INCOME FROM HOUSE PROPERTY

Income Chargeable Real & Notional

This is the only head of income which is taxed on notional income.

The taxability may not necessarily be of actual rent or income received but the potential income, which the property is capable of yielding. Accordingly, if a person owns a property which is laying vacant, notional income with respect to such property may be liable to tax even though the owner may not have received any income from such property.

Further, if the property is let out and the rent received is less than the potential rent which the property is capable of yielding, tax would be payable on the rent which the owner is capable of getting and not on the actual rent

What is chargeable under this head?

Annual value of property consisting of any building or land appurtenant thereto except such property which is used by assessee for the purpose of business and profession. If the building is used by the assessee for the purposes of his business or profession, no notional income from such building can be assessed to tax under the head "Income from house property" and no deduction on account of notional rent is available to the assessee while computing the income under the head "Income from business or profession"

In whose hand such income is taxable?

Income from house property is taxable in the hands of owner/deemed owner of the property. Owner is a person who is entitled to receive income from property in his own right. Income is chargeable in the hands of person even if he is not a registered owner. Rental income from sub-letting of property acquired on monthly tenancy basis or on lease for a period of less than twelve years may be taxable either as "Income from business or profession", where such letting is the business of the assessee or taxable as "Income from other source". This would depend upon facts of each case.

BASIS OF CHARGE (SECTION 22)

The annual value of a property, consisting of any buildings or lands appurtenant thereto, of which the assessee is the owner, is chargeable to tax under the head 'Income from house property'. However, if a house property, or any portion thereof, is occupied by the assessee, for the purpose of any business or profession, carried on by him, the profits of which are chargeable to income-tax, the value of such property is not chargeable to tax under this head.

Thus, three conditions are to be satisfied for property income to be taxable under this head.

The property should consist of any building or land appurtenant thereto

The assessee should be the owner of the property

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

Unless all the aforesaid conditions are satisfied, the property income cannot be charged to tax under the head 'Income from House property'.

APPLICABILITY OF SECTION 22

Buildings or lands appurtenant thereto

The term 'building' includes residential houses, bungalows, office buildings, warehouses, docks, factory buildings, music halls, lecture halls, auditorium etc. The appurtenant lands in respect of a residential building may be in the form of approach roads to and from public streets, compounds, courtyards, backyards, playgrounds, kitchen garden, motor garage, stable or coach home, cattle-shed etc, attached to and forming part of the building. In respect of non-residential buildings, the appurtenant lands may be in the form of car-parking spaces, roads connecting one department with another department, playgrounds for the benefit of employees, etc.

All other types of properties are excluded from the scope of section 22. Rental income from a vacant plot of land (not appurtenant to a building) is not chargeable to tax under the head 'Income from house property', but is taxable either under the head 'Profits and gains of business or profession' or under the head 'Income from other sources', as the case may be.

Ownership of house property

It is only the owner (or deemed owner) of house property who is liable to tax on income under this head. The property may be let out to a third party either for residential purposes or for business purposes. Annual value of property is assessed to tax in the hands of the owner even if he is not in receipt of the income.

Income from subletting is not taxable under section 22. For example, A owns a house property. He lets it out to be B. B further lets it (or a portion of it) out to C. Rental income of A is taxable under the head 'Income from house property'. However, since B is not the owner of the house, his income is not taxable as income from house property, but as income from other sources under section 56.

Deemed owner

Section 27 of the Income Tax Act provides that, in certain circumstances, persons who are not legal owners are to be treated as deemed owners of house property for the purpose of tax liability under this head.

1. If an individual transfers a house property to his or her spouse (except in connection with an agreement to live apart) or to a minor child (except a married daughter) without adequate consideration, he is deemed as the owner of the property for tax purposes. However, if an individual transfers cash to his or her spouse or minor child, and the transferee acquires a house property out of the gifted amount, the transferor shall not be treated as the deemed owner of the house property.
2. 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;

Meaning of composite rent

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".

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.

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).

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.

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

PROPERTY INCOMES EXEMPT FROM TAX

Some incomes from house property are exempt from tax. They are neither taxable nor included in the total income of the assessee for the rate purposes. These are:

1. Income from a farm house [section 2(1A) (c) and section 10(1)].
2. Annual value of one palace in the occupation of an ex-ruler [section 10(19A)].
3. Property income of a local authority [section 10(20)].
4. Property income of an approved scientific research association [section 10(21)].
5. Property income of an educational institution and hospital [section 10(23C)].
6. Property income of a registered trade union [section 10(24)].

7. Income from property held for charitable purposes [section 11].

8. Property income of a political party [section 13A].

9. Income from property used for own business or profession [section 22].

10. Annual value of two self occupied property [section 23(2)].

COMPUTATION OF INCOME FROM LET OUT HOUSE PROPERTY

Income from house property is determined as under:

Gross Annual Value	xxxxxxx
Less: Municipal Taxes	xxxxxxx
Net Annual Value	xxxxxxx
Less: Deductions under Section 24	
- Statutory Deduction (30% of NAV) (a)	xxxxxxx
- Interest on Borrowed Capital (b)	xxxxxxx
Income From House Property	xxxxxxx

Computation of Income from House property (Let out)

MV	–	→ higher of MV & FR
FR	–	
SR	–	Subject to SR
RER	xx	
AR (Annual Rent – Unrealized Rent for the PY in any)	xx	higher of these two
	xx	
(–) Vacancy Loss	xx	
GAV	xx	
(–) M|Tax	xx	
NAV	xx	
(–) Ded u/s 24		
Std Ded of 30% u/s 24(a) – (30% of NAV)		
Int on Loan u/s 24(b)	– xx	
	xx	

DETERMINATION OF ANNUAL VALUE

The basis of calculating Income from House property is the ‘annual value’. Annual Value is the inherent capacity of the property to earn income and it has been defined as the amount for which the property may reasonably be expected to be let out from year to year.

Gross Annual Value [Section 23(1)]

The following four factors have to be taken into consideration while determining the Gross Annual Value of the property:

1. Rent payable by the tenant (actual rent)

2. Municipal valuation of the property.

3. Fair rental value (market value of a similar property in the same area).

4. Standard rent payable under the Rent Control Act.

The **Gross Annual Value** is the municipal value, the actual rent (whether received or receivable) or the fair rental value, whichever is highest. If, however, the Rent Control Act applies to the property, the gross annual value cannot exceed the standard rent under the Rent Control Act, or the actual rent, whichever is higher.

Actual Rent: It 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.

Municipal Valuation: Municipal or local authorities charge house tax on properties situated in the urban areas. For this purpose, they have to determine the income earning capacity of the property so as to calculate the amount of house tax to be paid by the owner of the property.

Fair Rental Value: It is the rent normally charged for similar house properties in the same locality. Although two properties cannot be alike in every respect, the evidence provided by transactions of other parties in the matter of other properties in the neighborhood, more or less comparable to the property in question, is relevant in arriving at reasonable expected rent.

Standard Rent: Standard Rent is the maximum rent which a person can legally recover from his tenant under a Rent Control Act. This rule is applicable even if a tenant has lost his right to apply for fixation of the standard rent. This means that if a property is covered under the Rent Control Act, its reasonable expected rent cannot exceed the standard rent.

Deductions available in computation of house property taxable Income:

Municipal taxes including service-taxes levied by any local authority in respect of house property is allowed as deduction, if:

a) Taxes are borne by the owner; and

b) Taxes are actually paid by him during the year.

Standard Deduction [Section 24(a)] : 30% of net annual value of the house property is allowed as deduction if property is let- out during the previous year.

Interest on Borrowed Capital * [Section 24(b)] :

a) In respect of let-out property, actual interest incurred on capital borrowed for the purpose of acquisition, construction, repairing, re-construction shall be allowed as deduction.

b) In respect of self-occupied residential house property, interest incurred on capital borrowed for the purpose of acquisition or construction of house property shall be allowed as deduction up to Rs2lakhs.The deduction shall be allowed if capital is borrowed on or after 01-04-1999 and acquisition or construction of house property is completed within 5 years. Otherwise the deduction shall be limited to Rs. 30000

c) In respect of self-occupied residential house property, interest incurred on capital borrowed for the purpose of reconstruction, repairs or renewals of a house property shall be allowed as deduction up to ₹.30,000.

(vi) If the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed (as reduced by any part thereof allowed as deduction under any other provision of the Act) shall be allowed as deduction in equal instalments in five consecutive previous years starting from the previous year in which the property has been acquired or constructed [*Explanation* to section 24(b)].

For example, the assessee has taken a loan of Rs. 80,000 on January 15, 2008 for the construction of a house which has been completed on June 14, 2015. Interest paid/payable for the period from January 15, 2008 to March 31, 2015 amounted Rs. 20,000. Accumulated interest of Rs. 4,000 (*i.e.* $\frac{1}{5}$ × Rs. 20,000) will be allowed as deduction during each of the five consecutive previous years starting from the previous year 2015-16 (along with current year's interest for each previous year).

COMPUTATION OF INCOME FROM SELF OCCUPIED HOUSE PROPERTY

Income from house property is determined as under:

Net Annual Value	NIL
Less: Deductions under Section 24	
- Interest on Borrowed Capital s 24(b)	xxxxxxx
Income From House Property	(xxxxxxx)

Problems

From the following information, compute gross annual value of the following let out properties for the assessment year ~~2018-19~~ : 2020-21 :

	House No.			
	I Rs.	II Rs.	III Rs.	IV Rs.
Municipal value	72,000	60,000	86,400	78,000
Fair rent	69,600	63,000	90,000	74,400
Standard rent	70,800	64,800	91,920	N.A.
Annual rent	78,000	65,400	93,600	87,000
Vacancy period (in month)	1	2	3	1

From the following information, compute gross annual value of the properties mentioned below for the assessment year ~~2018-19~~ : 2020-21 :

	House No.			
	I Rs.	II Rs.	III Rs.	IV Rs.
Municipal value	96,000	1,08,000	1,32,000	86,400
Annual rent	1,26,000	1,58,400	1,39,200	96,000
Fair rent	99,600	96,000	1,36,800	81,600
Standard rent	98,000	1,10,400	1,40,000	N.A.
Unrealised rent of the previous year	15,000	10,000	2,000	11,200
Vacancy period (in month)	1	3	2	1

Q Sree Ramen Biswas is the owner of three house properties in Kolkata. The particulars regarding the house properties for the previous year ~~2017-18~~ 2019-20 are given below :

	House No. 1	House No. 2	House No. 3
Date of completion of construction	31.1.96	31.10.01	31.3.2014
How used	Tenant's business	Tenant's residence	Own residence
	Rs.	Rs.	Rs.
Gross municipal value	14,500	15,000	2,40,000
Fair rent	12,200	16,000	3,00,000
Rent received	12,100	15,000	—
Interest on loan by mortgaging House No. 1 (funds used for construction of House No. 2)	3,000	—	—
Interest on loan for the year (for construction of House No. 3)	—	—	2,15,500
Vacant for	1 month	2 months	—

Additional information :

(i) Municipal tax is assessed at 10%.

(ii) ~~During the assessment year 2002-03, Sri Biswas was allowed a deduction of Rs. 4,200 on account of unrealised rent of House No. 1. Subsequently, during the previous year ended 31st March, 2018, he recovers Rs. 2,200 out of Rs. 4,200. His expenses for recovery amounts to Rs. 500.~~

(iii) Loan has been taken for construction of House No. 3 on June 17, 2012. Accumulated interest prior to completion of construction is Rs. 4,16,000.

Compute income from house property of Sree Biswas for the assessment year ~~2018-19~~. 2020-21

How to compute Income from House Property under different circumstances

Sl. No.	Property Type	Gross Annual Value of the property	Deduction for municipal taxes	Net Annual Value of the property	Standard Deduction	Interest on borrowed capital
1.	One self-occupied house property	*Nil*	*Nil*	*Nil*	*Nil*	Deduction for interest on borrowed capital is allowed up to ₹.30,000or₹.2,00,000,asthe case may be.
2.	House property could not be occupied by the owner due to employment or business carried on at any other place	*Nil*	*Nil*	*Nil*	*Nil*	Deduction for interest on borrowed capital is allowed up to ₹.30,000or₹.2,00,000, as the case may be.
3.	Let out property	To be computed as per provisions of Section 23(1)	Allowed on actual payment basis	Gross annual value *less* Municipal taxes paid	30% of Net Annual Value	Entire amount of interest paid or payable on borrowed capital shall be allowed as deduction. Pre-construction interest shall be allowed as deduction in 5 annual equal instalments (Subject to certain conditions).
4.	More than one-self occupied property	Up to two property selected by the taxpayer will be considered as self-occupied house property and all other properties shall be deemed to be let-out for the purpose of computation of income under the head house property. Interest deduction is limited to 2L for both the self occupied property				
5.	A self-occupied property let-out for the part of the year	The house will be taken as let-out property and no concession shall be available for the duration during which the property was self-occupied.				
6.	One part of the property is let-out and other part is used for self-occupied purposes	Each part of the property shall be considered as separate property and income will be computed accordingly				