following conditions are satisfied, then the limit in respect of interest on borrowed capital will be 2,00,000: Capital is borrowed on or after 1st April 1999. Capital is borrowed for the purpose of acquisition or construction (i.e., not for repair, renewal, reconstruction). Acquisition or construction is completed within 5 years (3 years up to 2016-17) from the end of the financial year in which the capital was borrowed. The person extending the loan certifies that such interest is payable in respect of the amount advanced for acquisition or construction of the house or as re-finance of the principal amount outstanding under an earlier loan taken for acquisition or construction of the property. If any of the above conditions are not satisfied, then the limit of 2,00,000 will be reduced to 30,000. Interest on Borrowed Capital [Sec.24(b)] – Interest on borrowed capital is allowable as deduction if capital is borrowed for the purpose of purchase, construction, repair, renewal or reconstruction of the property. However following points should also be kept in view: Interest on borrowed capital is deductible every year on "accrual" basis even if the interest is not actually paid during the year. Interest on unpaid interest is not deductible. Deduction of any brokerage or commission for arranging the loan is not allowable as it is not interest. Interest on a fresh loan, taken to repay the original loan raised for the aforesaid purpose, is allowable as deduction. Pre condition for deduction of interest is that the amount borrowed shall utilised for acquisition, construction, repairs, etc. of house property. Interest on borrowing can be claimed as

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deduction only by the person who has acquired or constructed the property— with borrowed fund. It is not available to the successor to the property, if the successor has not utilised borrowed funds for acquisition etc of house property. The relationship of borrower and lender must come into existence. When a house property is allotted to an assessee on instalment basis and interest charged as per agreement for such— deferred payment, this give rise to relationship of borrower and lender between the assessee and the estate officer / builder and as such interest paid by the assessee on instalments constitutes interest on borrowed capital.

The interest that accrues in terms of rule 6 of the House Building Advance Rules is on the balances outstanding on the last day of each month and allowed as deduction. (Circular No.363, dated June 24,1983). Interest on loan taken from friends and relatives including tenant for construction of an additional floor or additional— space to existing house is an allowable expenditure under section 24. An assessee acquired lease rights in a property by paying a non-refundable premium and such premium was paid by— utilizing borrowed fund. Interest paid on such borrowed money was allowable under section 24(b). Unpaid purchase price of the property can be considered as 'borrowed capital' for the purpose of section 24(b). Any interest chargeable under the Act, payable out of India on which tax has not been paid or deducted at source,— and in respect of which there is no person who may be treated as an agent, is not deductible, by virtue of section 25, in computing income chargeable under the head "Income from house property".

(J) Property owned by co-owners [Section 26]: If house property is owned by co-owners and their share in house property is definite and ascertainable than the income of such house property will be assessed in the hands of each co-owner separately. For the purpose of computing income from house property, the annual value of the property will be taken in proportion to their share in the property. In such a case, each co-owner shall be entitled to claim benefit of self-occupied house property in respect of their share in the property (subject to prescribed conditions). However, where the shares of co-owners are not definite, the income of the property shall be assessed as that of an Association of persons. (K) Home loan in Joint Names & eligible for higher deduction of Interest u/s 24(b) & principal repayment u/s 80C: In case of a joint loan availed for purchase / construction of house property which is in joint name, the tax benefits get divided among the co-applicants. The division takes place in the same proportion in which the asset is owned by each co-applicant. Each co-applicant can claim a maximum tax rebate of up to 1.50 lakh for principal repayment (Section 80C) and 2

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lakh for interest payment (Section 24). The share of each holder should be clearly mentioned so that there is absolute clarity on the percentage ownership of each co-owner. Suppose, both husband and wife are working / having source of income, the deduction with respect to interest on home loan and repayment of principal can be claimed by both in proportion of their ownership share. A comparative position is give below by assuming that home loan of 60 lakhs is availed @ interest 9% PA which is repayable with equal EMI for a period of 20 yrs @9.00% PA

Loan Availed by	Case 1 – Single Owner	Case 2 – Joint Holders	
		Wife	Husband
Property share	100%	50%	50%
Loan Amount (In Rs.)	60,00,000	30,00,000	30,00,000
No. of Years	20 years	20 years	
Rate of Interest for Home Loan	9.00%	9.00%	
Equated Monthly Instalment (EMI) per month (In ₹.)	53,984	26,992	26,992
Amount repaid Annually (In ₹.)	6,47,808	3,23,904	3,23,904
Interest Amount repaid (In ₹.)	5,40,000	2,70,000	2,70,000
Principal Amount repaid (In ₹.)	1,07,808	53,904	53,904
<b>Tax Deduction that Can be claimed</b>			
Interest deduction u/s24 (In ₹.)	2,00,000	2,00,000	2,00,000
Repayment of principal u/s 80C (In ₹.)	1,07,808	53,904	53,904
Total deduction that can be claimed (In ₹.)	3,07,808	253,904	253,904
<b>Total deduction claimed by the family</b>	<b>₹. 3,07,808</b>	<b>₹. 5,07,808</b>	

So from above it is seen that in case of joint owner/co-owner of any house property there is an additional tax benefits claim of 2,00,000/- together than single owner. Other Provisions related to Computation of House Property Income: Computation of income when property is held as stock-in-trade and not let out during the whole or any part of the year. i) If any house property is held as stock in trade, but let out the income will be computed as income from house property and not income from business. However a new sub-section (5) has been inserted in Section 23 of the Income-tax Act with effect from assessment year 2018-19 to provide that the annual value of a property or part thereof which is held as stock-in-trade by the owner of the property and not let out during the whole or any part of the year shall be taken to be nil. This concession will be available only for the period up to 1 year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority.

ii) Arrears of rent or recovery of unrealized rent [Section 25A] Amount received in respect of arrears of rent or any subsequent recovery of unrealized rent shall be deemed to be the income of taxpayer under the head "Income from house property" in the year in which such rent is realized or received (whether or not the assessee is the owner of that property in that



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year). Further, 30% of such rent shall be allowed as deduction in computation of house property income. iii) Other Tax benefits available to a Taxpayer: Following are tax benefits available to owner of a house property, besides deduction of interest on borrowed capital utilised for construction/acquisition/purchase, repair/renewal of a house property as explained above. Under Section 80C: Under Section 80C of the Income Tax Act, one can avail tax benefits on principal amount of the home loan. Maximum tax deduction allowed is 2,00,000. The tax benefit is on the payment basis irrespective of the year for which the principal payment has been made. The amount paid towards stamp duty charges and registration fees is allowed for deduction under this section. The stamp duty charges and registration fee charges are allowed for deduction even if assessee haven't taken a home loan. Tax benefit for repayment of principal loan amount is allowed after the construction/acquisition of the house is complete. Under Section 80EE: Deduction in respect of interest on loan taken for residential house property: As per Section 80EE of the Income-tax Act, deduction of up to ₹.50, 000 is allowed to an Individual towards interest on loan taken for acquisition of a residential house property. However, the deduction is allowed subject to following conditions: the loan should be sanctioned by the banks/financial institution during the during the FY 2016-17; the amount of loan should not exceed 35 Lakh; the value of residential house property should not exceed 50 lakh; the assessee should not own any residential house property on the date of sanction of loan. The deduction is available from AY 2017-18 and subsequent assessment years. iv) Restriction on set off of loss from House Property If the net result of computation of income under the head "House Property" is loss then such loss can be set-off against any other income up to 2 Lakh in any assessment year (Section 71(3A) inserted with effect from assessment year 2018- 19. However, the loss which couldn't be set off can be carried forward for set-off in subsequent years. It can be carried forward for 8 Assessment years for set-off. (M) Conclusions: Documents related to availing loan, utilisation of said loan for construction or acquisition of house property, interest accrued or paid to the lender, principal paid to the lender etc should be kept for production before the employer in case of an employee declaring such income / loss and all cases as may be required by Assessing Officer at the time of assessment. It is advisable that the transaction as practicable should be made in through banking channel / account payees cheque and other instruments. It may also be noted that taking or accepting a loan in excess of 20,000 in contravention of section 269SS will attract minimum penalty of the amount of loan taken or accepted.