

UNIT – 5 : INCOME FROM OTHER SOURCES

LEARNING OUTCOMES

After studying this chapter, 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;
- ❑ know what are the admissible deductions while computing income under this head;
- ❑ know what are 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.

Proforma for computation of "Income from Other Sources"

| | Particulars | Amt | |
|--------|--|------------|-----|
| (i) | Dividend Income [Refer fig at Page 4.485] | xxx | |
| (ii) | Casual Income (winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc.) | xxx | |
| (iii) | Consideration received in excess of FMV of shares of a closely held company, where such shares are issued at a premium [Section 56(2)(viib)] | xxx | |
| (iv) | Interest received on compensation/ enhanced compensation deemed to be income in the year of receipt [Section 56(2)(viii)] | xxx | |
| (v) | Advance forfeited due to failure of negotiations for transfer of a capital asset [Section 56(2)(ix)] | xxx | |
| (vi) | Sum of money or property received by any person [Section 56(2)(x)] | xxx | |
| (vii) | 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 relating thereto [Section 56(2)(xi)] | xxx | |
| (viii) | The following income, if not chargeable 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) Interest on securities | xxx | |
| | (c) Income from letting out on hire of machinery, plant or furniture | xxx | |
| | (d) Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting | xxx | |
| | (e) Any sum received under a Keyman insurance policy including bonus on such policy (if not chargeable to tax under the head "Salaries" also) | xxx | xxx |

| | | | |
|--|---|-----|------------|
| (ix) | Any income chargeable to tax under the Act, but not falling under any other head of income | | xxx |
| (x) | Deemed income u/s 59 – Remission or cessation of a trading liability or receipt of any amount in respect of loss or expenditure allowed as deduction in an earlier PY | | xxx |
| | | | xxx |
| Less: Deductions allowable [Section 57] | | | |
| (a) | In case of dividends (other than dividends u/s 115-O) or interest on securities | xxx | |
| | - Any reasonable sum paid by way of commission or remuneration to a banker or any other person | | |
| (b) | Income consists of recovery from employees as contribution to any PF, superannuation fund etc. | xxx | |
| | - Amount of contribution remitted before the due date under the respective Acts, in accordance with the provisions of section 36(1)(va) | | |
| (c) | Income from letting on hire of machinery, plant and furniture, with or without building | xxx | |
| | - current repairs to the machinery, plant, furniture or building | | |
| | - insurance premium | | |
| | - depreciation/unabsorbed depreciation | | |
| (d) | Family Pension – 33 1/3% of such income or ₹ 15,000, 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 | xxx |
| Income from other Sources | | | xxx |

| Deductions not allowable [Section 58] | |
|--|--|
| (a) | Any personal expense of the assessee. |
| (b) | Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source. |
| (c) | Any payment chargeable to tax 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 on or before the due date of return specified in section 139(1). |
| (e) | 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. |
| (f) | Any expenditure in respect of which a payment or aggregate payments exceeding ₹ 10,000 is made to a person in a day otherwise than by account payee cheque/bank draft or ECS through bank account or through such other prescribed electronic mode. |

Tax on Income from Other Sources

| Income | Tax rate and conditions |
|----------------------|--|
| Casual Income | <p>@30% of such winnings (further increased by surcharge, if applicable, and health and education cess@4%)</p> <ul style="list-style-type: none"> ➤ No expenditure or allowance can be allowed from such income. ➤ Deduction under Chapter VI-A 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. |

| Income | Tax rate and conditions |
|---|---|
| <p>Aggregate Dividend received by a specified assessee, resident in India, in excess of ₹ 10 lakhs</p> <p>“Specified assessee” – a person other than domestic company, a fund/ institution/ trust/any university/other educational institution/any hospital/other medical institution¹ or a charitable or religious trust or institution²</p> | <p>@10% of dividend in excess of ₹ 10 lakhs (further increased by surcharge, if applicable, and health and education cess@4%)</p> <ul style="list-style-type: none"> ➤ No deduction is allowable in respect of any expenditure or allowance against such income. ➤ Set-off of losses is not permissible against such income. |
| <p>Unexplained cash credits/ investments/ money, bullion, jewellery etc./ expenditure, etc. [referred to in section 68 and sections 69 to 69D]</p> | <p>@60% of such income plus surcharge @25% of tax (Effective rate of tax is 78%, including health and education cess@4%)</p> <ul style="list-style-type: none"> ➤ No deduction is allowable in respect of any expenditure or allowance against such income. ➤ Set-off of losses is not permissible against such income. |
| <p>Other Income</p> | <p>Normal rates of tax</p> |



5.1 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,

¹referred to in section 10(23C)(iv)/(v)/(vi)/(via) of the Income-tax Act, 1961

²registered under section 12AA of the Income-tax Act, 1961

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.



5.2 INCOMES CHARGEABLE UNDER THIS HEAD [SECTION 56]

(i) **The income chargeable only under the head 'Income from other sources'**

(1) **Dividend income [Section 56(2)(i)]**

The term 'dividend' as used in the Act has a wider scope and meaning than under the general law.

Dividend [covered by sections 2(22)(a) to (e)]:

According to section 2(22), the following receipts are deemed to be dividend:

- (a) **Distribution of accumulated profits, entailing the release of company's assets** - Any distribution of accumulated profits, whether capitalised or not, by a company to its shareholders is dividend if it entails the release of all or any part of its assets. For example, if accumulated profits are distributed in cash, 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 as 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, whether 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.

Note: 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.

Note: 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.
- (e) **Advance or loan by a closely held company to its shareholder** - Any payment by a company in which the public are not substantially interested, of any sum by way of advance or loan to any shareholder who is the beneficial owner of 10% or more of the equity capital of the company will be deemed to be dividend to the extent of the accumulated profits. If the loan is not covered by the accumulated profits, it is not deemed to be dividend.

Advance or loan by a closely held company to a specified concern - Any payment by a company in which the public are not substantially interested, to any concern (i.e. HUF/ Firm/ AOP/ BOI/ Company) in which a shareholder, having the beneficial ownership of atleast 10% of the equity shares is a member or a partner and in which he has a substantial interest (i.e. atleast 20% share of the income of the concern) will be deemed to be dividend.

Also, any payments by such a closely held company on behalf of, or for the individual benefit of any such shareholder will also be deemed to be dividend. However, in both cases the ceiling limit of dividend is to the extent of accumulated profits.

Exceptions: The following payments or loan given would not be deemed as dividend:

- (i) If the loan is granted in the ordinary course of its business and lending of money is a substantial part of the company's business, the loan or advance to a shareholder or to the specified concern is not deemed to be dividend.

- (ii) 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 the previous borrowing, the adjusted amount will not be again treated as a dividend.

Other exceptions

Apart from the exceptions cited above, the following also do not constitute "dividend" -

- (iii) Any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956³;
- (iv) 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).

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. But where liquidation is consequent to the compulsory acquisition of an undertaking by the Government or by any corporation owned or controlled by the Government, the accumulated profits do not include any profits of the company prior to the 3 successive previous years immediately preceding the previous year in which such acquisition took place.

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 section 2(22)(e) – [Circular No. 19/2017, dated 12.06.2017]

Section 2(22)(e) provides that "dividend" includes any payment by a company in which public are not substantially interested, of any sum by way of

³ Now section 58 of the Companies Act, 2013

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.

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(22)(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(22)(e) and therefore, the same would not to be treated as deemed dividend.

Basis of charge of dividend

Any income by way of dividends, referred to under section 115-O, is excluded from the total income of the shareholder [Section 10(34)]. Under section 115-O, any dividend declared, distributed or paid by a domestic company, whether out of current or accumulated profits, shall be charged to additional income-tax at a flat rate of **15%** in addition to normal income-tax chargeable on the income of the company. This is known as corporate dividend tax. However, **Corporate dividend tax @30% is leviable on deemed dividend under section 2(22)(e).**

Dividends received from a company, other than a domestic company, is still liable to tax in the hands of the shareholder. For example, dividend received from a foreign company is liable to tax in the hands of the shareholder.

It may, however, be noted that the exemption available under section 10(34) would not be allowable in respect of dividend income chargeable to tax in accordance with the provisions of section 115BBDA, even if the dividend distribution tax is paid by the domestic company on such amount of dividend.

ILLUSTRATION 1

Rahul 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. a company in which the public are not 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(22)(e), to the extent the company possesses accumulated profits.

- (i) The provisions of section 2(22)(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 manufacturing company and not a company where lending of money is a substantial part of the business of the company, then, the provisions of section 2(22)(e) would be attracted, since Rahul holds more than 10% of the equity shares in the company.

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.

Tax on certain dividends received from domestic companies (Section 115BBDA)

- (i) Any income by way of aggregate dividend **in excess of ₹ 10 lakh** shall be chargeable to tax in the case of specified assessee who is **resident in India**, at the rate of **10%** [further, increased by surcharge, if applicable, and health and education cess @4%].

(ii) **Meaning of certain terms**

| Term | Meaning |
|---------------------------|---|
| Specified assessee | person other than a <ul style="list-style-type: none"> ➤ domestic company ➤ fund or institution or trust or any university or other educational institution or any hospital or other medical institution⁴ ➤ a trust or institution⁵ |
| Dividend | Includes dividend referred under section 2(22)(a) to (d) but shall not include sub-clause (e) thereof. |

- (iii) Further, the taxation of dividend income in excess ₹ 10 lakh shall be on gross basis i.e., no deduction in respect of any expenditure or allowance or set-off of loss shall be allowed to the assessee in computing the income by way of dividends.
- (iv) Accordingly, exemption available under section 10(34), in respect of dividend received by a shareholder from a domestic company would not apply to income by way of dividend chargeable to tax under section 115BBDA.

ILLUSTRATION 2

A Ltd., a domestic company, declared dividend of ₹ 170 lakh for the F.Y. 2018-19 and distributed the same on 10.7.2019. Mr. X, holding 10% shares in A Ltd., receives dividend of ₹ 17 lakh in July, 2019. Mr. Y, holding 5% shares in A Ltd., receives dividend of ₹ 8.50 lakh. Discuss the tax implications in the hands of Mr. X and Mr. Y, assuming that Mr. X and Mr. Y have not received dividend from any other domestic company during the year.

SOLUTION

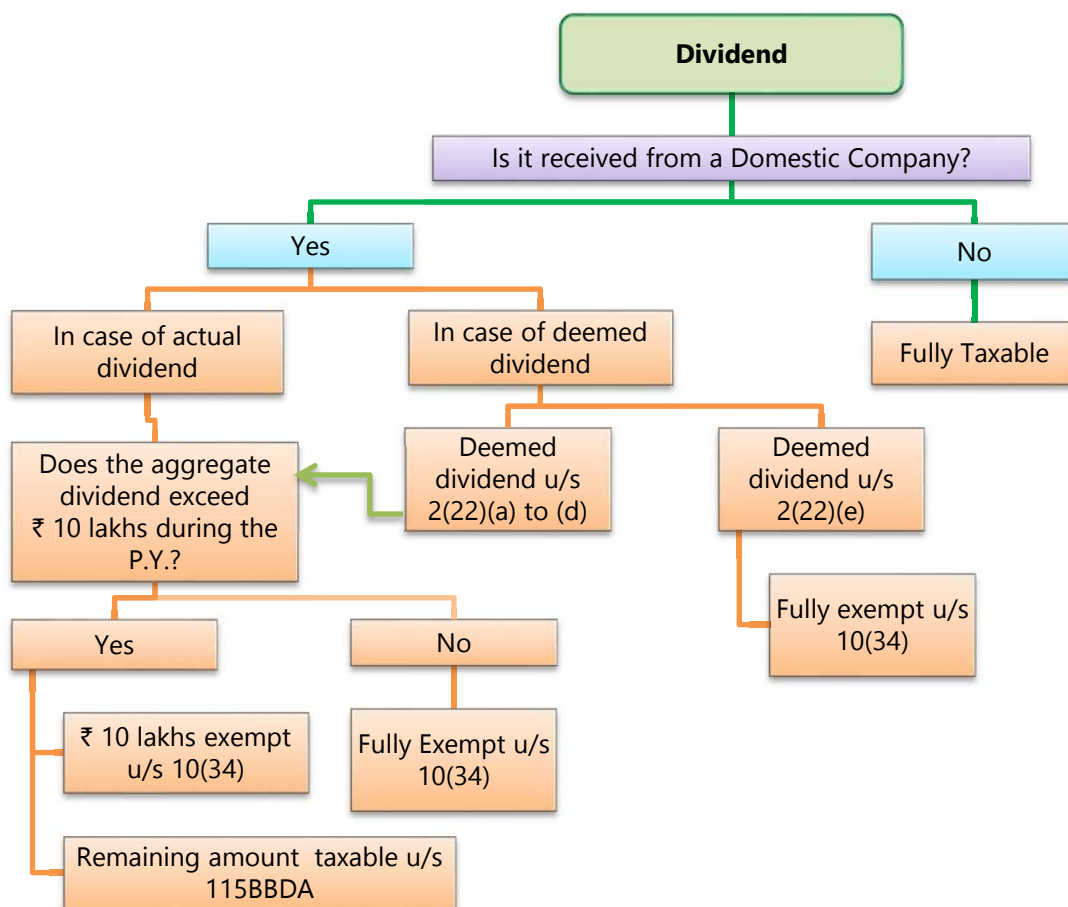
- (i) The dividend of ₹ 170 lakh declared and distributed in the P.Y. 2019-20 is subject to dividend distribution tax under section 115-O in the hands of A Ltd.

⁴referred to in section 10(23C)(iv)/(v)/(vi)/(via)

⁵registered under section 12A or 12AA

- (ii) In the hands of Mr. X, dividend received upto ₹ 10 lakh would be exempt under section 10(34). ₹ 7 lakh, being dividend received in excess of ₹ 10 lakh, would be taxable@10% as per section 115BBDA. Such dividend would not be exempt under section 10(34). Therefore, tax payable by Mr. X on dividend of ₹ 7 lakh under section 115BBDA would be ₹ 72,800 [i.e., 10% of ₹ 7 lakh + health and education cess@4%].
- (iii) In the hands of Mr. Y, the entire dividend of ₹ 8.50 lakh received would be exempt under section 10(34), since only dividend received in excess of ₹ 10 lakh would be taxable under section 115BBDA.

Chargeability of Dividend in the hands of the shareholder



(2) Casual Income [Section 56(2)(ib)]

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. Such winnings are chargeable to tax at a flat rate of 30% under section 115BB.

(3) Consideration received in excess of FMV of shares issued by a closely held company to be treated as income of such company, where shares are issued at a premium [Section 56(2)(viib)]

- (i) Section 56(2)(viib) brings to tax the consideration received from a resident person by a company, other than a company in which public are substantially interested, which is in excess of the fair market value (FMV) of shares⁶.
- (ii) Such excess is to be treated as the income of a closely held company taxable under section 56(2) under the head "Income from Other Sources", in cases where consideration received for issue of shares exceeds the face value of shares i.e. where shares are issued at a premium.
- (iii) Fair market value of the shares shall be the higher of, the value as may be –
 - (a) determined in accordance with the prescribed method; or
 - (b) substantiated by the company to the satisfaction of the Assessing Officer, based on the value of its assets on the date of issue of shares.

For the purpose of computation of FMV, the value of assets would include the value of intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature.

⁶ However, these provisions would not be attracted where consideration for issue of shares is received:
(1) by a Venture Capital Undertaking (VCU) from a Venture Capital Company (VCC) or a Venture Capital Fund (VCF) or a Specified Fund; or
(2) by a company from a class/classes of persons as notified by the Central Government for this purpose
These exceptions will be dealt with in detail at the Final level.

Examples:

| Co. | No. of shares | Face value of shares (₹) | FMV of shares (₹) | Issue price of shares (₹) | Applicability of section 56(2)(viib) |
|------------|---------------|--------------------------|-------------------|---------------------------|---|
| A (P) Ltd. | 10,000 | 100 | 120 | 130 | The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium (i.e., issue price exceeds the face value of shares). The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). ₹ 1,00,000 [10,000 × ₹ 10 (₹ 130 - ₹ 120)] shall be treated as income in the hands of A (P) Ltd. |
| B (P) Ltd. | 20,000 | 100 | 120 | 110 | The provisions of section 56(2)(viib) are attracted since the shares are issued at a premium. However, no sum shall be chargeable to tax in the hands of B (P) Ltd. under the said section as the shares are issued at a price less than the FMV of shares. |
| C (P) Ltd. | 30,000 | 100 | 90 | 98 | Section 56(2)(viib) is not attracted since the shares are issued at a discount, though the issue price is greater than the FMV. |
| D (P) Ltd. | 40,000 | 100 | 90 | 110 | The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium. The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). Therefore, ₹ 8,00,000 [40,000 × ₹ 20 (₹ 110 - ₹ 90)] shall be treated as income in the hands of D (P) Ltd. |

(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 56(2)(viii)]

- (i) As per section 145(1), income chargeable under the head “Profits and gains of business or profession” or “Income from other sources”, shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.
- (ii) Section 145B(1) provides that notwithstanding anything contained in section 145(1), the interest received by an assessee on compensation or on enhanced compensation shall be deemed to be his income for the year in which it is received, irrespective of the method of accounting followed by the assessee.
- (iii) Section 56(2)(viii) provides that income by way of interest received on compensation or on enhanced compensation **referred to in section 145B(1)** shall be assessed as “Income from other sources” in the year in which it is received.

(5) Advance forfeited due to failure of negotiations for transfer of a capital asset to be taxable as “Income from other sources” [Section 56(2)(ix)]

- (i) Prior to A.Y. 2015-16, 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 as per section 51. In case the asset transferred is a long-term capital asset, indexation benefit would be on the cost so reduced.
- (ii) With effect from A.Y. 2015-16, section 56(2)(ix) provides for the taxability of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset. 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.
- (iii) In order to avoid double taxation of the advance received and retained, section 51 has been amended to provide 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 previous year, in accordance with section 56(2)(ix), 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, in computing the cost of acquisition.

- (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). Only the advance received and forfeited on or after 1.4.2014 would be subject to tax under section 56(2)(ix). Hence, such advance would not be reduced from the cost of acquisition for computing capital gains.

(6) 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 56(2)(x)]

- (i) In order to prevent the practice of receiving sum of money or the property without consideration or for inadequate consideration, section 56(2)(x) 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 aggregate value of which exceeds ₹ 50,000, the whole of the aggregate value 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 consideration is less than the stamp duty value of the property and the difference between the stamp duty value and consideration is more than the higher of –

- (i) ₹ 50,000 and
(ii) 5% 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".

II. Value to be considered where the date of agreement is different from date of registration: Taking into consideration the possible time gap between the date of agreement and the date of registration, the stamp duty value may be taken as on the date of agreement instead of the date of registration, if the date of the agreement fixing the amount of consideration for the transfer of the immovable property and the date of registration are not the same, provided whole or part of the consideration has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system (ECS) through a bank account **or through such prescribed electronic mode** on or before the date of agreement.

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.

(iv) Movable Property [Property, other than immovable property]:

If movable property is received

- (a) **Without consideration:** The aggregate fair market value of such property on the date of receipt would be taxed as the income of the recipient, if it 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 56(2)(x): The provisions of section 56(2)(x) 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 56(2)(x).

(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. |
| 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 and 5% of consideration. |

(vii) **Non-applicability of section 56(2)(x):** However, any sum of money or value of property received, in the following circumstances would be outside the ambit of section 56(2)(x) -

- (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, as the case may be; or
- (e) from any local authority⁷; or
- (f) from any fund or foundation or university or other educational

⁷as defined in the Explanation to section 10(20)

institution or hospital or other medical institution or any trust or institution⁸; or

- (g) from or by any trust or institution registered⁹; or
- (h) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution¹⁰.
- (i) by way of transaction not regarded as transfer¹¹ under section 47(i)/ (iv)/ (v)/ (vi)/(vib)/(vid)/(vii).

In order to facilitate the transaction of money or property between a wholly owned subsidiary company and its holding company, transfer of money or property between a holding company and its wholly owned Indian subsidiary company or between a subsidiary company and its 100% Indian holding company, shall not be subject to tax by virtue of the provisions contained in section 56(2)(x).

- (j) from an individual by a trust created or established solely for the benefit of relative of the individual.
- (k) ***from such class of persons and subject to such conditions, as may be prescribed.***

(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, |

⁸referred to in section 10(23C)

⁹under section 12AA

¹⁰referred to in section 10(23C)(iv)/(v)/(vi)/(via)

¹¹under section 47(via)/(viaa)/(vic)/(vica)/(vicb)

| | |
|-----------------|---|
| | (g) sculptures, (h) any work of art or (i) bullion. |
| Relative | (a) In case of an individual – (i) spouse of the individual; (ii) brother or sister of the individual; (iii) brother or sister of the spouse of the individual; (iv) brother or sister of either of the parents of the individual; (v) any lineal ascendant or descendant of the individual; (vi) any lineal ascendant or descendant of the spouse of the individual; (vii) spouse of any of the persons referred in (i) to (vi) above. (b) In case of Hindu Undivided Family , any member thereof. |

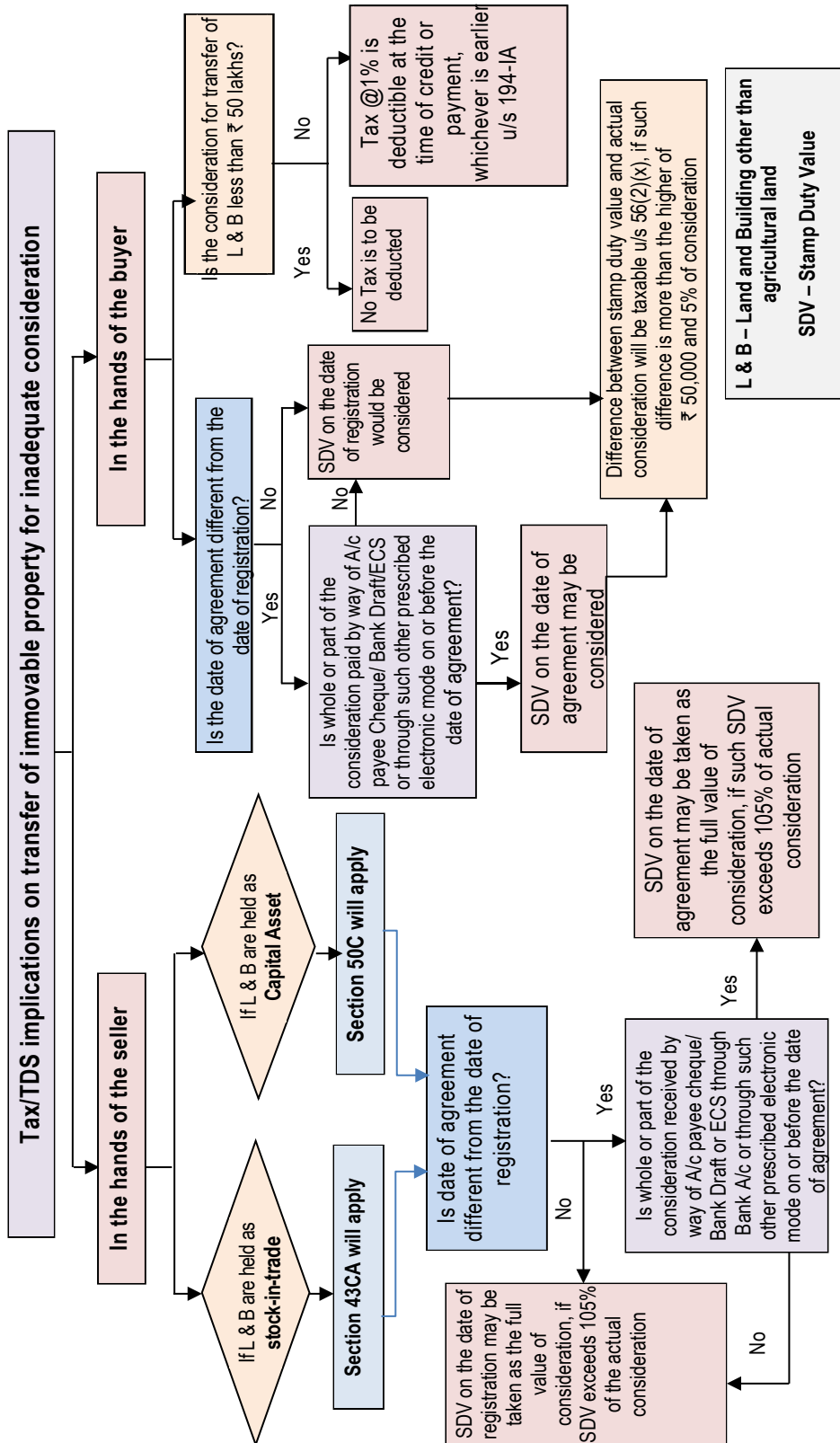


ILLUSTRATION 3

Mr. A, a dealer in shares, received the following without consideration during the P.Y. 2019-20 from his friend Mr. B, -

- (1) Cash gift of ₹ 75,000 on his anniversary, 15th April, 2019.
- (2) Bullion, the fair market value of which was ₹ 60,000, on his birthday, 19th June, 2019.
- (3) A plot of land at Faridabad on 1st July, 2019, the stamp value of which is ₹ 5 lakh on that date. Mr. B had 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, 2019, 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, 2019.

Further, on 1st November, 2019, Mr. A took possession of property (building) booked by him two years back at ₹ 20 lakh. The stamp duty value of the property as on 1st November, 2019 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, 2020, 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 A.Y. 2020-21.

SOLUTION**Computation of "Income from other sources" of Mr. A for the A.Y. 2020-21**

| | Particulars | ₹ |
|-----|---|----------|
| (1) | Cash gift is taxable under section 56(2)(x), 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 56(2)(x) | 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 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. | - |

| | Particulars | ₹ |
|----------------------------------|--|-----------------|
| (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 56(2)(x) since the difference exceeds ₹ 1,00,000, being the higher of ₹ 50,000 and 5% of consideration | 3,00,000 |
| Income from Other Sources | | 9,35,000 |

Computation of "Capital Gains" of Mr. A for the A.Y.2020-21

| Particulars | ₹ |
|---|-----------------|
| Sale Consideration | 7,00,000 |
| Less: Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(x) as per section 49(4)] | 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 4

Discuss the taxability or otherwise of the following in the hands of the recipient under section 56(2)(x) the Income-tax Act, 1961 -

- (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.
- (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 56(2)(x). 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 56(2)(x). 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 64(2). |
| (iii) | Taxable | 55,000 | As per provisions of section 56(2)(x), 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 56(2)(x), therefore, the same shall not be taxable. |

ILLUSTRATION 5

Mr. Hari, a property dealer, sold a building in the course of his business to his friend Rajesh, who is a dealer in automobile spare parts, for ₹ 90 lakh on 1.1.2020, when the stamp duty value was ₹ 150 lakh. The agreement was, however, entered into on 1.9.2019 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. 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, 2018.

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 |
|---|--|
| <p>In the hands of Hari, the provisions of section 43CA 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 105% of consideration.</p> <p>Under section 43CA, 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 on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through such other prescribed electronic mode on or before the date of agreement. In this case, since the down payment of ₹ 15 lakh is received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.</p> <p>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 105% of the consideration</p> | <p>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 56(2)(x) 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 ₹ 4,50,000, being the higher of ₹ 50,000 and 5% of consideration.</p> <p>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 56(2)(x) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through such other prescribed electronic mode.</p> |

Case 2: Tax implications if Mr. Hari is a stock broker

| In the hands of the seller, Mr. Hari | In the hands of the buyer, Mr. Rajesh |
|---|---|
| <p>In case Mr. Hari is a stock 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 50C 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 105% of consideration.</p> <p>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.</p> <p>It may be noted that under section 50C, 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 on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through such other prescribed electronic mode on or before the date of agreement. In this case, since the down payment of ₹ 15 lakhs has been received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.</p> | <p>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 56(2)(x) 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 ₹ 4,50,000, being the higher of ₹ 50,000 and 5% 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 56(2)(x) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through such other prescribed electronic mode.</p> |

(7) Compensation or any other payment received in connection with termination of his employment [Section 56(2)(xi)]

Any compensation or any 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 relating thereto shall be chargeable to tax under this head.

(ii) 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 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, the following interest income arising to certain persons would be exempt under section 10(15):

- (i) Income by way of interest, premium on redemption or other payment on notified securities, bonds, annuity certificates or other savings certificates is exempt subject to such conditions and limits as may be 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 assessment year only to the extent of:

- (1) ₹ 3,500 in case of an individual account.
 - (2) ₹ 7,000 in case of a joint account.
- (ii) Interest on securities held by the Issue Department of Central Bank of Ceylon now known as Central Bank of Sri Lanka constituted under the Ceylon Monetary Law Act, 1949.
 - (iii) Interest payable to any bank incorporated in a country outside India and authorised to perform central banking functions in that country

on any deposits made by it, with the approval of the RBI, with any scheduled bank.

- (iv) Interest payable to the Nordic Investment Bank, on a loan advanced by it to a project approved by the Central Government in terms of the Memorandum of Understanding entered into by the Central Government with that Bank on 25.11.86.
- (v) Interest payable to the European Investment Bank, on a loan granted by it in pursuance of the framework agreement for financial co-operation entered into by the Central Government with the Bank on 25.11.1993.
- (vi) Interest payable —
 - (a) by a Scheduled Bank to a non-resident or to a not-ordinarily resident in India on deposits in foreign currency where the acceptance of such deposits by the bank is approved by RBI.
 - (b) by public sector companies on certain specified bonds and debentures subject to the conditions which the Central Government may specify by notification, including the condition that the holder of such bonds or debentures registers his name and holding with that company;

Accordingly, the Central Government has specified tax free bonds issued by India Infrastructure Company Ltd. and tax free, secured, redeemable, non-convertible Bonds of the Indian Railway Finance Corporation Ltd. (IRFCL), National Highways Authority of India (NHAI), Rural Electrification Corporation Ltd. (RECL), Housing and Urban Development Corporation Ltd. (HUDCL), Power Finance Corporation (PFC), Jawaharlal Nehru Port Trust, Dredging Corporation of India Limited, Ennore Port Limited and The Indian Renewable Energy Development Agency Limited, the interest from which would be exempt under this section.

- (c) by Government of India on deposit made by an employee of the Central or State Government or a public sector company in accordance with the scheme as may be notified of the moneys due to him on account of his retirement while on superannuation or otherwise. It is significant that this scheme is

not applicable to non-Government employees.

The term 'industrial undertaking' means any undertaking which is engaged in:

- (i) the manufacture or processing of goods; or
- (ii) the manufacture of computer software or recording of programmes on any disc, tape, perforated media or other information device; or
- (iii) the business of generation or distribution of electricity or any other form of power; or
- (iv) the business of providing telecommunication services; or
- (v) mining; or
- (vi) construction of ships, or
- (vii) the business of ship-breaking; or
- (viii) the operation of ships or aircrafts or construction or operation of rail systems.

For the purposes of the clause, "interest" shall not include interest paid on delayed payment of loan or default if which is more than 2% p.a. over the rate of interest payable in terms of such loan. Interest would include hedging transaction charges on account of currency fluctuation.

- (vii) **Bhopal Gas Victims** - Section 10(15)(v) provides exemption in respect of interest on securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in the Reserve Bank's Account No. SL/DH 048. Recently, in terms of an order of the Supreme Court to finance the construction of a hospital at Bhopal to serve the victims of the gas leak, the shares of the Union Carbide Indian Ltd., have been sold. The scope of the above exemption has been extended to interest on deposits for the benefit of the victims of the Bhopal Gas Leak disaster. Such deposits can be held in such account with the RBI or with a public sector bank as the Central Government may notify in the Official Gazette.

- (viii) Interest on Gold Deposit Bond issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetization Scheme, 2015 notified by the Central Government.
- (ix) Interest on bonds, issued by –
 - (a) a local authority; or
 - (b) a State Pooled Finance Entity

and specified by the Central Government by notification in the Official Gazette.

“State Pooled Finance Entity” means such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development.

Accordingly, the Central Government has specified the “Tax-free Pooled Finance Development Bonds” under Pooled Finance Development Fund Scheme of Government of India, interest from which would be exempt under section 10(15).

- (x) interest income received by a non-resident/not-ordinarily resident in India from a deposit made on or after 1.4.2005 in an Offshore Banking Unit referred to in section 2(u) of the SEZ Act, 2005 i.e. a branch of a bank located in a SEZ and which has obtained permission under section 23(1)(a) of the Banking Regulation Act, 1949.
- (xi) ***interest income receivable by a non-resident from a unit located in IFSC in respect of moneys borrowed by it on or after 1.9.2019***

(iii) Keyman Insurance Policy

Any sum received under a Keyman insurance policy including the sum allocated by way of bonus 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.

(iv) 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”

e.g. 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 56.

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 relating to investment in non-SLR securities need to be disallowed under section 57(i), by considering interest on non-SLR securities as "Income from other sources."

Section 56(1)(id) 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".

5.3 BOND WASHING TRANSACTIONS AND DIVIDEND STRIPPING [SECTION 94]

- (i) A bond-washing transaction is a transaction where securities are sold some time before the due date of interest and reacquired after the due date is over. This practice is adopted by persons in the higher income group to avoid tax by transferring the securities to their relatives/friends in the lower income group just before the due date of payment of interest. In such a case, interest would be taxable in the hands of the transferee, who is the legal owner of securities. In order to discourage such practice, section 94(1) provides that where the owner of a security transfers the security just before the due date of interest and buys back the same immediately after the due date and interest is received by the transferee, such interest income will be deemed to be the income of the transferor and would be taxable in his hands.

- (ii) In order to prevent the practice of sale of securities-cum-interest, section 94(2) provides that if an assessee who has beneficial interest in securities sells such securities in such a manner that either no income is received or income received is less than the sum he would have received if such interest had accrued from day to day, then, income from such securities for the whole year would be deemed to be the income of the assessee.
- (iii) Section 94(7) provides that where
- (a) any person **buys or acquires** any securities or unit within a period of **three months prior to the record date** and
 - (b) such person **sells or transfers** –
 - (1) such securities within a period of **three months** after such date, or
 - (2) such unit within a period of **nine months** after such date and
 - (c) the dividend or income on such securities or unit received or receivable by such person is exempted,

then, the loss, if any, arising therefrom shall be ignored for the purposes of computing his income chargeable to tax. Such loss should not exceed the amount of dividend or income received or receivable on such securities or unit.



5.4 APPLICABLE RATE OF TAX IN RESPECT OF CASUAL INCOME [SECTION 115BB]

- (i) This section provides that income by way of winnings from lotteries, crossword puzzles, races including horse races 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%.
- (ii) No expenditure or allowance can be allowed from such income.
- (iii) Deduction under Chapter VI-A is not allowable from such income.
- (iv) Adjustment of unexhausted basic exemption limit is also not permitted against such income.



5.5 DEDUCTIONS ALLOWABLE [SECTION 57]

The income chargeable under the head “Income from other sources” shall be computed after making the following deductions:

- (i) **In the case of dividends (other than dividends referred to in section 115-O) or 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 dividend or interest on behalf of the assessee.
- (ii) **Income consists of recovery from employees as contribution to any provident fund etc. in terms of section 2(24)(x):** A deduction will be allowed in accordance with the provisions of section 36(1)(va) i.e., to the extent the contribution is remitted before the due date under the respective Acts.
- (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) the amount of any premium paid in respect of insurance against risk of damage or destruction of the machinery or plant, furniture or building.
 - (c) the normal depreciation allowance in respect of the machinery, plant or furniture, due thereon.
- (iv) **In the case of income in the nature of family pension:** A deduction of a sum equal to 33-1/3 per cent of such income or ₹ 15,000, whichever is less, is allowable.

For the purposes of this deduction, “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.

Exemption in respect of family pension

1. *The family pension received by the widow or children or nominated heirs, of a member of the armed forces (including para-military*

forces) of the Union, where the death of such member has occurred in the course of operational duties, in specified circumstances would, however, be exempt under section 10(19).

2. The family pension received by any member of the family of an individual who had been in the service of Central or State Government and had been awarded "Param Vir Chakra" or "Vir Chakra" or "Vir Chakra" or other notified gallantry awards would be exempt under section 10(18)(ii).

- (v) **Any other expenditure not being in the nature of capital expenditure** laid out or expended wholly and exclusively for the purpose of making or earning such income.
- (vi) **In case of income by way of compensation/ enhanced compensation received chargeable to tax under section 56(2)(viii):** Deduction of 50% of such income. No deduction would be allowable under any other clause of section 57 in respect of such income.

ILLUSTRATION 6

Interest on enhanced compensation received by Mr. G during the previous year 2019-20 is ₹ 5,00,000. Out of this interest, ₹ 1,50,000 relates to the previous year 2016-17, ₹ 1,65,000 relates to previous year 2017-18 and ₹ 1,85,000 relates to previous year 2018-19. Discuss the tax implication, if any, of such interest income for A.Y.2020-21.

SOLUTION

The entire interest of ₹ 5,00,000 would be taxable in the year of receipt, namely, P.Y. 2019-20.

| Particulars | ₹ |
|---|-----------------|
| Interest on enhanced compensation taxable u/s 56(2)(viii) | 5,00,000 |
| Less: Deduction under section 57(iv) @50% | 2,50,000 |
| Interest chargeable under the head "Income from other sources" | 2,50,000 |



5.6 DEDUCTIONS NOT ALLOWABLE [SECTION 58]

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;
- (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 thereon or deducted at source.

(ii) **Any expenditure in respect of which a payment is made to a related person:** In addition to these disallowances, section 58(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 exceeding ₹10,000 made to a person during a day otherwise than by account payee cheque or draft or ECS through bank account **or through such other prescribed electronic mode** covered by section 40A will be applicable to the computation of income under the head ‘Income from other sources’ as well.

(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 on or before the due date of return specified in section 139(1).

(iv) **No deduction in respect of any expenditure incurred in connection with casual income:** No deduction in respect of any expenditure or allowance in connection with 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 race horses, 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 74A.



5.7 DEEMED INCOME CHARGEABLE TO TAX [SECTION 59]

The provisions of section 41(1) are made applicable, so far as may be, to the computation of 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 trading 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.



5.8 METHOD OF ACCOUNTING [SECTION 145]

Income chargeable under the head "Income from other sources" has to be computed in accordance with the cash or mercantile system of accounting regularly employed by the assessee.

EXERCISE

Question 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) Dividend on shares in case of a dealer in shares
- (iii) Salary received by a partner from his partnership firm
- (iv) Rental income of machinery
- (v) Winnings from lotteries by a person having the same as business activity
- (vi) Salaries payable to a Member of Parliament
- (vii) Receipts without consideration
- (viii) In case of retirement, interest on employee's contribution if provident fund is unrecognized.
- (ix) Rental income in case of a person engaged in the business of letting out of properties.

Answer

| | Particulars | Head of Income |
|-------|--|---|
| (i) | Rental income in case property held as stock-in trade for 3 years | Income from house property |
| (ii) | Dividend on shares in case of a dealer in shares | Income from other sources |
| (iii) | Salary by partner from his partnership firm | Profits and gains of business or profession |
| (iv) | Rental income of machinery (See Note below) | Profits and gains of business or profession/Income from other sources |
| (v) | Winnings from lotteries by a person having the same as business activity | Income from other sources |

| | | |
|--------|--|---|
| (vi) | Salaries payable to a Member of Parliament | Income from other sources |
| (vii) | Receipts without consideration | Income from other sources |
| (viii) | In case of retirement, interest on employee's contribution if provident fund is unrecognized | Income from other sources |
| (xi) | Rental income in case of a person engaged in the business of letting out of properties | Profits and gains from business or profession |

Note - As per section 56(2)(ii), 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".

Question 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 12-3-2020 for acquisition of urban land, of which 40% relates to P.Y.2018-19.

Answer

| S.No. | Taxable /Not Taxable | Answer Amount liable to tax (₹) | Reason |
|-------|----------------------|---------------------------------|--|
| (i) | Taxable | 1,20,000 | The exemption from applicability of section 56(2)(x) would be available if, <i>inter alia</i> , gift is received from a relative 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 56(2)(x). |

| | | | |
|------|---------|--------|---|
| (ii) | Taxable | 48,000 | <p>As per section 145B(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.</p> <p>Interest of ₹ 96,000 on enhanced compensation is chargeable to tax in the year of receipt i.e. P.Y. 2019-20 under section 56(2)(viii) after providing deduction of 50% under section 57(iv). Therefore, ₹ 48,000 is chargeable to tax under the head "Income from other sources".</p> |
|------|---------|--------|---|

Question 3

On 10.10.2019, 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 2013-14.

Out of this interest, ₹ 1,50,000 relates to the financial year 2014-15; ₹ 1,65,000 to the financial year 2015-16; and ₹ 1,85,000 to the financial year 2016-17. 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 for the assessment year 2020-21?

Answer

Section 145B 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 56(2)(viii) 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 57(iv) 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 A.Y 2020-21:

| Particulars | ₹ |
|---|-----------------|
| Interest on enhanced compensation taxable under section 56(2)(viii) | 5,00,000 |
| Less: Deduction under section 57(iv) (50% x ₹ 5,00,000) | 2,50,000 |
| Taxable interest on enhanced compensation | 2,50,000 |

Question 4

The following details have been furnished by Mrs. Hemali pertaining to the year ended 31.3.2020:

- (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 lacs was presented by her sister living in Dubai.
- (iii) When she celebrated her daughter's wedding on 21.2.2020, 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.

Answer

- (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 56(2)(x) in the hands of Mrs. Hemali, since the same exceeds ₹ 50,000.

- (ii) The provisions of section 56(2)(x) 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 is not taxable under section 56(2)(x), even though jewellery falls within the definition of “property”.

- (iii) To be exempt from applicability of section 56(2)(x), 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 56(2)(x), if the aggregate value exceeds ₹ 50,000 in a year. "Sum of money" has, however, not been defined under section 56(2)(x).

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 56(2)(x) 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.

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 Shastiapha Poorthi.

As per the second view, the provisions of section 56(2)(x) 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).

Question 5

Examine the following transactions in the context of Income-tax Act, 1961:

- (i) *Mr. B transferred 500 shares of R (P) Ltd. to M/s. B Co. (P) Ltd. on 10.10.2019 for ₹ 3,00,000 when the market price was ₹ 5,00,000. The indexed cost of acquisition of shares for Mr. B was computed at ₹ 4,45,000. 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 cash gift of ₹ 1,00,000 from Atma Charitable Trust (registered under section 12AA) in December 2019 for meeting his medical expenses.

Is the cash gift so received from the trust chargeable to tax in the hands of Mr. Chezian?

Answer

- (i) Any movable property received for inadequate consideration by any person is chargeable to tax under section 56(2)(x), 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 56(2)(x) to the extent of ₹ 2,00,000.

As per section 50CA, 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 indexed cost of acquisition (₹ 4,55,000) would result in a long term capital gains of ₹ 55,000 in the hands of Mr. B.

- (ii) The provisions of section 56(2)(x) would not apply to any sum of money or any property received from any trust or institution registered under section 12AA. Therefore, the cash gift of ₹ 1 lakh received from Atma Charitable Trust, being a trust registered under section 12AA, for meeting medical expenses would not be chargeable to tax under section 56(2)(x) in the hands of Mr. Chezian.

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 56(1)]

Specific Incomes Chargeable under this head [Section 56(2)]

- (1) Dividend Income

- (2) Casual income (winnings from lotteries, cross word 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 115BB and no expenditure or deduction under Chapter VIA 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 56(2)(x)]**

| | 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 and 5% of consideration. |

Receipts exempted from the applicability of section 56(2)(x)

Any sum of money or value of property received -

- from any relative; or
- on the occasion of the marriage of the individual; or
- under a will or by way of inheritance; or
- in contemplation of death of the payer or donor, as the case may be; or
- from any local authority; or
- from any fund or university or other educational institution or hospital or other medical institution or any trust or institution; or
- from or by any registered trust or institution
- by any fund or trust or institution or any university or other educational

institution or any hospital or other medical institution.

- (i) by way of transaction not regarded as transfer under specified clauses of section 47
- (j) from an individual by a trust created or established solely for the benefit of relative of the individual.
- (k) from such class of persons and subject to such conditions, as may be prescribed.**

(4) **Other receipts chargeable under this head**

| Section | Provision |
|-------------|--|
| 56(2)(viib) | Consideration received in excess of FMV of shares issued by a closely held company to any person, being a resident, to be treated as income of such company, where shares are issued at a premium |
| 56(2)(viii) | Interest received on compensation/enhanced compensation deemed to be income in the year of receipt and taxable under the head "Income from Other Sources". |
| 56(2)(ix) | Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if such sum is forfeited and the negotiations do not result in transfer of such asset. |
| 56(2)(xi) | 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 relating thereto. |

Deductions allowable [Section 57]

| S. No. | Particulars | Deduction |
|--------|--|---|
| 1. | In case of dividends (other than dividends u/s 115-O) or 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 under the respective Acts, in accordance with the provisions of section 36(1)(va) |
| 3. | Income from letting on hire of machinery, plant and | current repairs to the machinery, plant, furniture or building , insurance |

| | | |
|----|--|---|
| | furniture, with or without building | premium, depreciation/ unabsorbed depreciation |
| 4. | Family Pension | Sum equal to - 33 1/3% of such income or - ₹ 15,000, whichever is less |
| 5. | Interest on compensation/ enhanced compensation received | 50% of such interest income |

Deductions not allowable [Section 58]

| 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 thereon 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 exceeding ₹ 10,000 is made to a person in a day otherwise than by account payee cheque or draft or ECS through bank account or through such other prescribed electronic mode. |
| 6. | Any expenditure or allowance in connection with 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 |
| 7. | 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 on or before the due date of return specified in section 139(1) |

TEST YOUR KNOWLEDGE

1. *Income from letting of machinery, plant and furniture is -*
 - (a) *always chargeable to tax under the head "Profits and gains of business and profession"*
 - (b) *always chargeable to tax under the head "Income from other sources"*
 - (c) *chargeable under the head "Income from other sources" only if not chargeable under the head "Profits and gains of business and profession"*
 - (d) *chargeable to tax under the head "Income from house property"*
2. *In respect of winnings from lottery, crossword puzzle or race including horse race or card game etc.*
 - (a) *no deduction under Chapter VI-A is allowed and basic exemption limit cannot be exhausted*
 - (b) *no deduction under Chapter VI-A is allowed but unexhausted basic exemption can be exhausted*
 - (c) *Both deduction under Chapter VI-A and basic exemption are allowed*
 - (d) *deduction under Chapter VI-A is allowed but basic exemption limit cannot be exhausted*
3. *The deduction allowable in respect of family pension taxable under "Income from other sources" is*
 - (a) *33-1/3% of the pension*
 - (b) *30% of the pension or ₹ 15,000, whichever is less*
 - (c) *33-1/3% of the pension or ₹ 15,000, whichever is less*
 - (d) *30% of the pension*
4. *Mr. Kashyap has acquired a building from his friend on 10.10.2019 for ₹ 15,00,000. The stamp duty value of the building on the date of purchase is ₹ 15,70,000. Income chargeable to tax in the hands of Mr. Kashyap is*
 - (a) *₹ 70,000*
 - (b) *₹ 50,000*
 - (c) *Nil*

- (d) ₹ 20,000
5. Ganesh received ₹ 60,000 from his friend on the occasion of his birthday
- (a) The entire amount of ₹ 60,000 is taxable
 - (b) ₹ 50,000 is taxable
 - (c) The entire amount is exempt
 - (d) ₹ 10,000 is taxable
6. Mr. X aged, 61 years, received dividend of ₹ 12,00,000 from a domestic company in P.Y. 2019-20. Tax chargeable under section 115BBDA is @10% on
- (a) The entire amount of ₹ 12,00,000
 - (b) ₹ 2,00,000
 - (c) Nil
 - (d) ₹ 9,00,000
7. In respect of dividend received from domestic companies in excess of ₹ 10,00,000 by an individual-
- (a) no deduction under Chapter VI-A is allowed but loss under other heads can be set-off against such income
 - (b) no deduction under Chapter VI-A is allowed and no loss can be set-off against such income
 - (c) both deduction under Chapter VI-A and set-off of losses against such income are allowed
 - (d) deduction under Chapter VI-A is allowed but set-off of losses under other heads against such income is not allowed
8. Mr. Y has received a sum of ₹ 51,000 on 24.10.2019 from relatives on the occasion of his marriage.
- (a) Entire ₹ 51,000 is chargeable to tax.
 - (b) Only ₹ 1,000 is chargeable to tax
 - (c) Entire ₹ 51,000 is exempt from tax
 - (d) Only 50% i.e., ₹ 25,500 is chargeable to tax

9. Mr. Mayank has received a sum of ₹ 75,000 on 24.10.2019 from his friend on the occasion of his marriage anniversary.
- Entire ₹ 75,000 is chargeable to tax.
 - Entire ₹ 75,000 is exempt from tax
 - Only ₹ 25,000 is chargeable to tax
 - Only 50% i.e., ₹ 37,500 is chargeable to tax
10. The deduction in respect of interest on enhanced compensation of ₹ 1,50,000 received during the previous year 2019-20, would be –
- ₹ 1,50,000, being 100% of ₹ 1,50,000
 - ₹ 75,000, being 50% of ₹ 1,50,000
 - ₹ 45,000, being 30% of ₹ 1,50,000
 - Nil
11. Karan's bank account shows the following deposits during the financial year 2019-20. Compute Karan's (aged 45 years) total income for the A.Y. 2020-21, assuming that his income from house property (computed) is ₹ 62,000.
- | | |
|--|------------|
| (i) Gift from his sister in Amsterdam | ₹ 2,30,000 |
| (ii) Gift from his friend on his birthday | ₹ 10,000 |
| (iii) Dividend from shares of various Indian companies | ₹ 12,600 |
| (iv) Gift from his mother's friend on his engagement | ₹ 25,000 |
| (v) Gift from his fiancée | ₹ 75,000 |
| (vi) Interest on bank deposits (Fixed Deposit)(Gross) | ₹ 25,000 |
12. Smt. Laxmi reports the following transactions to you:
- Received cash gifts on the occasion of her marriage on 18-7-2019 of ₹ 1,20,000. It includes gift of ₹ 20,000 received from non-relatives.
 - On 1-8-2019, being her birthday, she received a gift by means of cheque from her mother's maternal uncle, the amount being ₹ 40,000.
 - On 1-12-2019 she acquired a vacant site from her friend for ₹ 1,05,000. The State stamp valuation authority fixed the value of site at ₹ 1,80,000 for stamp duty purpose.

(iv) She bought 100 equity shares of a listed company from another friend for ₹ 60,000. The value of share in the stock exchange on the date of purchase was ₹ 1,15,000.

Determine the amounts chargeable to tax in the hands of Smt. Laxmi for the A.Y. 2020-21.

Answers

1. (c); 2. (a); 3. (c); 4. (c); 5. (a); 6. (b);
7. (b); 8. (c); 9. (a); 10. (b); 11. ₹ 1,97,000;
12. ₹ 1,30,000;

