INCOME UNDER THE HEAD “HOUSE PROPERTY”

AND IT’S COMPUTATION

1. BASIS FOR CHARGE: -
   ✓ There must be a property consisting of building or land appurtenant thereto
   ✓ The Assessee should be owner of that property
   ✓ Such property should not be used for Business or profession of assesee the profits of which are chargeable to tax

2. SOME IMPORATANT NOTES: -
   ➢ It must be noted that the word property or part thereof means part or unit of that property
   ➢ If there is any income from vacant piece of land such income would be charged under Profits and gains from business and profession or under income from other sources depending upon nature of the case.
   ➢ Property not owned by assessee should not be charged under house property, stating and example we mention that income from subletting is charged under income from other sources.

3. OWNERSHIP: -It includes legal owner as well as deemed owner.
   The term ownership includes ownership of any kind and includes:-
   ➢ Freehold Property
   ➢ Leasehold property
   ➢ Deemed ownership

4. DEEMED OWNERSHIP: - Section 27 of the act provides for deemed ownership of property. The various cases in which owner would be counted as deemed owner of property are as follows:-
   ✓ Transfer to spouse:- Where an individual transfers his/her house property to his/her spouse without any adequate consideration (except in an agreement to live apart) , the transferor would be deemed to be owner of such house property. It is to be noted that only house property is transferred and not any cash through
which House property is purchased, in such a case, clubbing provisions will apply.

- **Transfer to minor child**: Where property is transferred to minor child (except married minor daughter), Transferor would be deemed to be owner of that house property.

- **Holder of an impartible estate**: Such holder would be deemed to be owner of that property.

- **Member of co-operative estate**: Person holding property under a co-operative estate as leasehold or freehold property would be deemed to be owner of that property.

- **Person holding some rights of property under section 53A of transfer of property act**: Conditions are:-
  - There is an agreement in writing
  - Purchaser has paid consideration or agreed to pay the same
  - Purchase has taken possession of the property

- **Person holding lease of a property for not less than 12 years**: Such a person would be deemed to be owner of that property provided that lease is renewed after a minimum period of 12 months.

- **Disputed property**: A person who holds the possession of a disputed property or enjoys income from that property is deemed to be owner of that property.

5. **USE OF HOUSE PROPERTY AND IT'S IMPACT ON TAXATION**:

House property may be used for either commercial or residential purposes. Some cases of taxation are as follows:

- Where property is held as Stock in trade then also taxed under house property
- When it is business to give property on rent, then also it is taxed under this head of house property
- When hotel or P.G. accommodation building is given on rent then also taxed under house property but where separate rooms are given on rent then it is taxed either business or profession or under income from other sources.
- Some exceptions to general rule of taxation under house property are: -
 ✓ Where property is used for business of assessee
 ✓ Where P.G. or hostel accommodation is run by assessee
 ✓ Where property is given on rent for efficient conduct of business
 ✓ Where H.P. is given on rent to Govt. agency for locating branch, etc. for conducting business efficiently, it is taxed under income from business and profession.
 ✓ Where it is a case of composite rent.

6. INCOME FROM HOUSE PROPERTY NOT CHARGED TO TAX:

   - H.P. use for Business of Assessee
   - Building held for charitable purposes
   - Self occupied property
   - Property of registered trade union
   - Palace of ex ruler
   - Income from Farm house:- conditions are:
     ✓ Farm house in India
     ✓ In immediate vicinity of agricultural land
     ✓ Used as a dwelling or store house

7. CASES OF COMPOSITE RENT:

   - Composite rent can be on account of
     ✓ Provision of facilities with H.P.
     ✓ Provision of assets with H.P.

   a) Rent On account of H.P. and Other facilities like gas, etc. should be separated and rent on account of H.P. would be taxed under income from H.P. and rest would be taxable under either P.G.B.P. or income from other sources.

   b) Rent on account Of H.P. and hire charges of assets is treated as follows:

     ✓ If assets form an integral part of lending, whole of the rent should be taxed under either Income under the head “profits and gains from Business and Profession” (P.G.B.P.) or income under the head “income from other sources” as the case may be.
- If asset do not form an integral part of lending, rent should be separated into:
  - Rent for H.P. and should be taxed under H.P.
  - Rent for assets must be taxed under P.G.B.P. or income from other sources

8. **ANNUAL VALUE**: This provision is contained in section 23 of income tax act.

   The provision is elaborated as follows:

   Gross annual value is computed as follows:

   - **STEP1**: Take higher of
     a) Expected rent (which is computed by taking higher of municipal value or fair rent whichever is higher but limited to standard rent) or,
     b) Actual rent received or receivable
     c) But in this clause c, we compute actual rent which would have been there if there would have been no vacancy, if such rent is higher than expected rent, then rent computed under this clause (c) would be used otherwise rent computed in clause (a) that is the expected rent would be used.

   - **STEP2**: From this calculate GAV by taking rent as per above provisions and subtracting vacancy allowance on the basis of actual rent from the same.

   - **STEP3**: This is our GAV

   - **STEP4**: From GAV deduct municipal taxes actually paid and borne by the owner during the previous year.

   - **STEP5**: Finally we have computed our Net Annual Value or annual value.

9. **UNREALISED RENT**: Sometimes owner is not able to recover some portion of rent from the tenant such a rent is called as unrealized rent, Unrealized rent is allowed as a deduction only when following 4 conditions given in Rule 4 are satisfied:

   - Tenancy is bonafide
   - Every step has been taken to get the property vacated
   - Every step has been taken to recover unrealized rent
Tenant is not in occupation of any other property of Owner

There are a number of conflicting views regarding treatment of unrealized rent due to difference of opinion created by income tax law and income tax return form, However Taking in to account the provisions of law; the appropriate provisions are written below:-

Just deduct amount of unrealized rent from Step 1 Clause (b) and clause (c) of Para 8 i.e. While Computing figures for actual rent, these are allowed as a deduction. The Rest of Steps Follow in the same manner as written above.

10. VACANCY CLAUSE: - In Para 8, every thing regarding vacancy clause has been discussed in the 5 steps for computation of annual value, so we are not discussing the same separately.

It is to be noted that there is a difference of opinion among authors regarding vacancy allowance, rest necessary and commonly accepted provisions have been discussed in Para 8.

11. HOUSE PROPERTY LET OUT DURING PART OF YEAR AND PART OF YEAR SELF OCCUPIED: -

The Income from such property is calculated as if let out for whole of the year. In This case, expected rent would be taken for whole year but actual rent would be taken for let out period only and no special allowance for this purpose is allowed.

However where property is acquired During the year itself, expected rent would be taken for only that portion for which property has been owned by assessee and rest provisions remains the same.

12. TREATMENT OF VACANCY + UNREALISED RENT: - If the problem is such that adjustment is required both for Vacancy and unrealized rent then following treatment follows which is a combination of provisions written in Para 9 and 10 above.

- The amount of unrealized rent would be deducted from Step 1 Clause (b) and clause (c) Para 8
- Next, the treatment of unrealized rent is same as per provisions written in Para 8 in the next steps.

13. INCOME FROM HOUSE PROPERTY SELF OCCUPIED FOR RESIDENCE: -

When property is:
Self occupied for residence or
Cannot be self occupied for residence owing to reason of employment and he has to reside at some other place not belonging to him
Then, Annual Value Of such property would be taken to be NIL.

**ANNUAL VALUE NOT NIL:**
- H.P. Actually let out during the year
- Any other benefit is derived from property.

**CASE WHERE MORE THAN ONE HOUSE IS FOR SELF-OCCUPATION:**

Then the assessee has option to take any of the above houses as self occupied and the other one would be treated as deemed let out property.

**NOTES:**
- Annual value here denotes value after municipal taxes.
- This option is available only to individuals and Hindu undivided families.
- Where An assessee let’s out his house to the employer and the employer in return allots the same to assessee only then, then tax treatment would be as follows:-
  - Tax on income of house property and
  - Tax on the matter of rent free or concessional accommodation provided by employer taxable under income under the head salaries.

14. **DEDUCTIONS FROM HOUSE PROPERTY INCOME UNDER SECTION 24:**
   a) **STANDARD DEUCTION:**
   - A Standard Deduction of 30% of Net Annual Value Would Be allowed as a deduction from net Annual Value, irrespective of expenditure incurred. No other deduction on account of any expenditure is allowed. However such deduction would not be allowed when annual value is negative.
   b) **DEDUCTION ON ACCOUNT OF INTEREST:**
   - Any Kind of interest on borrowed capital would be allowed as a
deduction from H.P. income on “accrual” basis. Interest includes pre construction period interest installment. However Interest would not be allowed as a deduction if such interest is paid out of India and No TDS has been deducted from it and there is no person in India who can be assessed in respect of person to whom interest is paid.

NOTES:-

- Loan can be for any purpose like repairs, construction or any kind of extension to house property but should be connected with H.P.
- Fresh loan to merely repay original loan would be counted as if like original loan and interest would be allowed as a deduction.

PRE CONSTRUCTION PERIOD: - Period starting from date on which capital is borrowed and ending on
✓ 31 march immediately preceding the date on which construction of property is completed or
✓ Date on which borrowed capital is repaid, whichever is earlier.
✓ Pre construction period interest is allowed as deduction in 5 equal installments commencing from year in which construction is completed.

EXAMPLE: - If capital is borrowed on June 30, 2008 and construction of property is completed on 30 July 2010, then interest from period June 30, 2008 to 31 March 2010 would be counted as pre construction interest and would be allowed a deduction in 5 equal installments and interest from 1April 2010 would be counted as interest for the current period.

15. DEDUCTIONS IN CASE OF SELF OCCUPIED PROPERTY: -
Deductions as written in Para 14 are not fully applicable in case of a self occupied property. The changes in Para 14 in case of self occupied property are as follows: -
a) No standard deduction of 30% would be allowed

b) Deduction in case of money borrowed: Here also deduction is allowed subject to certain terms and conditions:

These conditions are as follows:
- Money is borrowed after 1-4-1999
- Money is borrowed for construction or acquisition of property
- Construction or acquisition of property is completed within 3 years from end of financial year in which money is borrowed
- Creditor gives a certificate that amount was borrowed for construction or acquisition of property.

In Case above 4 provisions are satisfied the amount of deduction is
Actual interest (inclusive of pre construction period interest) or Rs. 150000 otherwise the amount of interest deduction would be Rs.30000.

However Interest would not be allowed as a deduction if such interest is paid out of India and No TDS has been deducted from it and there is no person in India who can be assessed in respect of person to whom interest is paid.

16. RECOVERY OF UNREALISED RENT AND ARREARS OF RENT:

Unrealized Rent Recovered:
- This provision is applicable only if unrealized rent is allowed as a deduction earlier.
- Any amount recovered on account of unrealized rent should be directly added to house property income.
- No standard Deduction or any Kind of deduction is allowed.
- No other deduction is allowed on account of any expenditure.
- This Provision is applicable whether property exists or not.

Arrears Of rent Recovered:
- This income is chargeable to tax under house property income.
- Standard Deduction of 30% is allowed to the assessee.
- No other deduction is allowed on account of any expenditure.
- This Provision is applicable whether property exists or not.

17. CO-OWNERS OF PROPERTY:
- If shares of co-owners are definite, then such property would be assessed in hands of individual persons.
If shares of individual owners are not definite then such property would be assessed as body of individuals/association of persons.

In case property is self-occupied than each co-owner would be allowed a deduction of 150,000/30,000.

In case property is let out, we will ignore co-ownership and compute income and in the next step we will distribute the income among co-owners in ratio of co-ownership.

18. **CAN ANNUAL VALUE BE NEGATIVE?**

Yes annual value can be negative.

**In Case of self-occupied property:** - Yes, annual value of a property can be negative but only to the extent of Rs.150,000/30,000

**In Case of Let-out property:** - The annual Value can be negative because of deduction on account of municipal taxes and interest. There is no limit to which such income can be negative.

19. **FORMAT FOR COMPUTATION OF HOUSE PROPERTY INCOME:**

**In Case of let-out property:**

- Gross annual Value xxx
- Less: - Municipal taxes xxx
- = Net Annual Value xxx
- Less:- Deduction u/s 24
  - a) Standard Deduction of 30% xxx
  - b) Deduction on account of Interest xxx

Here we get,

**INCOME UNDER THE HEAD HOUSE PROPERTY**

**In Case of Self Occupied Property:**

- Take Net Annual value NIL
- Less: - Deduction u/s 24
  - a) S.D. Is not allowed
b) Deduction on account of interest limited to Rs.150,000/30,000

Here we get,

INCOME UNDER THE HEAD HOUSE PROPERTY