



BASICS OF  
**INCOME  
TAX ACT**  
FOR  
**DOCTORS**  
(FAQs with Practical Examples)

**Authors**

CA. Anuj J. Sharedalal

CA. Jainee R. Shah

CA. Ronak M. Khandwala



**Chartered Accountants Association, Ahmedabad**  
**Turn. Transform. Transcend.**

1st floor, C.U.Shah Chambers, Nr. Gujarat Vidhyapith, Ashram Road, Ahmedabad - 380 014.  
Ph. : +91 79 2754 4232, 2754 5442 Email : caaahmedabad@gmail.com Web : www.caa-ahm.org



# PUBLICATION COMMITTEE

## **Chairman**

CA. Rajni M. Shah

## **Co-Chairman**

CA. Jignesh Shah

## **Co-Convenor**

CA. Uday Shah  
CA. Manthan Khokhani

## **Members**

CA. Ashok C. Kataria  
CA. Jayesh C. Sharedalal  
CA. Mukesh Dholakiya  
CA. Mukesh M. Khandwala

CA. Naveen Mandovara  
CA. Rutvij P. Shah  
CA. Sandip Parikh  
CA. Shailesh C. Shah



---

# **Basics of Income Tax Act for Doctors**

(FAQs with Practical Examples)

## **Authors :**

CA. Anuj J. Sharedalal

CA. Jainee R. Shah

CA. Ronak M. Khandwala



## **Chartered Accountants Association, Ahmedabad.**

1st Floor, C. U. Shah Chambers, Near Gujarat Vidhyapith,  
Ashram Road, Ahmedabad - 380 014.

Phone : 079 - 2754 5442. email : caaahmedabad@gmail.com



**CHARTERED ACCOUNTANTS ASSOCIATION, AHMEDABAD.**

Price : ₹ 80.00

**Published by :**

Chartered Accountants Association, Ahmedabad  
1st Floor, C. U. Shah Chambers,  
Near Gujarat Vidhyapith,  
Ashram Road, Ahmedabad - 380 014.  
Phone : 079 - 2754 5442.  
email : caaahmedabad@gmail.com  
Website : www.caa-ahm.org

**Disclaimer:**

*The opinions and views expressed in this publication are those of Authors. The Association does not necessarily concur with the same.*

*No part of this publication may be reported or transmitted in any form or by any mean without written permission of the Publisher.*

**Printed by :**

Pratiksha Printers  
Ahmedabad.  
Mobile : 098252 62512



---

## ABOUT CHARTERED ACCOUNTANTS ASSOCIATION

### **The Standing**

Sixty Four years of existence as a voluntary organisation of Chartered Accountants, in service of the profession and public at large.

### **The Strength**

More than 1400 Chartered Accountant members all across the nation.

### **The Structure**

A cordial and devoted executive committee and various sub- committees always in pursuit for the attainment of the objects of the association and the matters of professional and social interest.

### **The Service**

- To spread education in the science and art of Accountancy in all its branches and in relation to matters of professional interest to Chartered Accountants including Taxation, Audit, Finance, Commercial Legislation, Computer Science. etc.
- To better equip Chartered Accountants by enabling them to discharge their obligations towards the advancement or promotion of trade, commerce and industry thereby leading to economic prosperity for the benefit of the entire community.
- To provide continuous education to its members and tax paying public at large.
- To ensure that members keep pace with fast changing times.

### **The Style**

- Education through various lecture meetings and seminars.
- Publication of booklet on the budgetary proposals in English and Gujarati.
- Publication of monthly magazine "Ahmedabad Chartered Accountants Journal" with various topics of professional interests since last 39 years.
- Organising Residential Refresher Courses, Non Residential Refresher Courses, Study Circle Meetings and Brain Trust Meetings on regular basis.
- Updated vast library covering wide range of subjects including electronic data base of various case laws in direct taxes.
- Publication of books of various professional interest.



---

## FOREWORD

I have immense pleasure and satisfaction in bringing out the first publication of the year 2015-16 on behalf of the Chartered Accountants Association Ahmedabad on "Basics of Income Tax Act for Doctors" which highlights and overviews the issues under Income Tax Act, 1961 which are relevant for professional practicing in the field of medicine.

Both Chartered Accountants and Doctors play a key role in societal well being. One safeguards the health of the people while the other fosters the wealth.

As Albert Einstein had correctly pointed out 'The hardest thing in the world to understand is Income tax'. The Income Tax Act, 1961 which is the charging statute of Income tax in India is quite arduous and burdensome for a layman to comprehend. An attempt has been made herewith to present the tax related issues faced by the doctors day in and day out so as to enable them to perceive the provisions of the Act in a more comprehensive manner. A sincere effort has been made to answer the burning questions with utmost simplicity and clarity with the belief that the contents of this book would prove to be useful to the readers.

I compliment the three young and budding Chartered Accountants for the efforts put in by them for compiling this publication. A special thanks to CA Jayesh C. Sharedalal for providing us with the idea of coming out with this publication and also grooming and supporting the young Chartered Accountants. I would also like to thank him for vetting the publication and for being a guiding force in bringing out this publication.

I would also like to add that the Publication Committee is planning to bring out other publications encompassing a wide range of issues that would help the readers to understand the intricacies of subject matter in a lucid manner.

I sincerely hope that this publication will be of immense help to the medical professionals as well as Chartered Accountants having the clientele comprising of professionals practicing in the field of medicine.

**CA Rajni M. Shah**  
**Chairman**  
**Publication Committee of CAA**

**Date : 30<sup>th</sup> September, 2015**  
**Place : Ahmedabad**



---

**FROM AUTHORS**

It gives us immense pleasure in dedicating this book to medical fraternity in the city of Ahmedabad.

The profession of medicine has existed for thousands of years, during most of which it was practiced more as an art. The profession has slowly and steadily evolved from usage of traditional methods to highly scientific methods and equipments. Alongwith such evolution the structure and form of medical practice has also changed drastically to suit one's financial goals and needs.

There is no doubt that the profession of medicine is one of the noblest professions in the world.

We are really glad that the medical profession has progressed by leaps and bounds in India today as compared to the other developing nations and best of the facilities for treatment have been created by doctors today in India. Longevity of human life has increased in the past few years due to the high quality of services provided by Indian doctors and hospitals.

As authors, we felt that there was no better way to help doctors who are doing such a noble act for the society than by writing a book containing answers to questions that intrigue them the most – Taxation and Financial Planning.

As one's professional practice grows, it is very much important to plan the growth in advance. Planned growth is very important in a country like India where there are highly complex tax laws. A doctor who is in the growth phase may have a lot of questions concerning taxation and financial planning in his/her mind. Unplanned growth can lead to a lot of unexpected legal trouble. A small mistake in understanding the provisions of law can cause a heavy financial loss. It is better to be prepared in advance rather than get into fire-fighting. Our book focuses on questions that generally arise at this growth phase of one's medical practice over and above basic taxation aspects. The book has been prepared in a simple question-answer format and divided into relevant topics so that a lay man can also understand the same.

We sincerely hope that the book will be useful to all doctors in India in planning their finances and managing their wealth within the four corners of Income Tax law. We thank Publication Committee of C A Association Ahmedabad for providing us the opportunity to author such book. We also thank CA Jayesh C. Sharedalal for his continuous guidance and support.

Wish all remain in pink of health.

**CA Anuj J. Sharedalal**

**CA Jainee R. Shah**

**CA Ronak M. Khandwala**

**Date : 30<sup>th</sup> September, 2015**

**Place : Ahmedabad**



---

## PRESIDENT'S MESSAGE

Income Tax. Two words which figure high on the list of unpleasant terms for almost all of us. This biggest direct tax of our life is dreaded widely, and few of non-tax professionals want to know much about it. It may surprise the medical professionals reading this when I say that Income Tax is simple, easy to understand and comply with. Much easier than you will believe.

Chartered Accountants Association Ahmedabad (CAA) has tried to make Income Tax as simple and easy to understand for all non Tax professionals and other sections of society. We have planned to do this by bringing out a Series of small booklets containing Frequently Asked Questions (FAQ) on Income Tax.

This is the first book of the series. Written by a team of Chartered Accountants, the authors are a mix of the young and the experienced. The objective was to blend the theory and practical aspects of Income Tax in such a way that the reader would have the answers for all the queries at the end of the book.

Doctors' Day and CA Day are both celebrated on the same day, July 1, and this publication is being released by CAA with the objective of strengthening the bond between two of the noblest of Professions.

CAA has been bringing out various publications useful to the business community but this is our first effort at reaching out to another profession and we look forward to your feedback and suggestions so that we can improve the quality of our future publications.

Wishing all Doctors a Happy Reading.

**CA Yamal A Vyas**

**President CAA**

**30<sup>th</sup> September, 2015**





---

To,  
**The President,**  
Chartered Accountants' Association,  
Ahmedabad

Dear Sir,

**Re: Book on Basics of Income Tax for Doctors**

I have read the manuscript of the book – “Basics of Income Tax for Doctors”, proposed to be published by Chartered Accountants' Association of Ahmedabad

I highly appreciate their laudable objective of your esteemed Association. In my opinion the book is a craft of dexterous information and details inked by CA Anuj Sharedalal, CA Jainee Shah and CA Ronak Khandwala and it incorporates the daily issues made handy for the doctors on Income Tax.

This book solves a lot of misnomers. It is a 'Must' as a reference for doctors. My earnest request to the Association to publish it as early as possible.

Thanking You,

**Sincerely Yours,**

**(Dr. Smita B. Shah)**

**President**  
Ahmedabad Medical Association  
Ahmedabad  
30<sup>th</sup> September, 2015



---

<b>INDEX</b>
--------------

<b>No.</b>	<b>Particulars</b>	<b>Page Nos.</b>
1	General	9-14
2	Computation of Income	15-16
3	Salary Income	17-18
4	Income from House Property	19-21
5	Income from Profession	22-28
6	Corporatisation of Medical Profession	29-31
7	Capital Gains	32-39
8	Income from other Sources	40-41
9	Clubbing of Income	42
10	Deduction from Income	43-44
11	Set off of Losses	45-46
12	Return of Income	47-49
13	Advance Tax	50-51
14	TDS	52-55
15	Assessment	56-58
16	Survey and Search	59-62
17	Loans and Deposits	63
18	Office of Income Tax Ombudsman	64
19	Penalties under Income Tax Act	65
20	HUF	66-67
21	Profession Tax	68-69
22	Will	70
23	Wealth Tax	71
24	Cost Inflation Index Chart	71



---

## GENERAL

### 1. What is the meaning of 'Income'?

The word 'income' has a very wide meaning under the Income Tax Act. Generally all receipts with an expected continuity of flow, normally called as 'Revenue Receipt' are considered as income. 'Capital Receipts' are generally not considered as income. However under the Income Tax Act over and above the normal meaning of income, certain capital receipts like 'capital gains' and 'gifts' as well as receipts of casual nature are also considered as 'income'. Example: A doctor sells his old motor car to a dealer of old cars. The sale price is a 'Capital Receipt' for the doctor and the profit on sale of the car is 'Capital Gain'. This 'Capital Gain' is considered as 'income' under Income Tax Act. However for the dealer of old cars the sale of such motor car is a 'Revenue receipt'. The profits earned by such a dealer of cars are liable to 'income' as a 'Business Profit'.

The accepted rule is: *'all revenue receipts are taxable unless a receipt is specifically exempted and all capital receipts are exempt from taxation unless specifically made liable to tax'.*

### 2. Who are the persons covered by the Income Tax Act?

The following persons are covered under Income Tax Act:

- a. Individual,
- b. Hindu Undivided Family (HUF),
- c. Company,
- d. Firm,
- e. Association of Persons and Body of Individuals, whether incorporated or not,
- f. Local Authority, and
- g. Every Artificial Juridical Person.

### 3. Whether minors are liable to pay Income Tax?

A 'minor' is a person who has not completed the age of 18 years. Generally minors are not liable to pay Income Tax. Their income is to be clubbed with that of either of parent whose income is higher in the first year of such clubbing. In other words a parent pays income tax on income of minors. However those



minors who earn their income due to their carrying on a vocation, then their income is not to be clubbed and such minors will have to file their return of income separately and pay tax.

#### **4. What is meant by HUF? When is HUF liable to pay Income Tax?**

'HUF' means Hindu Undivided Family. HUF is a separate taxable entity under the Income Tax Act. If HUF has income exceeding the threshold limit of exemption i.e. income exceeding Rs.2,50,000/- in ITAY 2015-16, then it is liable to pay tax.

#### **5. Whether 'Income' is to be computed for a fixed period?**

Yes the income has to be computed for a fixed period which is from 1<sup>st</sup> April to succeeding 31<sup>st</sup> March i.e. on financial year basis.

#### **6. What is meant by 'Previous Year' and 'Assessment Year'?**

Income earned in the twelve months from 1<sup>st</sup> April to 31<sup>st</sup> March ('Financial Year') is taken into account for purposes of calculating Income Tax. Under the Income Tax Act this period is called 'Previous year'.

'Assessment Year' is the twelve-month period from 1<sup>st</sup> April to 31<sup>st</sup> March immediately following the 'Previous Year'. In the Assessment year a person files his return for the income earned in the 'Previous Year'. For example for FY:2014-15 the Assessment Year is 2015-16, which will be popularly called as ITAY 2015-16.

#### **7. What is meant by Capital Expenditure and Revenue Expenditure?**

In order to arrive at income, one has to reduce revenue expenditure from gross receipts. Revenue expenditure has to be distinguished from Capital expenditure. For example, a doctor may incur expenditure for purchase of costly equipment, say ECG machine. Such expenditure which results in purchase of an item (asset) to be used over a long period is called "capital expenditure". Expenditure on purchase of such items is not allowed as a deduction but only depreciation in respect of such items is deducted in computing taxable income.

Revenue expenditure, on other hand, usually refers to common day to day expenses like salaries, rent, telephone bills, repairs, conference fees, etc. These expenses are generally allowable deduction while computing the taxable income.

#### **8. What is the meaning of 'Resident' Individual?**

The term 'Resident' has been defined under the Income Tax Act. It is a complex definition. However simply put: If an individual stays in India for 182 days or more in a 'Previous Year' (year), he is treated as resident in that year regardless



of his citizenship. If the stay is less than 182 days he is a 'Non-Resident'. Any income earned in India by a non resident is taxable in India. Any income earned outside India by a resident is also taxable in India in addition to his Indian Income. However India has entered into 'Tax Treaties' with various countries and the applicable treaty will have to be considered in case of taxability of non resident's Indian income.

As said in the above paragraph, the definitions of 'resident' and 'non-resident' are complex. The explanation given above is only for basic understanding.

## 9. What is the mechanism of calculation of Income Tax?

First, the tax payer will have to compute his taxable income. The tax thereon will be computed as per the slab rates. The slab rates consist of basic (threshold) exemption. After that there are different rates of tax for different slabs of income. E.g. for ITAY 2015-16 for an Individual, the slab rates are as follows:

### (A) Individual resident aged below 60 years

Income Slabs	Tax Rates
0 - 2,50,000	Nil
2,50,000 - 5,00,000	10 %
5,00,000 - 10,00,000	Rs. 25,000 +20%
Above 10,00,000	Rs. 1,25,000 + 30%

### Surcharge:

10% of the Income Tax, where taxable income is more than Rs. 1 crore. (Marginal Relief in Surcharge, if applicable)

### Education Cess:

2% education cess plus 1% higher education cess is levied on the total of Income Tax and Surcharge.

### (B) Senior Citizens (Individual resident who is of the age of 60 years or more but below the age of 80 years at any time during the previous year)

Income Slabs	Tax Rates
0-3,00,000	Nil
3,00,000 – 5,00,000	10 %
5,00,000 – 10,00,000	Rs. 20,000 +20%
Above 10,00,000	1,20,000 + 30%



---

**Surcharge:**

10% of the Income Tax, where taxable income is more than Rs. 1 crore.  
(Marginal Relief in Surcharge, if applicable)

**Education Cess:**

2% education cess plus 1% higher education cess is levied on the total of Income Tax and Surcharge.

**(C) Super Senior Citizens (Individual resident who is of the age of 80 years or more at any time during the previous year)**

Income Slabs	Tax Rates
0-5,00,000	Nil
5,00,000 – 10,00,000	20 %
Above 10,00,000	Rs. 1,00,000 + 30%

**Surcharge:**

10% of the Income Tax, where taxable income is more than Rs. 1 crore.  
(Marginal Relief in Surcharge, if applicable)

**Education Cess:**

2% education cess plus 1% higher education cess is levied on the total of Income Tax and Surcharge.

In case of taxpayers other than Individual and HUF, generally the tax rate is a flat rate. The tax rates applicable for ITAY 2015-16 are as follows:

**(D) Firms :****Income Tax:**

30% of taxable income.

**Surcharge:**

10% of the Income Tax, where taxable income is more than Rs. 1 crore.  
(Marginal Relief in Surcharge, if applicable)

**Education Cess:**

2% education cess plus 1% higher education cess is levied on the total of Income Tax and Surcharge.



### (E) Domestic Company

There is no basic exemption. This means that the income is liable to income tax from the first rupee. The tax rate is flat 30 %. Surcharge @ 10 % of tax will be levied if the taxable income exceeds Rs. 1 crore. On the total tax education cess of 2 % plus higher education cess of 1 % will be levied.

#### **Income Tax:**

30% of taxable income.

#### **Surcharge:**

The amount of income tax as computed in accordance with above rates shall be increased by a surcharge

- At the rate of 5% of such income tax, provided that the taxable income exceeds Rs. 1 crore. (Marginal Relief in Surcharge, if applicable)
- At the rate of 10% of such income tax, provided that the taxable income exceeds Rs. 10 crores.

#### **Education Cess:**

2% education cess plus 1% higher education cess is levied on the total of Income Tax and Surcharge.

### (F) Co-operative Society

<b>Income Slabs</b>	<b>Tax Rates</b>
0 – 10,000	10%
10,000 – 20,000	Rs. 1,000 +20%
Above 20,000	Rs. 3,000 + 30%

#### **Surcharge:**

10% of the Income Tax, where taxable income is more than Rs. 1 crore. (Marginal Relief in Surcharge, if applicable)

#### **Education Cess:**

2% education cess plus 1% higher education cess is levied on the total of Income Tax and Surcharge.



---

### Marginal Relief in Surcharge

When an assessee's taxable income exceeds Rs. 1 crore, he is liable to pay Surcharge at prescribed rates mentioned above on Income Tax payable by him. However, the amount of Income Tax and Surcharge shall not increase the amount of income tax payable on a taxable income of Rs. 1 crore by more than the amount of increase in taxable income.

#### Example:

In case of an individual assessee (less than 60 years) having taxable income of Rs.1,00,01,000

1. Income Tax	Rs. 28,25,300
2. Surcharge @10% of Income Tax	Rs. 2,82,530
3. Income Tax on income of Rs. 1 crore	Rs. 28,25,000
4. Maximum Surcharge payable (Income over Rs. 1 crore less income tax on income over Rs. 1 crore)	Rs. 700 (1000 - 300)
5. Income Tax + Surcharge payable	Rs. 28,26,000
6. Marginal Relief in Surcharge	Rs. 2,81,830 (2,82,530 - 700)





---

## COMPUTATION OF INCOME

### 1. How the 'Taxable Income' is to be computed?

For the purposes of Computation of 'Taxable Income' technically known as Total Income, 'income' has to be classified under the following heads of income:

- (A) Salaries,
- (B) Income from house property,
- (C) Profits and gains of business or profession,
- (D) Capital gains,
- (E) Income from other sources.

Under each of the above 'heads' there are different set of provisions which are to be applied for computing the Taxable income.

From ITAY 2016-17 onwards, Income Computation and Disclosure Standards (ICDS) notified by the Central Government also have to be applied in order to compute taxable income. However, ICDs have to be applied only by taxpayers following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head "Profit and gains of business or profession" or "Income from other sources". ICDs are not to be applied for maintenance of books of account.

### 2. If I have income only under one of the above stated 'Heads' of Income, what is to be done?

While computing the Total Income you will show 'Nil' income under the other heads of income.

### 3. If I am having Salary income from a hospital and I am also having my own 'practice', under which head these two incomes are to be shown?

In the above situation your salary income will be liable to be computed under the head 'Salaries' and the practice income will be liable to be computed under the head 'Profits and gains of business or profession'.



- 
- 4. If I am having Salary income as well as I am receiving professional fees from the same hospital, under which head these two incomes are to be shown?**

In the above situation, your salary income will be liable to be computed under the head 'Salaries'. As far as the income by way of professional fees from the same hospital is concerned, it depends on the terms of contract and facts of the case. E.g. The terms of employment state that the doctor's working hours are from 10 AM to 3 PM. The doctor is free to carry out his own activities after 3 PM. Now suppose, after 3 PM, the doctor is providing professional services to the same hospital in his individual capacity and not as an employee and a separate agreement for this purpose lays down the terms and scope of services of doctor. Such services may or may not be provided on a daily basis throughout the financial year. In this case, the professional fees will be liable to be computed under the head 'Profits and gains of business or profession'.



## SALARY INCOME

### 1. How is the income under the head 'Salary' to be computed?

What ever is received by an employee from an employer in cash, in kind or as a facility [perquisite] under an express or implied contract is considered as Salary. If a person has the right/power to hire and fire another, then he is an employer of the later.

### 2. I am employed with a hospital. I am getting following allowances over and above the fixed salary. Whether all these allowances are tax free?

- i. House Rent Allowance.
- ii. Conveyance Allowance.
- iii. Transport Allowance.
- iv. Dress Allowance.
- v. Helper Allowance.
- vi. Children Education Allowance.
- vii. Night Duty Allowance.
- viii. Tour allowance.

Allowances are fixed amounts, apart from salary, which are paid by an employer to the employee for the purpose of meeting some particular expenses. Allowances can be classified into three categories for the purpose of income tax: (i) taxable, (ii) partial exemption and (iii) full exemption. Allowance will be exempt only to the extent it is actually spent away for the purpose for which such allowance is given. Any surplus (savings) will be liable to tax. The categorization of above stated allowances is as follows:

No.	Allowance	Category	Remarks
a	House Rent	exempt	can be full or partial
b	Conveyance	exempt	if fully spent
c	Transport	exempt	Rs.800 per month (Rs. 1600 per month from ITAY 2016-17 onwards)
d	Dress Purchase / Maintenance	exempt	if fully spent
e	Helper	exempt	if fully spent
f	Children education	exempt	Rs.100/- per child per month upto max 2 children
g	Night duty	taxable	-
h	Tour	exempt	if fully spent



---

### 3. When does my employer deduct income tax from my salary?

It is the duty of the employer to compute the tax liability of the employee. For this purpose, the employer will consider the salary and any other income if intimated by the employee. The employer will also consider certain deductions like section 80C (LIP, PF, ELSS, PPF, NSC, housing loan repayments, tuition fees of children etc), 80 CCC (Pension premium), 80D (Medical insurance), 80G (Donations) etc. Further any interest payment on housing loan, which is deductible under the head 'House Property income', will also be deducted. If the resultant figure is more than the basic exemption limit as applicable, then the employer will have to deduct tax (TDS) from the salary payment in equal monthly instalments. Every year CBDT (Central Board of Direct Taxes) issues a circular for modalities of TDS from salary payments. All employers are advised to consider this circular.

### 4. How do I claim credit for the Income Tax deducted by my employer?

Your employer will issue Form No. 16 to you certifying the TDS amount. This form is called tax credit certificate. When you file your return of income you will have to claim this tax credit against your total tax liability. If your taxable income is more than Rs. 1,50,000/-, your employer has to give you Form 12BA, which is a detailed statement with information about perquisites, benefits or amenities and profits in lieu of salary received by you.

### 5. I am employed by Hospital 'A' which pays me a salary of Rs.2,50,000/- per annum. I am also employed by hospital 'B' which also pays me a salary of Rs.2,50,000/- per annum. I have not informed both the employers about my other employment. Which hospital will deduct TDS from my total salary of Rs.5,00,000/-? Am I obliged to inform both the employers about my other employment?

None of the employers will deduct tax (TDS) since in each case the salary is not exceeding the basic exemption of Rs.2,50,000/-. However if you inform either of the employers about your other income then such employer will have to deduct tax after considering both the salaries. You are not obliged to inform about your other income to any employer. However, in the above example you will have to work out the taxable income and pay advance tax in three instalments as discussed in detail in the Chapter of "Advance Tax".

But in case you wish to, you may submit a statement in Form 12B stating the salary from the other employer and TDS deducted thereon. In that case, such employer will deduct tax and you will not be required to pay advance tax.



---

## **INCOME FROM HOUSE PROPERTY**

- 1. I own three residential houses. In the first one I am staying with my family. The second one is at my native place. The third one is given on rent. How will the income be computed from the three properties?**

Income from house property is a notional income based on a concept called Annual value. This is the value a property is expected to fetch if it is let out. If it is not let out, the expected market/fair rent will be considered as annual value under Income Tax Act.

The Annual Value of any one house used for own residence is to be taken as 'Nil'. The Annual Value of the house at native place will not be considered as 'Nil'. The fair rent of such house will be considered for computing the house property income. The rent receivable of the third house which is let out will be considered for computing the house property income.

- 2. I have an open plot of land. I give it on monthly rent to a decorator, who utilises it for marriage functions. Whether such rent income will be liable to income tax under the head house property?**

The word 'property' means building/s and land surrounding it. Hence rent income from open plot of land will not be taxable under the head 'house property'. It will be taxable under the head 'Other sources'.

- 3. I own two commercial shops in a posh locality. I have given these shops on rent? How will the income be computed?**

The rent receivable from these two shops will be considered as Annual Value and taxable income will be compared.

- 4. If out of the above two shops, one shop remains vacant for six months, how will the income be computed?**

The proportionate rent of six months will not be considered as income.

- 5. I own a shop jointly with my son who is 21 years old. The investment is made equally by both. We earn a rent of Rs. 5,00,000/- per annum. How will the rent income be taxed?**

Since your son and you are equal owners, half rent i.e Rs.2,50,000/- will be considered as income of each of you which will have to be shown individually in your return of income.



- 6. I have bought a new flat on 12-07-2014 by taking a bank loan of Rs.15 lacs. I am liable to pay interest at 10% on such loan. Is the interest payment deductible?**

It is presumed that you own only one residential house which is the new flat bought by you. The Annual value of such house will be 'Nil'. The interest payable on the bank loan will be deductible up to Rs.2,00,000/- each year. In the question under consideration if the interest payable in F.Y. 2014-15 is Rs.1,25,000/- then it will be deducted from 'Nil' Annual value. The resultant figure will be negative i.e (-) Rs.1,25,000/-. This negative figure will be deducted (adjusted) while working out the taxable income. (The repayment of loan i.e. the instalment amount is deductible under section 80 C and not under the head 'House Property Income).

- 7. My son who is software engineer stays with me. His employer pays him house rent allowance. In order to make the house rent allowance tax free, he pays me a monthly rent of Rs.10,000/-. Is this rent received by me taxable?**

Yes. The rent received by you will trigger the taxability of house property income and the Annual value will be considered on fair rent receivable basis, which may be more than Rs.10,000/- pm.

- 8. I own one residential house. My wife's name appears as a joint owner. However the entire investment is made by me in the said house. If I earn rent income from such house can it be divided between my wife and myself for Income Tax purposes?**

No. Your wife is considered as a name lender only for tax purposes. The entire rent income will be taxed in your hands.

- 9. My son and daughter-in-law stay in USA. My daughter-in-law owns a house in India and has let it out. She has asked tenants to pay rent to her father so that her parents can a live decent life. Tenants have not paid any rent in the first year but pay rent of two years together in the second year. Is she still liable to tax in the first year? If the tenants pay the rent directly to her father, whether her father will be liable to pay income tax on such rent?**

Since the house is let out and rent is receivable, the rent receivable (Annual Value) will be liable to tax in the first year even though the rent is actually received in second year. In the second year only the rent pertaining to the second year will be liable to tax.



Under the Income Tax Act 'owner' of the house is liable to tax under the head house property. Hence your daughter-in-law will be liable to pay tax on rent even though it is paid by the tenants directly to her father. Her father will not be liable to pay tax even though he has received the rent in his bank account directly from the tenants.

**10. I have a residential house which I have given on rent. The yearly rent receivable is Rs.1,00,000/-. I have paid interest of Rs.25,000/- on loan taken for purchase of the said house. What is the amount liable to be included in my taxable income?**

First of all the Annual Value of the house will have to be determined. Let us presume that the rent received is the 'Annual Value' (AV). From this AV you will get deduction of interest on housing loan Rs.25,000/- and 30 % of AV (prescribed %) as deduction for repairs and maintenance and collection charges. It is not necessary that you should have incurred / paid any amount for repairs / maintenance or collection charges. The income to be included in Taxable Income will be as follows:

Annual Value (Rent receivable)		1,00,000
Less : 30 % for Repairs and maintenance etc	30,000	
: Interest on loan	25,000	
	—————	55,000
		—————
Income to be included in Taxable Income		45,000
		—————

If municipal tax is paid by the landlord, it will be deducted from ALV.



---

## INCOME FROM PROFESSION

- 1. I am working as an employee at a hospital where I receive annual Salary of Rs. 5,00,000/-. I do private practice from my residence in the evening where I earn net income of Rs. 6,00,000/- per annum. Whether this income of Rs.6,00,000/- is taxable as Salary Income?**

No. The 'practice' income will be liable to tax under the head 'Profits and gains of business or profession'. The salary income will be taxable under the head 'Salary'. Please refer question numbers 3 and 4 in the chapter "Computation of Income" for more details.

- 2. In the above example do I have to maintain any records for my private practice income of Rs. 6,00,000/-?**

Yes. You will have to maintain books of account and documents in order to enable the Assessing Officer (Income Tax Officer) to compute your total income. The Income Tax law has prescribed mandatory books of account as stated below:

- (i) a cash book;
- (ii) a journal, if the accounts are maintained according to the mercantile system of accounting; (most of the doctors would be maintaining their books of account on cash basis and hence the journal may not be required).
- (iii) a ledger;
- (iv) carbon copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the person, and carbon copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by him for all bills exceeding Rs.25/-;
- (v) original bills wherever issued to the person and receipts in respect of expenditure incurred by the person or, where such bills and receipts are not issued and the expenditure incurred does not exceed Rs 50, payment vouchers prepared and signed by the person:

The requirements as to the preparation and signing of payment vouchers shall not apply in a case where the cash book maintained by the person contains adequate particulars in respect of the expenditure incurred by him.

Cash book means a record of all cash receipts and payments, kept and maintained from day-to-day and giving the cash balance in hand at the end of each day or at the end of a specified period not exceeding a month;

- (vi) a daily case register in Form 3C;





(vii) an inventory under broad heads, as on the first and the last day of the previous year, of the stock of drugs, medicines and other consumable accessories used for the purpose of his profession

**3. Where do I maintain the books of account?**

The books of account and other documents shall be kept and maintained by you at the place where you are carrying on the profession or where the profession is carried on in more places than one, at the principal place of your profession.

**4. For how many years do I have to preserve the books of account?**

The books of account and other documents shall be kept and maintained for a period of six years from the end of the relevant assessment year. However in case the assessment is 'reopened' the books of relevant years will be required to be produced.

**5. Is there any particular format of Form 3C register?**

The format of FORM 3C is as follows:

Date	Sr. No	Patient's name	Nature of professional services rendered i.e. general consultation, surgery, injection, visit etc	Fees received	Date of receipt
1	2	3	4	5	6

**6. Is it compulsory to issue receipt to every patient or is it permitted to be given to only those patients who demand the same?**

It is compulsory to give receipt to each and every patient for all fees exceeding Rs.25/-.

**7. What is the penalty for not maintaining books of account?**

If you do not maintain books of account a penalty of Rs.25,000/- can be levied.

**8. What is the meaning of "cash method" and "mercantile method" of accounting? Whether a "mixed or hybrid method" of accounting is permitted?**

There are two principal methods of book-keeping viz. cash system and mercantile system. In case of cash system, the income & expenditure are accounted for on the day when money is received or paid. In case of mercantile system, the income & expenditure are accounted for on the date of transaction, irrespective of the date of actual receipt or payment of money. In case of mercantile system the sales or income is entered in the books of account on the day on which the goods are sold or services are rendered and the expenses are booked as soon as they are incurred. The payment date may be later. Whereas in case of cash system, the services might have been rendered earlier but income is booked only when money is received.



Example: A doctor performs an operation on 30-03-2015. The patient makes the payment on 04-04-2015. In cash system the income will be shown in financial year 2015-16. In case of mercantile system the income will accrue on 30-03-2015 and hence will be shown as income receivable in financial year 2014-15. The same principle applies to expenses.

Mixed method of accounting is not permitted under Income Tax Act.

**9. I follow “cash method” of accounting and do not provide any depreciation on fixed assets in the books of account. Whether I will be entitled to depreciation while computing my taxable income for calculating my tax liability?**

Yes. Depreciation is a separate allowance under the Income Tax Act and has got no connection with the books of account maintained by a taxpayer. Even if no depreciation is provided in the books of account, depreciation allowance can be claimed while computing taxable income. See question number 13 for more details.

**10. Whether I will be required to give effect of opening and closing stock on hand as on 1st April and 31st March respectively in my computation of taxable income?**

Yes, opening stock on hand (stock on hand on the first day of a financial year) has to be reduced from the taxable income and closing stock on hand (stock on hand on the last day of a financial year) has to be added to the taxable income, even when total income is to be determined when cash method of accounting is followed.

**11. When am I liable to get my books of account audited under the Income Tax Act? What is the meaning of Tax Audit?**

If your gross receipts in profession exceed Rs.25 lacs in any year then for that year you will be liable to Tax Audit under Income Tax Act.

Auditing means checking the correctness and genuineness of your accounts and verifying whether accounting principles and standards have been properly followed in writing books of account. In respect of Tax Audit the auditor has to give his report on various other aspects as prescribed in Form No. 3CB and 3CD. These aspects relate to compliance status of certain provisions of Income Tax Act. Under Income Tax Act, this verification will have to be carried out by a Chartered Accountant. Please note that from ITAY 2013-14, Tax Audit Report has to be digitally signed by a Chartered Accountant and uploaded onto the Income Tax e-filing portal. The auditee doctor will then have to logon to the Income Tax e-filing portal and approve the same online. Digital signature will be required by doctor to approve the same.



**12. Are my gross fees earned from my practice liable to tax or do I get any deductions while computing my Professional Income?**

Your gross fees is not subject to tax. You get deduction for all revenue expenses and depreciation on the assets owned by you and utilised for carrying on your profession.

**13. How is depreciation to be calculated under Income Tax Act on the following assets owned by me?**

- a. **Motor Car.**
- b. **Desk-Top computer.**
- c. **Laptop computer/Tablet.**
- d. **Air conditioner.**
- e. **X-Ray machine.**
- f. **Office-Rooms.**
- g. **Furniture at Office-Rooms.**
- h. **Printer.**
- i. **Mobile Phone.**

The assets are to be classified into 'block' of assets viz : tangible assets being Buildings, Furniture, Plant or Machinery and intangible assets. Separate rates of depreciation have been provided for each class of assets. In the year of purchase of assets the assets enter the respective 'block'. The depreciation is to be calculated vis-à-vis each block separately. In the year of purchase if the asset is used for less than 180 days the depreciation will have to be calculated at half the prescribed rate. The prescribed rates on various assets mentioned above are as follows:

<b>Block/Asset</b>	<b>Rate</b>
<b>Plant &amp; Machinery:</b>	
· <b>Motor Car</b>	<b>15%</b>
· <b>Air Conditioner</b>	<b>15%</b>
· <b>X-Ray Machine</b>	<b>15%</b>
· <b>Mobile Phone</b>	<b>15%</b>
<b>Furniture:</b>	
· <b>At Office</b>	<b>10%</b>
· <b>In Rooms</b>	<b>10%</b>
<b>Computers:</b>	
· <b>Desk-top</b>	<b>60%</b>
· <b>Laptop</b>	<b>60%</b>
· <b>Printer</b>	<b>60%</b>
· <b>Tablet</b>	<b>60%</b>



---

**14. I have borrowed Rs. 25 lacs from my wife, son and friends for purchase of office-rooms. I pay interest @ 12 % p.a. Do I get any deduction for interest?**

Yes. You will get the deduction of interest. However the amount deductible will be the interest for the period starting from the day when the office – rooms is started to be used for the profession.

**15. If in the above example I pay interest @ 18 % would the interest still be allowable?**

In case of payment of any expenses to any 'relative' (term 'relative' is defined), the department has a right to disallow any part thereof if it finds such expense to be excessive or unreasonable having regard to fair market value thereof. In the circumstances you will have to make out a case that the rate of 18 % is not excessive or unreasonable.

**16. I pay interest exceeding Rs.5,000/- each to such relatives and friends for the year ended 31-03-2015. Do I have to deduct any TDS from such interest?**

You will be liable to deduct tax (TDS) only if you were liable to Tax Audit for the preceding year i.e year ended 31-03-2014. When you are liable to deduct tax, if the payee gives Form No. 15 G / 15 H, you will not deduct the tax.

**17. What are my liabilities if I have to deduct TDS?**

Refer the chapter on "TDS".

**18. What happens if I have deducted TDS but I forget to deposit the same with the government?**

You will not be able to claim the deduction of the related expense (30% of the related expense from IT AY 2016-17 onwards) from which you have deducted the tax. Such expense (30% of the related expense from IT AY 2016-17 onwards) shall be deductible in the year of payment of TDS.

You will be also liable to interest, penalty and prosecution since you are wrongfully withholding government money. Refer the section on "TDS" for knowing about interest, penalty and prosecution.



---

**19. I purchase medicines of Rs. 40,000/- for my hospital. I make the payment in cash. Will this payment of Rs. 40,000/- be allowed as a deductible expense?**

No. If any deductible expenditure is incurred in cash of a sum exceeding Rs.20,000/- it will not be allowed as a deductible expense. However there are exceptions to this restrictive provision as prescribed in Rule 6DD.

**20. In the above example if I make payment of Rs.10,000/- each on four different days, will it make any difference?**

Yes. Since each payment is below Rs.20,000/- it will not be hit by the restrictive provision. The entire expenditure of Rs.40,000/- will be deductible.

**21. I have paid Rs.1,00,000/- as income tax and Rs.30,000/- as interest on delayed payment of such income tax. Are these tax payments deductible from my professional income?**

Both these payments are not deductible expenses.

**22. I have incurred an expense of Rs.50,000/- towards petrol for running my motorcar. Is the amount of Rs.50,000/- allowable as expense in full or is there any restriction?**

As per the provisions of Income Tax Act, any part of expenditure which is incurred for non business purposes is not allowable. In case of motor car expenses it is generally presumed that the motor car is also used for personal purposes. Hence on that basis an adhoc % i.e 15% to 20% will be considered as incurred for personal purposes which will be disallowed while computing the taxable income. The same will also apply to depreciation on motor car, insurance for such motor car, any repairing maintenance costs incurred, interest on loan taken to buy motor-car etc.

**23. We are a partnership firm of two doctors engaged in medical practice. We have earned a surplus of income (i.e. income computed as per Income Tax Act under the head 'Profits and gains of business or profession) of Rs.15,00,000/-. The partnership firm has paid interest of Rs.1,00,000/- to each one of us. Do we get a deduction of the interest paid to partners? Do we get any deduction for salary paid by the firm to both the partners?**

The partnership firm will be able to claim the interest paid to partners as deductible expense if it is authorized by the partnership deed, related to period falling after the date of deed and the rate of interest does not exceed 12% per annum. Hence, assuming that the conditions are satisfied, the total interest



paid of Rs.2,00,000/- will be deducted from the net surplus of Rs.15,00,000/-. The salaries paid to the two partners will be deductible since both the partners are 'working partners'. However the payment of salaries will be deductible as per the limits in the following table.

No.	Net Surplus after deduction of Interest to partners	Amt deductible for salary to working partners
1.	first 3,00,000/-	Rs. 1,50,000/- or 90 %, whichever is more
2.	balance surplus	60 %

In the above example the calculation will be as follows:

Net Surplus after interest to partners                      Rs.13,00,000/-

No.	Net Surplus after deduction of Interest to partners Rs.13,00,000/-	Amt deductible for salary to working partners
1.	first 3,00,000/-	90 % = 2,70,000/-
2.	balance surplus (10,00,000/-)	60 % = 6,00,000/-
	Total deductible salary paid to partners	8,70,000/-

The firm will get a deduction of salaries paid to working partners of Rs.8,70,000/- and on the balance income of Rs.4,30,000/- it will have to pay tax at 30 % + 3 % education cess.



---

## CORPORATISATION OF MEDICAL PROFESSION

In today's era of globalisation, individual players have a lesser role to play as compared to a team of professionals working together. Even the patients today need a one stop solution for all their requirements. In view of this, it is beneficial for doctors with entrepreneurship skills who are experts in different fields to join hands and form an organisational structure which can provide different services under one roof.

### **1. How to corporatise a profession?**

A doctor having entrepreneurship skills, together with other like-minded professionals may form a Company under the provisions of Companies Act, 2013. The main objective of the Company shall be to render medical services and to provide all related infrastructure facilities like a good hospital, better equipments, easy access to required medicines and a team of doctors who are experts in different fields. The operations of the said Company shall be managed by an administrative team while the medical services shall be provided by a team of doctors who are experts in their field. The Company being a large structure can also afford to have latest equipments and state of the art infrastructure to provide services to the patients.

### **2. What are the costs to the Company?**

The Company will be incurring cost for various medical and hospital services provided to the patients. It will recover these costs by raising invoices to them for the services availed by them. The Company will also have to incur expenditure such as payment of consultancy fees to other professional doctors, employee cost, maintenance of hospital, maintenance of equipments and such other administrative costs. In order to provide best facilities, the Company will have to make a sizable amount of investment in land, building and equipments which may be funded either by equity contribution by promoter directors/professionals or by a borrowing from financial institution/bank or by an investment through venture capital. A combination of two or more of the above options can also be considered. The interest payment on the borrowed funds and depreciation on the fixed assets is also a cost to the Company.



---

### **3. How to share the revenue in case of a corporate structure?**

The doctors, who have become the core promoter directors of the Company, shall have different options in which they can share the revenue. They may either have a fixed remuneration from the Company or may act as a consultant to the Company and charge fees for their consultancy services. If any promoter director is also involved in the administration of the Company, he may draw a fixed remuneration for the administrative work of the Company, and also charge consultancy fees for the medical services rendered by him to the Company. The other members of the team of experts shall be paid in the form of consultancy fees for the services provided by them.

### **4. What happens if the Company incurs losses in the initial stage?**

In the initial stage, the Company may incur losses. These losses may be due to under utilisation of facilities provided by the Company, depreciation on high value of capital assets and interest on borrowing of funds. However, this loss can be carried forward as a business loss to be set off against future profits of the Company under the provisions of Income Tax Act, 1961.

### **5. What happens if the Company has surplus funds?**

When the Company starts earning surplus income after deducting all the expenditure from its revenue, it has an option either to accumulate the surplus funds in order to utilise the same for future expansion or to distribute it by way of dividend to the shareholders.

### **6. What other obligations are to be kept in mind by the Company?**

The Company needs to employ Mercantile system of accounting instead of Cash system of accounting as generally practiced by individual doctors. In this case, the accounting has to be done on accrual basis.

The Company also needs to consider the following:

- Compliance of Accounting Standards
- Compliance with formalities of Registrar of Companies
- Compliance with the provisions of Income Tax Act, 1961
- Compliance with the provisions of Companies Act, 2013
- Compliance with such other applicable laws.





---

### **7. What benefits can be availed under Income Tax Act?**

If the Company is having a specified business in the nature of developing and operating a hospital with at least 100 beds for patients, the Company can get the benefit of deduction in respect expenditure on specified business under section 35AD of the Income Tax Act, 1961 Vis. An assessee shall be allowed a deduction in respect of whole of any expenditure of capital nature incurred (excluding acquisition of any land or goodwill or financial instrument), wholly and exclusively, for the purpose of the specified business carried on by him during the previous year in which such expenditure is incurred by him.

### **8. What other benefits can be availed by the Company?**

One of the benefits of forming a Company is that the Company can operate under a brand name which in turn proves to be of substantial value as an intangible asset of the Company. It can provide multi-speciality services under one banner. The dependency on individual professional doctor reduces if the services are provided under the brand name. Also the Company can expand its business through franchisee model.



## CAPITAL GAINS

### 1. How is the capital gain computed?

Capital gain is the profit realised on sale (transfer) of a capital asset. The words 'transfer' and 'capital asset' are defined under the Income Tax Act. The capital asset will first have to be classified as 'short term capital asset' or 'long term capital asset' depending on the period of holding of the capital asset which is explained in chart below. Profit realised on sale of the capital asset will accordingly be classified as short term capital gain or a long term capital gain. Capital gain is to be worked out by deduction of the cost from the net sale consideration. In case of taxable long term capital gains, the cost will be 'Indexed cost'.

No.	Nature of Capital Asset	Short term capital asset	Long term capital asset
a.	Shares, units of mutual funds and certain other securities (other than shares of Private Limited Companies)	if held for 12 months or less	if held for more than 12 months
b.	Other capital assets (e.g. land, house, ornaments etc- list is illustrative) including shares of Private Limited Companies	if held for 36 months or less	if held for more than 36 months

### 2. What is the meaning of 'Long term capital gain' and 'Short term capital gain'?

Long term capital gain means gain from sale of asset which is 'long term capital asset' and Short term capital gain means gain from sale of asset which is 'short term capital asset'. The meaning of Long term capital asset and Short term capital asset is given in the answer to Question 1 above.

### 3. How is the 'Indexed Cost' to be computed?

Every year the Income Tax department publishes the cost inflation index figure. The cost is to be multiplied by the index of the year of sale and the resultant figure is to be divided by the index of the year of purchase. For example, I have purchased a plot of land in March 1998 for Rs.2,00,000/-. I sell the said land in January 2015. Since the said land is held for more than 36 months it is a long term capital asset. Hence the cost will have to be 'Indexed'. The index for financial year 2014-15 (year of sale) i.e. ITAY 2015-16 is 1024. The index for financial year 1997-98 was 331. The Indexed cost will be  $2,00,000/- \times 1024 / 331 = 6,18,731/-$ .

### 4 I have sold land during the year for Rs. 10 lacs. I had purchased this land for Rs. 2 lacs on 10-04-1996. Thus I have made a profit of Rs. 8 lacs. What is the amount of taxable capital gains?



First calculate 'Indexed Cost'. The Index for financial year 96-97 was 305. The Index for the year of sale i.e. financial year 2014-15 is 1024. Hence the Indexed cost will be  $2,00,000/- \times 1024 / 305 = 6,71,475$ .

Thereafter deduct 'Indexed Cost' from Sale consideration. The resultant figure will be Capital Gains. Therefore the Capital Gains will be:  
 $Rs.10,00,000 - Rs.671475 = Rs.3,28,525/-$ .

**5. What are the provisions for taxability of capital gains from sale of shares and mutual funds? Will it make any difference if the shares are sold as 'off market'?**

The capital gains from sale of shares and mutual funds enjoy a special tax treatment. The following chart will make the provisions clear:

No.	Mode of sale	Holding period	Rate of Tax	Remarks
1.	Shares –Units of Equity Oriented Mutual Funds – <b>STT paid</b> on sale	Long term	Exempt	—
2.	Shares –Units of Equity Oriented Mutual Funds – <b>STT paid</b> on sale	Short term	15 % + 3 % Ed Cess	Surcharge 10% if applicable .
3.	Shares –Units of Debt Oriented Mutual Funds – <b>STT not paid on sale (including off market sale)</b>	Long Term	-.20 % + 3 % Ed Cess -Option of 10 % tax available	1. Surcharge 10% if applicable. 2. Indexed cost to be taken. 3. No indexation benefit if 10% option is taken.
4.	Shares –Units of Debt Oriented Mutual Funds – <b>STT not paid on sale (including off market sale)</b>	Short term	Normal tax rates + 3 % Ed Cess	1. Surcharge 10 % if applicable. 2. Indexed cost to be taken.

STT= Securities Transaction Tax.

**6. I had invested Rs. 10 lacs in a particular type of Mutual Fund scheme. After 6 months, my agent advised me to switch over my money in the said scheme to another scheme of Mutual Fund. The Net Realisable Value (NRV) of my original investment was Rs. 11 lacs. Am I supposed to show any income/gain on such switch over?**

**Further, what if I switch over to the new scheme of Mutual Fund after 15 months of the original investment?**

Yes, the **switch over** in new Mutual Fund scheme will be considered to be transfer of capital asset and the difference amount of Rs. 1 lac will be considered as



capital gains even though there is no actual receipt of the amount. Such capital gains will be considered to be Short Term Capital Gain as the holding period is less than 12 months (Refer Table in Question 1 above). Since there is no actual sale of investment and the amount is only transferred from one scheme to another, no STT is paid on such transaction. Hence, this capital gain will be taxed at normal rates as if the investment is sold off market.

If the **switch over** of investment in mutual funds is done after 15 months, the capital gains will be treated as Long Term Capital Gain. The same is be taxed at the rate at which Shares/Mutual Fund Units sold off market are sold. The tax in both the cases will be as per the provisions mentioned in Points 3 and 4 in the Table of Answer No. 5 above.

- 7. I have purchased 100 shares of Reliance Energy Ltd for Rs.25,000/- on 01-08-2014. On the same day I sell these 100 shares for Rs.26,000/-. My broker pays me the difference of Rs.1000/-. Whether this difference of Rs.1,000/- received by me is taxable as 'Short term capital gain'? Will it make any difference if it is a loss instead of profit?**

In the situation described above, it turns out that you have not taken 'delivery' of shares. Hence it will be treated as a 'speculative transaction' under Income Tax Act. The difference of Rs.1,000/- will not be considered as 'Short term capital gain' but will be considered as speculation income.

Instead of profit if it is a loss, such loss from speculation will not be allowed to be set off against other income. However in the same year if there is speculation income it will be allowed to be set off, else it will be 'carried forward' and will be eligible to be set off in future against speculation income.

- 8. I have borrowed Rs.1,00,000/- from my friend and paid Rs.12,000/- as interest. I have also borrowed Rs.1,00,000/- from a Bank and paid interest of Rs.15,000/-. I have invested these Rs.2,00,000/- in shares of TISCO. After 10 months I have sold these shares for Rs.3,00,000/-. Thus I have earned short term capital gain of Rs.1,00,000/-. Will I be able to get deduction of interest paid Rs.25,000/- from the gain of Rs.1,00,000/- and pay tax on Rs.75,000/- only?**

You cannot get the deduction of interest from Capital Gain, whether Short term or Long term. This is because under the head 'Capital Gains', there is no provision for allowing deduction of interest. You will have to pay tax on gain of Rs.1,00,000/-.

- 9. I have inherited 1000 shares of Reliance Industries Ltd from my father. My father had purchased these shares in 2001 for Rs.2,00,000/- My father has expired on 01-07-2014. I sell these 1000 shares on 09-08-2014 for Rs.22,00,000/-. Whether the capital gain of Rs.20,00,000/- will be 'short term capital gains' in my hands?**



---

Since you have inherited the shares from your father, the period for which these shares were held by your father will be added to the period for which such shares are held by you. Hence the combined period in the above situation is of more than 12 months. As a result the shares will be classified as 'Long term capital asset' and thus the resultant capital gain will be 'Long term capital gain'.

**10. In the above example will it make any difference if I have received the said 1000 shares as 'gift' from my father?**

It will not make any difference because in case of a gift also the period of holding in the hands of 'donor' will be added to that of the 'donee'.

**11. I have earned 'short term capital gains' of Rs.2,00,000/- on sale of shares of Reliance Industries Ltd. I have also incurred a 'short term capital loss' of Rs.50,000/- on sale of shares of TISCO. Whether I can set off the loss of Rs.50,000/- against the profit of Rs.2,00,000/- and pay tax on net Rs.1,50,000/-?**

Yes. You will 'have to' set off the loss against the profit and pay tax on net amount which is Rs.1,50,000/-. Short term loss will have to be set off against short term profit.

**12. I have earned 'short term capital gains' of Rs.2,50,000/- on sale of shares of Reliance Industries Ltd. I have also incurred a 'long term capital loss' of Rs.1,50,000/- on sale of shares of TISCO. Whether I can set off the loss of Rs.1,50,000/- against the profit of Rs.2,50,000/- and pay tax on net Rs.1,00,000/-?**

No. You cannot set off the long term loss against the short term profit. As per the provisions of law, since the long term capital gain on shares (STT paid) is 'exempt', the long term capital loss on sale of shares (STT paid) will also be considered as 'exempt' and hence it will not be eligible for set off.

In case of other capital assets, long term loss is prohibited to be set off against short term capital gains. Long term capital loss can be set off only against long term capital gain.

The provisions of set off of losses are explained in detail under the section "Set Off Of Losses" later in this book.

**13. I have only one Demat account in my name as on 01-04-2014. On 15-04-2014, I have purchased 1000 shares of Reliance Industries Ltd which are deposited in the said Demat account. I had purchased these shares for Rs 1500/- per share. I purchase another 200 shares of the said company on 01-06-2014 at Rs.2,000/- per share. I sell 200 shares of the said company on 01-07-2014 at Rs.2200/- per share. I consider that I have sold the shares on 01-07-2014 which I had purchased on 01-06-2014 and hence the profit of Rs.200/- per share will result in 'short term capital gain' of Rs.40,000/-.**



---

**However my tax consultant says that the 'short term capital gain' will be Rs.1,40,000/-. Is he correct?**

Your tax consultant is correct. In case of shares held in demat account, when shares are sold, the principle of FIFO (first in first out) will apply. As a result from the balance of shares held in demat account, the shares first deposited in such demat account will be deemed to have been sold. Thus the shares deposited on 15-04-2014 will be deemed to have been sold on 01-07-2014. This will result in gain of Rs.700/- per share i.e. total Rs.1,40,000/-.

**14. I have purchased 100 grams gold on 10-04-2013 for Rs. 2,75,000/- purely as 'investment'. I have sold the said 100 grams gold on 15-07-2014 for Rs. 3,25,000/-. Whether the gain of Rs. 50,000/- will be considered as 'long term' capital gain'?**

No. The capital gain will be short term. Please note that for capital assets other than shares and units of mutual funds, if the capital asset is held for 36 months or less, the gain from sale of such asset will be short term capital gain. Since in the above example gold is the underlying capital asset, and it is held for around 15 months (less than 36 months) the gain of Rs. 50,000/- will be short term capital gain. The said gain of Rs. 50,000/- will be taxed at normal slab rates and NOT at the special rate of 10 %.

**15. I have purchased a 'painting' in 2008 for Rs.20,000/- I sell it on 10-08-2014 for Rs.1,00,000/-. Will I be liable to pay income tax on the gain of Rs.80,000/-?**

Yes. You will be liable to pay tax on such profit of Rs.80,000/-. 'Paintings' are a capital asset and since the painting is held for more than 36 months, the profit there from, will be 'long term' capital gain. The purchase price will have to be 'Indexed'. The resultant figure will be 'Indexed cost', which will be deducted from Rs.1,00,000/-. The difference will be 'long term capital gain'. The tax payable will be flat rate of 20 % of such long term capital gain.

**16. I have sold my residential house for Rs. 1,25,00,000/- on 10-04-2014. I had purchased the said house on 30-10-1998 for Rs. 10,00,000/-. I buy another residential house for Rs. 80,00,000/- on 16-01-2015. What is the amount of 'long term capital gain'? Is there any way out if I do not want to pay tax on the amount of 'long term capital gain'?**

Since the house is held for more than 36 months, the capital gain will be 'long term capital gain'. Since you buy another house within a period of two years from the date of sale of the original house you will be entitled to exemption. When you sell a residential house and buy another residential house you are required to invest only the amount of capital gain in the new house. Such investment is required to be made within a period of two years if you are 'purchasing' the new house and within three years if you are 'constructing' the new house. The tax payable will be as per steps of calculation below:



1. Find the 'Indexed cost': (purchase price multiplied by 'Index' of year of sale (2014-15) and divided by 'Index' of year of purchase(1998-99)) = 29,17,379/- . (10,00,000 x 1024 / 351)
2. Deduct the 'Indexed cost' from the sale value = 95,82,621/- (1,25,00,000-29,17,379)
3. Long term capital gain (LTCG) = 95,82,621/-
4. Deduct investment in new house from LTCG = 25,82,621/- (95,82,621-70,00,000)
5. Taxable LTCG = 25,82,621/-
6. Tax payable = 5,32,020/- @ 20.60 % (20 % of LTCG + 2 % Ed Cess + 1 % H. Ed Cess.)

(Surcharge @ 10% will be added, if applicable)

If you do not want to pay the tax on LTCG you have to invest in certain specified bonds, where in the maximum investment permissible is Rs.50,00,000/- in one financial year. Such investment has to be made within a period of six months from the date of sale of the capital asset i.e. the residential house in above example. Since the date of sale is 10-04-2014, the investment has to be made before 10-10-2014.

**17. In the above example, will it make any difference, if I have sold painting or plot of open land instead of residential house?**

Yes. It will make a difference vis-à-vis the amount required to be invested in new house and / or bonds. This is because the Act provides that when you sell a capital asset which is not a residential house, then the amount required to be invested is the 'net consideration' arising from the sale of the capital asset. The period within which the investment is to be made will remain the same i.e two years or three years as the case may be. The tax payable will be as per steps of calculation below:

1. Find the 'Indexed cost': (purchase price multiplied by 'Index' of year of sale (2014-15) and divided by 'Index' of year of purchase(1998-99)) = 29,17,379/- (10,00,000 x 1024 / 351)
2. Deduct the 'Indexed cost' from the sale value = 95,82,621/- (1,25,00,000-29,17,379)
3. Long term capital gain (LTCG) = 95,82,621/-
4. Investment in new house = 70,00,000/-



- 5 Exemption for investment in new house = 53,66,268/- (LTCG multiplied by investment in new house divided by sale value of old house)
- 6 Taxable LTCG = 42,16,353/- (LTCG – Exemption for investment in new house)
7. Tax payable = 8,68,569/- @ 22.66 % (20 % of LTCG + 2 % Ed Cess + 1 % H. Ed Cess.)

(Surcharge @ 10% will be added, if applicable)

**18. I have invested in shares of private companies (not listed on stock exchange) in United States. I have held such shares for more than 2 years and sold the share in one of the companies in June 2014. I have earned \$ 5,000/- as capital gains. Whether this gain will be taxable in India? Will it make any difference if these shares are listed on stock exchange?**

As per the prevailing guidelines of Reserve Bank of India, an Indian resident is permitted to invest upto US \$ 2,50,000/- per year abroad. In the above example, the shares are held for more than 12 months. Hence the profit of US \$ 5,000/- will be long term capital gains. Indian resident is liable to pay income tax on his global income. Therefore the long term capital gain of US \$ 5,000/- will be liable to tax in India. The conversion of US \$ 5,000/- will be done in Indian Rupees. Since the sale of shares in US is not liable to Indian securities transaction tax (STT), the gain will be liable to tax in India.

**19. I am a practicing doctor since last 50 years. I have sold my entire practice on 30-09-2014 to another doctor. I have received a sum of Rs.50,00,000/- towards Goodwill over and above the sale value of clinic (office), furniture, computer and other machines. Whether the amount of Rs.50,00,000/- received towards Goodwill will be liable to tax?**

The sale of Goodwill will not result in any capital gain. It is worth to note that under the Income Tax Act, there is a special provision as per which for goodwill of a 'business', the cost will be taken as 'nil' if it is self generated. However this provision is applicable only for goodwill of 'business' and since the cost is taken as 'nil' the entire sale value will be the capital gain. Applying the rules of interpretation, a safe view can be taken that this provision does not apply to goodwill of 'profession'. Hence the sale of goodwill in case of a doctor will not be liable to capital gains tax.

**20. I have a motor car which I had purchased in March 2010 for Rs.15,00,000/-. I have claimed depreciation of Rs.5,00,000/- on such motor car from March 2010 till March 2014. The Written Down Value (WDV = Cost less depreciation) as on 01-04-2014 is Rs.10,00,000/-. I have sold this car on 31-07-2014 for Rs.12,00,000/-. What will be the amount of capital gains? Whether it will be chargeable as long term capital**





---

**gains? Will it make any difference if I purchase a new motorcar on 1-09-2014 for Rs.20,00,000/-?**

In case of depreciable assets, there are special provisions to work out capital gains and calculation of depreciation. Both are inter related. For working out the depreciation on motor cars, the calculation has to be done vis-à-vis the 'Block' of motor cars. The capital gains will arise only when the entire 'block' is sold i.e there does not remain any motor car. In the above example, the position will be as under:

(a) If new car is not purchased :	Rs.
WDV as on 01-04-2014	10,00,000
Less : sale of motor car	(-) 12,00,000
	-----
Profit on sale of motor car	2,00,000
	-----

Though the motor car is held for more than 36 months the profit of Rs.2,00,000/- will be 'deemed' to be a short term capital gain.

(b) If new car is purchased :	Rs.
WDV as on 01-04-2014	10,00,000
Less : sale of motor car	(-) 12,00,000
Add : purchase of new car	(+) 20,00,000
	-----
Balance in Block of Motor Car	18,00,000
	-----

There is no capital gain because the 'block' of Motor Car does not cease to exist.



---

## INCOME FROM OTHER SOURCES

### 1. What are the items of income, which are generally, included under the head “Income from Other Sources”?

Income of every kind which is not excluded from the total income shall be included under the head “Income from Other Sources”, if it is not chargeable under any other specific head.

The following items of income will generally be included under the head “Income from Other Sources”:

- a. Dividends (see Q2 below)
- b. Winnings from lotteries, crossword puzzles, races including horse races, card games and other games.
- c. Interest from Bank Savings account and Fixed deposits.
- d. Interest on deposits with companies and other private parties.
- e. Interest on deposits under various schemes of Post Office.
- f. Rent income from open plot of land.

### 2. I have earned dividend from shares of companies. Is it liable to tax in my hands?

No, it will not be liable to tax in your hands. This is because the companies paying the dividend have to pay tax, popularly known as ‘Dividend Distribution Tax’ (DDT) which is a specified percentage of the dividend declared / distributed / paid. When DDT is paid by the company, dividend in the hands of its shareholders is exempt from tax.

### 3. Is income tax levied on gifts received by a person?

Income tax is payable by the donee if gifts totaling more than Rs.50,000/- are received during a ‘previous’ year i.e. financial year. However in the following circumstances the gifts received are not to be considered as income.

- from any person who is a relative (‘relative’ is defined u/s 56(2)) or



- 
- on occasion of marriage or
  - under will or by inheritance or
  - in contemplation of death of the payer or
  - received from a trust registered u/s 12AA or
  - from any local authority defined u/s 10(20) or
  - from any fund, foundation, university, educational institution, hospital etc referred to in section 10(23C).
  - by an HUF from its member.

**4. My son is living in US. He sends me Rs.40,000/- per month for my maintenance. Would this be considered as my income?**

The money sent by your son during the 'previous year' i.e. financial year will exceed Rs.50,000/-. The money sent to you is a gift from your son. However you will not be liable to pay income tax on the same since gifts from 'relatives' are exempt.

**5. I received jewellery worth Rs. 2,50,000/- as a marriage gift. Would this be considered as my income?**

The jewellery received by you is a capital asset other than immovable property, the aggregate fair market value of which exceeds Rs.50,000/-. As it is received without any consideration, it is considered to be a gift and falls under the head "Income from Other Sources". However, you will not be liable to pay income tax on the same since gifts received on occasion of marriage of the individual are exempt.



---

## CLUBBING OF INCOME

- 1. I have gifted Rs.2,00,000/- to my wife on 01-04-2014. She has deposited this amount in Bank FDR on which she will earn yearly interest of Rs.20,000/-. Will I have to pay any 'Gift Tax' on such gift made by me? Whether the interest income of Rs.20,000/- will be taxed in her own hands?**

You will not have to pay any 'Gift tax' on the gift made by you to your wife, since at present in India there is no law for levy of Gift tax. Your wife will also not be liable to pay income tax on the gift received by her since gifts from 'relatives' are not considered as income and are exempt.

However under the Income Tax Act there are provisions for 'clubbing' of income. If any gift is received by any person from his / her spouse, the income earned by the donee will not be taxable in his / her hands but will have to be clubbed in the hands of the donor. In the above example interest income of Rs.10,000/- will not be taxed in the hands of wife but it will be taxed in the hands of husband.

- 2. I have two minor children who are below 10 years. They have Bank FDRs of - Rs. 3,00,000/- each in their name, which are made from gifts received earlier from their Grand Parents and Maternal uncle. These FDRs carry interest rate of 10 % p.a. Whether the interest income of Rs.30,000/- earned by each minor will be taxed in their hands?**

No, the income of Rs.30,000/- earned by each minor son by way of interest on FDR will be 'clubbed' in the hands of either of the parent whose income is higher in the first year of clubbing. It will continue to be clubbed with the income of such parent even if the income is lower than the other parent. In other words it is not a year to year exercise. However in such a situation power is vested in Income Tax Officer to club the income with the other parent whose income is higher. A benefit of exemption to the extent of Rs. 1,500/- from taxable income is available per minor child to the parent with whom the income of the minor child is clubbed.



## DEDUCTIONS FROM INCOME

### 1. Which are the major deductions available to an individual while working out the taxable income?

There are two types of deductions from income (a) deductions vis-à-vis payments / investments and (b) deductions vis-à-vis income. The following chart explains the provisions in brief for ITAY 2015-16.

No	Section	Maximum Amt (Rs.)	Eligible Payments etc (specified conditions to be satisfied as prescribed in each section. Below is only an overview)
1.	80-C	1,50,000/- @	Payment- LIP, PF, PPF, NSC, ELSS, Tuition fees of children, Housing Loan repayment, etc. (This is an indicative list i.e. not a complete list of eligible investments/ payments)
2.	80-CCC	1,00,000/- @ (1,50,000/- from ITAY 2016-17 onwards)	Payment of premium for pension plan
3.	80-CCD	1,00,000/- @	Contribution to pension scheme of central government (Maximum Rs. 50,000 from ITAY 2016-17 onwards)
4.	@	@	<b>For payments covered by section 80-C, 80-CCC and 80-CCD the combined limit is Rs. 1,50,000/-</b>
5.	80-D	15,000/- (25,000/- from ITAY 2016-17 onwards)	Payment of medical insurance premium.. Payment has to be by cheque. Cash payment is not entitled to deduction. Additional deduction of Rs. 15,000/- (Rs. 25,000 from ITAY 2016-17 onwards) available if medical insurance for parent/s has also been paid by the assessee. From ITAY 2016-17 onwards: Medical expenditure upto Rs. 30,000/- each in case of the individual as well as parent/s whose age is 80 years or more and do not have medical insurance is also deductible under this section. The total deduction under this section for medical premium as well as expenditure under each case (individual as well as parent/s) shall not be more than Rs. 30,000/-. Thus, an individual cannot get a deduction of more than 60,000/-.



5.	80-DD	50,000/- (75,000/- from ITAY 2016-17 onwards)	Medical treatment of a 'dependant' who has specified disability. In case of 'severe disability' the amount is Rs.1,00,000/- (1,25,000/- from ITAY 2016-17 onwards)
6.	80-DDB	40,000/-	Medical treatment of self or dependant for specified disease or ailment. In case of treatment of a senior citizen the amount is Rs.60,000/-.(80,000/- from ITAY 2016-17 onwards)
7.	80-E	No limit	Interest on loan taken for higher education of self or 'relative'. Deduction for initial year of loan and subsequent seven years.
8.	80-G	Subject to limit	Deduction at 100 % or 50 % depending on the category of the donee institution.
9.	80-GG	Subject to limits, maximum 2,500/- pm	Deduction in respect of rent paid for residential accommodation.
10.	80-GGA	100 % of Sum paid	Donation for scientific research or rural development. In case of assessee having income under the head 'profits and gains of business or profession' no deduction here but it is allowed under section 35.
11.	80-GGB and 80-GGC	100 % of Sum paid	Contribution given to a registered political party.

No	Section	Maximum Amt Rs.	Eligible Payments etc (specified conditions to be satisfied as prescribed in each section. Below is only an overview)
1.	80-QQB	3,00,000/-	For royalty income of authors of certain books other than text books.
2.	80-RRA	3,00,000/-	For royalty income of resident Individual from patents.
3.	80-U	50,000/- (75,000/- from ITAY 2016-17 onwards)	For persons with specified 'disability'. In case of 'severe disability' the amount is Rs.1,00,000/- (1,25,000/- from ITAY 2016-17 onwards)

## 2. Can I claim deduction for my personal and household expenditure in calculating my income or profit?

No. You cannot claim deduction for personal or house hold expenses against your total income.



## SET OFF OF LOSSES

1. I have incurred a loss of Rs.50,000/- in my practice. Can I get the setoff of this loss against my other income like short term capital gain Rs.25000/- and bank FDR interest Rs.10,000/-?

The Income Tax Act provides for setoff of losses of one head against the income of another head in the same year as well as setoff of losses in subsequent year. As per the prevailing law you will be able to setoff the loss in profession against the short term capital gain and bank FDR interest. The balance loss of Rs.10,000/- will be eligible for setoff in subsequent year against income from profession only i.e. income under the head 'profits and gains of business or profession'. The following chart summarises the prevailing law.

### Same Year setoff against

No.	head of loss	Salary	House Property	Profits of Profession	Short term Cap gains	Long term Cap gains	Other Sources	Speculation Business Profit
1.	Salary	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
2.	House Property	No	N.A.	Yes	Yes	Yes	Yes	Yes
3	Loss in Profession	No	Yes	N.A	Yes	Yes	Yes	Yes
4	Short term Cap loss	No	No	No	N.A.	Yes	No	No
5	Long term Cap loss	No	No	No	No	N.A.	No	No
6	Other Sources	No	Yes	Yes	Yes	Yes	N.A.	Yes
7	Speculation Business	No	No	No	No	No	No	N.A.

### Subsequent Year setoff against

No.	head of loss	Salary	House Property	Profits of Profession	Short term Cap gains	Long term Cap gains	Other Sources	Speculation Business Profit
1.	Salary	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
2.	House Property	No	Yes	No	No	No	No	No
3	Loss in Profession	No	No	Yes	No	No	No	Yes
4	Short term Cap loss	No	No	No	Yes	Yes	No	No
5	Long term Cap loss	No	No	No	No	Yes	No	No
6	Other Sources	No	No	No	No	No	No	No
7	Speculation Business	No	No	No	No	No	No	Yes



- 2. The due date of filing of my return of income for ITAY 2014-15 was 31-07-2014. I have incurred a loss of Rs.1,00,000/- in my practice. I have no other income. I have submitted my return late i.e. on 15-09-2014. Will I get the setoff of loss of Rs.1,00,000/- against my income of ITAY 2015-16?**

You will not be able to claim the setoff of loss of Rs.1,00,000/- of ITAY 2014-15 against income of ITAY 2015-16 because the return of income for ITAY 2014-15 is submitted late. The law provides that the setoff in subsequent year can be claimed only if the return for the year of loss is submitted on or before the due date prescribed under the Income Tax Act. Since in the above example the due date for return of ITAY 2014-15 was 31-07-2014 and the return was submitted on 15-09-2014, it is beyond the time limit, the loss of Rs.1,00,000/- will not be allowed to be setoff.

- 3. Is there any time limit upto which the losses can be setoff?**

The time limits for setoff of losses are as follows:

	<b>Nature of Loss</b>	<b>Time limit</b>
1.	Business / Profession loss	Within subsequent eight years
2.	Speculation Business	Within subsequent four years
3.	Unabsorbed depreciation	No time limit
4.	Long Term Capital Loss	Within subsequent eight years
5.	Short Term Capital Loss	Within subsequent eight years
6.	House Property loss	Within subsequent eight years





---

## RETURN OF INCOME

### 1. What is a return of income?

It is a prescribed form through which the particulars of income earned by a person in a financial year and taxes paid on such income is communicated to the Income tax department after the end of the Financial year. The following are the various forms prescribed.

You should choose a return form according to your status and nature of income from the following:

- ITR1 For Individuals having Income from Salary/ Pension/ or Income from one house property (excluding carry forward of loss cases) or Income from other sources (excluding winning from lottery or income from race horses)
- ITR2 For Individuals and HUFs not having Income from Business or Profession
- ITR-2A For Individuals and HUFs not having Income from Business or Profession and Capital Gains and who do not hold foreign assets
- ITR3 For Individuals/HUFs being partners in firms and not carrying out business or profession under any proprietorship
- ITR4 For individuals & HUFs having income from a proprietary business or profession
- ITR4S For individuals & HUFs having income from a proprietary business where such income is calculated in accordance with special provisions (e.g. 8% of turnover)
- ITR5 For firms, AOPs and BOIs
- ITR6 For Companies other than companies claiming exemption under section 11
- ITR7 For persons including companies required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D) i.e. Charitable Trusts.
- ITRV Where the data of the Return of Income in Form ITR-1, ITR-2, ITR-3, ITR-4, ITR-5 and ITR-7 is transmitted electronically without digital signature



---

**2. What documents are to be enclosed along with my return of income?**

The new return forms numbering 1 to 7 are annexure less. Hence no documents need to be attached by you with your return of income.

**3. I am going out of India from May till December. I will not be present in India to file my return. What should I do?**

You can authorize any person by way of a Power of Attorney to file your return.

**4. Some people create a doubt that I will be suffer hardship by filing my return?**

No. The doubt is baseless. On the contrary by not filing your return in spite of having taxable income, you are exposing yourself to the penal and prosecution provisions under the Income-tax Act.

**5. Is it necessary to file return of income when I do not have any positive income?**

As an Individual if you do not have any positive income you may not file your return of income. However if you have incurred loss which is allowed to be carried forward for set off in future, you are required to file the loss return on or before the due date.

**6. What are the due dates for filing returns of income/loss?**

Normally, unless it is extended by the CBDT under special circumstances, the due dates are as follows:

Companies and Public Charitable Trusts	30 <sup>th</sup> September
Other business entities (other than companies and trusts) if their accounts are auditable & working partners of firms	30 <sup>th</sup> September
In all other cases	31 <sup>st</sup> July

**7. If I have paid excess tax, how and when will it be refunded?**

The excess tax can be claimed as refund by filing your income tax return. It will be refunded by issue of cheque or by crediting to your bank account by ECS mode after the 'processing' of your return.

**8. If I detect any mistake in my return of income, can I file another return?**

Yes. The second return filed by you is known as 'Revised Return'. It can be filed provided the original return has been filed on or before the due date and provided the assessment is not completed.



**9. When is e-filing of return mandatory in my case? When do I need to file my return in paper form?**

The same has been explained below in the form of a simple to understand chart:

Sr No	Manner of furnish ITR	Individual / HUF	Company	Person required to furnishing ITR-7	Firm / LLP or any other person who is required to file ITR 5
1	Digitally	If Audited u/s 44AB	In all Cases	In case of Political Party	If Audited u/s 44AB.
2	Digitally or through EVC or Electronically and thereafter by submitting ITR V to Bangalore	<ol style="list-style-type: none"><li>1 If Return furnished in ITR 3 or 4.</li><li>2 If Ordinary Resident assessee:- Having asset or financial interest outside India or- Signing Authority in any account outside India or- Earning income from outside India.</li><li>3 Any relief claimed u/s 90, 90A or deduction u/s 91.</li><li>4 If any audit report furnished electronically under proviso to sub rule 2 of Rule 12.</li><li>5 Whose Total Income exceeds Rs 5,00,000 or claims any refund. (Except Super Senior Citizen i.e 80 years or more furnishing return in ITR 1 or 2)</li></ol>	Not Applicable	In any other case other than above.	In any other case other than above.
3	Paper Form	In any other case than above	Not Applicable	Not Applicable	Not Applicable



## ADVANCE TAX

### 1. What is Advance Tax?

As the name suggests, advance tax refers to paying your taxes before the end of the financial year. Also called 'pay-as-you-earn' scheme, advance tax is the income tax payable if your tax liability is more than Rs. 10,000 in a financial year. It should be paid in the year in which the income is received.

### 2. Who should pay it?

If you are a salaried employee, you need not pay advance tax as your employer deducts tax at source (TDS). Advance tax is applicable when an individual has sources of income other than his salary. For instance, if an assessee earns income via taxable capital gains on shares, jewellery, interest on fixed deposits, winnings from lottery or races, capital gains on house property besides his regular business/salaried income then after adjusting for expenses or losses he needs to pay advance tax. Please note that advance tax is payable even by salaried employees on their other income. While employers deduct TDS on salaries, advance tax is to be paid on income that is not subject to TDS.

### 3. When it should be paid?

#### ADVANCE INCOME TAX

(If liability is more than or equal to Rs.10000)

(Senior Citizen is not required to pay advance tax having no business income w.e.f. FY 2012-13)

Due Date	Company	Other than Company
By 15 <sup>th</sup> June	Upto 15%	-
By 15 <sup>th</sup> September	Upto 45%	Upto 30%
By 15 <sup>th</sup> December	Upto 75%	Upto 60%
By 15 <sup>th</sup> March	100%	100%

### 4. What if you miss the deadline?

If you fail to pay or the amount you have paid is less than the mandated 30% of the total liability by the first deadline (15 September), you will need to pay interest. This is computed @ 1% simple interest per month on the defaulted amount for



---

three months. The same interest would apply if you fail to pay the second deadline (15 December). Failing to pay the third and last deadline (15 March) would mean paying 1% simple interest on the defaulted amount for every month until the tax is fully paid.

You need to pay at least 90% of your total advance tax liability before 31st March to avoid interest. No interest is applicable if the outstanding tax amount is less than 10% of the total tax liability for the financial year. The interest is set at 1% simple interest per month. The amount on which interest is calculated is your final tax liability less advance tax already paid, if any less TDS. if any, calculated from 1st April till the time you pay the total outstanding tax amount.

#### **5. What if advance tax paid is more than required?**

If the amount paid as advance tax is higher than the total tax liability, the assessee will receive the excess amount as a refund. Interest @ 6% per annum will be paid by the Income Tax department to the assessee on the excess amount if the amount is more than 10% of tax liability.



---

## TDS

### 1. What is TDS?

TDS is Tax Deducted at Source. As per the Income Tax Act – certain persons responsible for making payments are required to deduct tax at source at prescribed rates. This tax which is deducted has to be deposited by them to the government. The recipient of income receives the net amount (after deduction of tax at source). However, the recipient is liable to add the gross amount to his/her income and the amount deducted at source is adjusted against his/her final tax liability.

Tax must be deducted at the time of payment in cash or cheque or credit to the payee's account whichever happens earlier.

Tax is deducted on salaries, interest payment by banks, winnings from lotteries, payment to contractors, payment of commission, payment of rent, payments made to consultants, payments to lawyers or freelancers. (Some of these requirements to deduct tax are not applicable to individuals – for e.g. individuals are not expected to deduct Tax while paying rent or while paying fees to doctors or lawyers). If you are a freelancer or a professional yourself – and you work for a corporate – they are required under the Act to deduct Tax from payments made to you.

### 2. What is the significance of PAN with TDS?

Tax deductions are linked to PAN numbers for both the deductor and deductee. You may be taxed at a higher rate if you fail to furnish your PAN to the deductor. If Tax has been deducted from any of your income, you must go through the Tax Credit Form 26AS. This form is a consolidated tax statement which is available to all PAN holders. Since all TDS is linked to your PAN, this form lists out the details of Tax deducted on your income by each deductor for all kinds of payments made to you – where income tax is deducted. This form also has income tax directly paid by you – as advance tax or self assessment tax. Therefore, it becomes important for you to mention your PAN correctly, wherever TDS may be applicable on your income. At present Income Tax department gives credit only for the amount of TDS/Advance Tax/Income Tax appearing in Form 26AS.

### 3. What are the rates at which Taxes are deducted? Can Taxes be deducted at lower rate?

The rates of TDS are specified in the Income Tax Act and are based on the nature of payment. An application for lower deduction or no deduction can be made to the Assessing Officer with requisite details. The certificate which the AO grants is valid only for the assessment year it has been given for or unless it is cancelled before the completion of date on the certificate. Deductee may furnish copies of such certificate to the persons responsible for paying the income to make sure tax is deducted at lower rate by them or no tax is deducted, as applicable.



**TDS Rate for Payment of Salary and Wages for FY 2014-15 (AY 2015-16)**

Section 192	Payment of Salary and Wages
Criterion of Deduction	TDS is deducted if the estimated income of the employee is taxable. Employer must not deduct tax on non-taxable allowances like conveyance allowance, rent allowance, medical allowance and deductible investments under sections like 80C, 80CC, 80D, 80DD, 80DDB, 80E, 80GG and 80U. No tax is required to be deducted at source if the estimated total income of the employee is less than the minimum taxable income.
TDS Rate	As per Income Tax, Surcharge and Education Cess rates applicable on the estimated income of employee for the year.

**TDS Rates for Payments other than Salary and Wages to Residents (including domestic companies) for FY 2014-15 (AY 2015-16)**

Section	For payment of	On payments	Individual/ exceeding	Others HUF
194 A	Interest other than on securities by banks	Rs. 10000/-	10%	10%
194 A	Interest other than on securities by others	Rs. 5000/-	10%	10%
194 B	Winnings from Lotteries / Puzzle / Game	Rs. 10000/-	30%	30%
194C(1)	Payment to Contractors	Rs. 30000/- for single payment	1%	2%
194C(2)	Payment to Sub-Contractors / for Advertisements	Rs. 75000/- for aggregate payment during Financial Year		
194 H	Commission or Brokerage	Rs. 5000/-	10%	10%
194 I	Rent of Land, Building or Furniture	Rs. 180000/-	10%	10%
	Rent of Plant & Machinery	Rs. 180000/-	2%	2%
194 IA	Transfer of Immovable Property (w.e.f. 01.06.2013)	Rs. 50 lacs	1%	1%
194 J	Professional / technical services, royalty	Rs. 30000/-	10%	10%
194 J(1)	Remuneration / commission to director of the company	-	10%	10%
194J(ba)	Any remuneration / fees / commission paid to a director of a company, other than those on which tax is deductible u/s 192.	-	10%	10%



**Notes:**

- i. No surcharge or education cess is deductible / collectible at source on payments made to residents {Individuals / HUF / Society / AOP / Firm / Domestic Company) on payment of incomes other than salary or wages.
- ii. TDS at higher rate of 20% or TDS rate, whichever is higher, has to be deducted if the deductee does not provide PAN to the deductor.(section 206AA)

All persons who are required to deduct tax at source or collect tax at source on behalf of Income Tax Department are required to apply for and obtain Tax Deduction or Tax Collection Account Number (TAN).

**4. What are the consequences of failure to deduct tax?**

Interest - 1% of the tax deductible per month of default.

Penalty - equal to the amount of tax deductible but not deducted.

**5. What are due dates for depositing TDS?**

Month/s	Due Dates
April to February	7th of next month
March	30th April

**Consequences of default in depositing TDS:**

**Interest @ 1.5%** per month of tax not deposited is payable u/s 201(A).

**Punishable** with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine under Section 276(B).

**6. When is TDS certificate issued?**

**1. Section 192 (TDS on Salary):**

The certificate on Form No. 16 should be issued by the deductor by 31st day of May of the financial year immediately following the financial year in which the income was paid and tax deducted.

**2. In all other cases:**

The certificate on Form No. 16A should be issued within fifteen days from the due date for furnishing the "statement of TDS" under rule 31A.

**Penalty on Failure to Issue TDS Certificate:** Rs. 100/- every day for the period failure continues subject to a maximum of TDS amount.

**7. What forms are to be submitted for Quarterly Returns of TDS?**





There are four returns of TDS which are to be filed by all assesses, namely 24Q, 26Q, 27Q and 27QE. The contents of these return is as under:

Form	Content
24Q	Details of deduction made on payment of salary given to Resident employee.
26Q	Details of deduction made on payment (other than salary) to Residents.
27Q	Details of deduction made on payment made to Non-Resident
27QE	Details of tax collected at source u/s 206C of the Act.

The due dates for submitting TDS Returns are as follows:

Quarter ending	Due date, if deductor is an office of the Government	Due Date for others
30th June	31st July	15th July
30th September	31st October	15th October
31st December	31st January	15th January
31st March	15th May	15th May

From F.Y. 2013-14, the TDS department has made it mandatory for all assesseees to file online self declaration stating the reasons for those forms which are not applicable to them.

**8. What kind of penalties shall be levied in case of failure or default in submitting TDS returns?**

**Penal Provisions for failure / default in submitting returns /statements**

Section 272A(2)	Failure to submit returns prescribed under Section 200(3)  Penalty of Rs. 100/- per day during which the failure continues upto a maximum of TDS amount.
Section 234E	Failure to submit TDS return in time Fee of Rs. 200/- per day during which the failure continues will be levied on deductor as long as the default continues, subject to a maximum of TDS amount.
Section 271H	(i) If deductor defaults for more than 1 year in filing TDS Statement  (ii) If deductor furnishes incorrect details like PAN, TDS amount, Challan particulars etc.  Penalty which shall not be less than ten thousand rupees but which may extend to one lakh rupees.



## ASSESSMENT

### 1. What is the difference between 'Intimation' and 'Assessment'?

After you file the return, the Income Tax Department 'processes' your return at the Centralized Processing Center (CPC). At this stage, the return is verified for arithmetical accuracy and for validity of claim of deductions from total income etc. If any refund is due or if any tax is payable on processing the return, 'Intimation' is sent to the assessee with refund order or the challan as the case may be.

In case of assessment, a small number of returns are picked up based on predetermined criteria. These returns are thoroughly scrutinized by calling the assessee in the office of Income Tax Officer. The assessee may personally remain present. However, usually an Authorised Representative of the assessee attends before the Income Tax Officer with the required details. There after the Income Tax Officer passes an 'order' which is known as assessment order. The whole procedure is known as scrutiny assessment.

It should be noted that the scrutiny assessments can be conducted in two ways based on the criteria on which your case is selected. The case can be selected on the basis of information gathered from Annual Information Return (AIR) based on set parameters. A few of the criterion are as below:

No.	Nature of Transactions
1.	Cash Deposited in savings accounts of more than Rs. 10 lacs
2.	Credit Card payments exceeding Rs. 2 lacs.
3.	Payment of amount of Rs. 2 lacs or more for purchase of Mutual Funds.
4.	Payment of amount of Rs. 5 lacs or more for purchase of Bonds or Debentures.

In such cases, the queries made on the basis of information contained in AIR will be specific and to the point. The information and evidences provided in reply is sufficient, the personal attendance of the assessee or the authorized representative is not essential. Such scrutiny assessments are called 'Limited Scrutiny Assessments'.

If the case is selected on the basis on other parameters set by the Income Tax Department, the ITO can call for detailed information and explanation as discussed below in answer to Question No. 4. Such assessments are called 'Complete Scrutiny Assessments'.



- 
- 2. My returned income is Rs.4,00,000/-. My case is picked up for scrutiny assessment. The Income Tax officer (ITO) makes an addition of Rs.1,00,000/ - vis-à-vis certain expenses claimed by me. I do not agree with the addition made by ITO. What recourse is available to me?**

The Income tax Act has provided for filing appeals in such cases. The first appellate authority is the Commissioner (Appeals). Subsequently the matter can be taken to the Income Tax Appellate Tribunal, then to the High Court and Supreme Court.

- 3. Some demand has been raised by my Assessing officer after assessment. Can I pay this demand in installments or seek time till my appeal is settled?**

Yes. You may approach your Income Tax Officer (ITO) within 30 days of receipt of demand notice for installments or stay of demand. It is at the discretion of ITO to grant or not to grant stay or installments. If you are not satisfied with the decision of ITO, you may approach his higher officers. However you are liable to pay interest for delay in payment of demanded tax.

- 4. What are the matters / questions / details which are asked in a scrutiny assessment?**

Each case in a scrutiny assessment has its own peculiar facts. There may be specific questions to each case. However following are the areas in respect of which generally the tax payer is required to give the details or explanations:

(a) From Balance Sheet:

- (i) Details and explanation for gifts received and shown in capital account.
- (ii) Confirmations of new loans taken during the year.
- (iii) Sanction letter for loans taken from banks / financial institutions.
- (iv) Details of creditors for expenses.
- (v) Details and copies of bills for addition to fixed assets during the year.
- (vi) Details of new investments made during the year.
- (vii) Calculation / working of closing stock of medicines / consumables.
- (viii) Details of advances given as appearing in balance sheet.
- (ix) Bank reconciliation statements in respect of all the bank accounts.



---

(b) From Income and Expenditure Account :

- (i) Monthly break up of fees received.
- (ii) Correlation of 'Other Income' like dividends, interest etc with investments shown in Balance Sheet.
- (iii) Details of Tax free income.
- (iv) Details of all major expenses.
- (v) Details of interest paid on loans taken.
- (vi) If any interest, rent, salary or other expenses are paid to relatives, justification that the said payments to relatives are as per market rates. (In case of unreasonableness ITO can disallow the unreasonable part of the expenses).
- (vii) Details of interest free advances made out of borrowed money. (In such a situation, it is possible that ITO may disallow the interest paid).
- (viii) Details and justification of foreign tour expenses.
- (ix) Details of House hold expenses.
- (x) Details and proofs of deductions claimed in the return of income.



## SURVEY AND SEARCH

### 1. What is the difference between 'Survey' and 'Search'?

In case of a 'Survey' the Income Tax Officers come to the place from where the business / Profession is carried on and makes inquiries. Their purpose is to find out Tax Evasion. The powers of the Income Tax Department are limited as compared to the powers available in case of a 'Search'.

In case of a 'Search' the Income Tax Officers 'Search' the place of business / professional premises and also the residential premises. If the 'Search' is in case of a firm, the residential premises of the partners are covered in the 'Search'. If the assessee is a company, the residential premises of all the directors are covered in the 'Search'. Over and above, sometimes the residential premises of the key personnel like accountant, manager, relatives etc are also covered in the 'Search'.

### 2. What are the powers of Income Tax Department in case of a 'Search' and a 'Survey'?

No.	Powers in a 'Search'	Powers in a 'Survey'
1.	enter and search any building, place, vehicle, vessel or aircraft (whether or not business / profession is carried on from such premises)	enter only such premises from where business or profession is carried on. If the books of account or other documents or stock or cash etc are kept at any other place, such a place can be covered in a 'Survey'. The departmental officers of the Survey team can enter only during business hours.
2.	break open the lock of any door, box, locker, safe, almirah or other receptacle where keys thereof are not available.	no such express powers
3.	search any person who goes out of the premises etc or comes inside.	no such power
4.	can inspect books of account or other documents maintained by another person in the form of electronic record.	can inspect books of account or other documents.
5.	seize books of account, other documents, money, bullion, jewellery or other valuable article or thing (except stock-in-trade) found during the search.	no such power of seizure. However impounding of books of account and other documents after recording reasons for doing so, is permitted.
6.	place marks of identification on any books of account or other documents or make extracts or copies therefrom.	place marks of identification on any books of account or other documents or make extracts or copies therefrom.
7.	make a note or inventory of any money, bullion, jewellery or other valuable article or thing.	make a note or inventory of any money, bullion, jewellery or other valuable article or thing.
8.	requisition of services of police officer or other government staff	no such power.
9.	to examine on oath any person who is found in possession or control of books of account, other documents, money, bullion, jewellery or other valuable article or thing.	to record a statement of any such person which may be useful or which is relevant to any proceeding under the Act.



---

### **3. When is a 'Search' made by the Income Tax Department?**

Normally a 'Search' is made on the basis of 'Information' received by the Income Tax Department of the Tax Evasion by a particular assessee. The Income Tax Officer undertaking a 'Search' has to record his 'reason to believe' that the assessee has done or is likely to do Tax Evasion.

### **4. How does the Income Tax Department gather the 'information' about the tax evasion by an assessee?**

The possible sources of 'Information' can be any of the following:

- (a) A disgruntled employee,
- (b) A rival business source,
- (c) Information unearthed in another 'Search' by Income Tax Department,
- (d) Information unearthed in another 'Search' by other Government Departments like Excise and Customs, VAT etc,
- (e) Internal Intelligence worked upon by the Income Tax Officer.

On receipt of the 'Information' from the 'Informants', the Income Tax Department, through the Income Tax Officers of a special cell viz. 'Investigation Wing', makes a preliminary verification about the authenticity of the 'Information'. Thereafter the 'Search' is made.

### **5. What are the rights of assessee in case of a 'Search'?**

The following are the rights of a person searched:

- a. To see the warrant of authorization duly signed and sealed by the issuing party.
- b. To verify the identity of each member of the search party.
- c. To make personal search of all the members of the search party before the start of search and after conclusion of search.
- d. To insist on personal search of ladies being taken only by a lady, with strict regard to decency.
- e. To have at least two responsible and independent residents of the locality as witnesses.



- 
- f. A lady occupying an apartment being searched has a right to withdraw before the search party enters, if, according to custom, she does not appear in public.
  - g. To call a medical practitioner in case of emergency.
  - h. To allow the children to go to school, after checking their bags.
  - i. To have the facility of having meals, etc, at normal time.
  - j. To inspect the seals placed on various receptacles, sealed in course of search and subsequently at the time of opening the seals.
  - k. Every person who is examined u/s 132(4) has a right to ensure that the facts so stated to him have been recorded correctly.
  - l. To have a copy of Panchnama together with all the annexures.
  - m. To have a copy of any statement that is used against him by the department.
  - n. To have inspection of the seized books of account, etc, or to take extracts there from in the presence of any of the authorized officers or any other person empowered by him.

**6. What is meant by a 'disclosure' during a 'Search'?**

During the course of search proceedings if any money, bullion, valuable article or thing or documents are found which have not been recorded in books of account or which is not declared in the return of income, then such items are said to be 'undisclosed' which may result into undisclosed income. If the assessee makes a 'Disclosure' of such items of income, he can get immunity from penalty. The disclosure of income has to be such that it is exigible to immunity as provided under the Act. Such 'Disclosure' has to be made in the statement recorded during the continuance of the Search. Further the assessee has to substantiate the manner in which such undisclosed income has been earned and the tax together with interest is paid on such undisclosed income.

**7. What are the proceedings undertaken after a 'Search'?**

After the 'Search' party leaves the assessee's premises it will prepare its Appraisal report. At this stage the assessee may be called at the Income Tax Office to give clarifications as may be required. The Appraisal report is department's internal document giving the summary of the preliminary assessment / views of the Investigation Wing. The seized Jewellery / Valuable



---

Articles are deposited in Safe Deposit Vault in the Income Tax Office. The cash seized is deposited in the income Tax Office. The Appraisal report and the books of account and other documents are sent to the Income Tax Officer who has jurisdiction over the assessee. This Income Tax Officer will issue notice to file returns of income for the six years preceding to the year in which search is carried out as well as for the year of search. The assessee has to file the returns separately for all the years. Based on the books of account and other documents seized as well as considering the seizure of cash, jewellery etc, the assessee will have to file his clarifications and explanation. Thereafter the Income Tax Officer after considering all the evidence and submissions filed by the assessee, the Income Tax Officer will make separate assessments for all the years. If the assessee is not satisfied with the assessment done by the Income Tax Officer, he can file an appeal.

**8. What is a 'Panchnama' and what is the role of 'Panchas'?**

The Search party can start the search operation at the searched premises only after a proper 'Panchnama' is drawn. The assessee has a right to call two persons known as 'Panchas', who are witnesses of the search operations. Only those departmental officials who are named in the Panchnama can remain present in the searched premises. The 'Panchas' can record their observations if the search party has used any coercion during the search operations.





---

## LOANS AND DEPOSITS

- 1. I want to take a loan of Rs.21,000/- in cash from my wife. What are the consequences if I take such a loan?**

Under the Income Tax Act if any loan is taken of a sum of Rs.20,000/- or more otherwise than by an account payee cheque, the person accepting the loan will be liable to penalty equal to the amount of loan accepted. In the above example since the loan is accepted in cash, it will be a loan otherwise than by account payee cheque. You will be liable to a penalty of Rs.21,000/-. The fact that the loan is accepted from your wife (relative) will not make any difference. However if a 'reasonable cause' is established, the penalty may not be levied or if levied it may be deleted by the appellate authority.

- 2. I have taken a loan of Rs.18,000/- in cash from my friend on 10-04-2015. I borrow Rs.5,000/- from the same friend again on 12-06-2015. On each date the amount is below Rs.20,000/-. Whether I will be liable to penalty?**

Yes. You will be liable to penalty. The aggregate amount is to be considered.

- 3. I have taken a loan of Rs.50,000/- from my son. I want to repay Rs.25,000/- to him. I pay him cash. What are the consequences of such repayment in cash?**

Under the Income Tax Act if any loan is repaid of a sum of Rs.20,000/- or more otherwise than an account payee cheque, the person repaying the loan will be liable to penalty equal to the amount of loan repaid. In the above example since the loan is repaid in cash, it will be a repayment of loan otherwise than by account payee cheque. You will be liable to a penalty of Rs.25,000/-. The fact that the loan is from your son (relative) will not make any difference. The penalty provisions apply even to a part payment. In the above example even if Rs.4,000/-(i.e. any amount below Rs.20,000/-) is repaid in cash the penal provisions will apply. However in appellate proceedings if a 'reasonable cause' is established, the penalty may not be levied or if levied it may be deleted by the appellate authority.

- 4. I have relocated from Mumbai to Ahmedabad. I own three properties in and around Mumbai viz. residential flat in Andheri, farm house in Lonavala and clinic in Andheri. I plan to sell all these three properties and I have found prospective buyers for all three properties. The buyers are ready to pay token "cash" amount of Rs. 11,000/-, Rs. 1,11,000/- and Rs. 50,000/- respectively for booking these properties. The sum will be returned in case the deal doesn't get crystallized in 1 week. Whether I can accept the same?**

No. From 01-04-2015 onwards, sums receivable as advance or otherwise in relation to transfer of any immovable property, whether or not the transfer takes place, are covered in the ambit of above provisions as explained in the first question. Thus, even if the amount is to be returned ultimately and is actually returned, the transaction will be in violation of the Income Tax Act provisions.



---

## **OFFICE OF INCOME TAX OMBUDSMAN**

The Office of Ombudsman has been established to address the grievances of tax payers. A taxpayer can file a complaint in the office of Ombudsman for the matters specified under the guidelines in this respect. The most common complaint of tax payers is non receipt of refund for which a complaint can be filed in the office of Ombudsman. However this complaint can be made only after the tax payer has filed a complaint in the office of his ITO and the higher officers, and there has been no response from the ITO and the higher officers. The details and text of guidelines are available on web site of Income Tax Department at [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in) .

Further the grievance application for non receipt of Refunds can also be filed through the PMO India website.



## PENALTIES UNDER INCOME TAX ACT

No.	Section	Brief explanation of penalty
1.	271(1)(b)	Failure to comply with scrutiny and certain other notices—Rs.10,000/- for each default
2.	271(1)(c)	Concealment of Income etc—100 % to 300 % of Tax Evasion
3.	271A	Failure to maintain books of account and other documents—Rs.25,000/-
4.	271AAA	Undisclosed income found during Search—10 % of undisclosed income
5.	271B	Failure to get Tax Audit done / obtain Tax Audit report—1/2 % of Gross Receipts in profession or Rs.1,50,000/-, whichever is less
6.	271C	Failure to deduct tax at source (TDS)—sum equal to the TDS not deducted
7.	271D	Acceptance of loan / deposit of Rs.20,000/- or more otherwise than by an account payee cheque—sum equal to amount of loan / deposit so accepted
8.	271E	Repayment of loan / deposit of Rs.20,000/- or more otherwise than by an account payee cheque—sum equal to amount of loan / deposit so repaid
9.	271F	Failure to file return of income before the end of relevant assessment year—Rs.5,000/-
10.	272A(1)	Refusal to answer any question or give statement or attend in compliance of a summons—Rs.10,000/-
11.	272A(2)	Failure to submit certain returns, forms etc—Rs.100/- per day (subject to maximum limits prescribed for certain specified defaults.)

The table below shows some of the **important penalty sections** under the Income Tax Act.

### 2. Over and above Penalty, whether Prosecution can be done?

Yes. There are certain situations in which one may be Prosecuted over and above the levy of Penalty. In case of Prosecution the law provides for rigorous imprisonment and / or fine.

### 3. Are there any provisions for Waiver of Penalty?

Yes. The law provides for an Application to be made for Waiver of Penalty and also for the mechanism for adjudication of such a Waiver Application.



---

## HUF

### 1. What is the meaning of HUF ?

HUF means Hindu Undivided Family. A family of a Hindu is a Hindu Undivided family. As held by Honorable Supreme Court of India, Jains and Sikhs are also hindus and have HUF status.

### 2. Is it a separate entity for Income tax ?

Yes, it is a separate entity for Income tax, if it has capital / funds, income earned there from is separate income of H.U.F. Under Income Tax Act, HUF enjoys a basic exemption same as that an individual enjoys. The slab rates to income tax are the same as those for an Individual. Please refer Q9 in the section "General" for slab wise tax rates for an Individual. HUF can also avail of the deductions under section 80C, 80D etc. In short, HUF will be liable to income tax almost similar to that in the case of an Individual.

### 3. What is the composition of HUF ?

HUF comprises of male and female members of a hindu family. The male members are known as Coparceners, though both males and females are members of HUF. Generally the male head of the family is known as Karta. Daughters, married and unmarried, are members of their father's HUF e.g. Mr. Anand's family comprises of following (all names are assumed, resemblance to reality may be accidental and is unintentional) : However, w.e.f. September, 2006, by way of an amendment in Hindu sucession Act, married daughter gets equal rights to share the assets like a co-parcener.

- Mr. Anand,
- Mrs. Rukshmani (wife)
- Mr. Rohan (son)
- Mrs Radha (son's wife)
- Mrs Savita (married daughter of Anand)
- Miss Kamini (unmarried daughter of Anand)

Here there are two HUFs. Mr. Anand's HUF comprises of all the above persons, known in common parlance as 'Greater' or 'Bigger' HUF and Mr. Rohan's HUF comprises of himself and his wife, Radha, known in common parlance as 'Smaller HUF'.

### 4. How does HUF come into existence ?

HUF comes into existence when a hindu male gets married. Generally married hindu makes a mistake when he says that he does not have an HUF. What he means to say is that his HUF does not have any capital / funds. The funds in HUF may be received by way of gift or on full / partial partition of HUF.



#### 5. Whether HUF can receive gifts ?

Yes HUF can receive gifts. If such gifts are a sum of money and the aggregate gifts exceed Rs.50,000/- in a financial year, the total amount will be considered as income liable to income tax. If the gift is from any 'coparcener / member' of HUF, the income from the gifted amount will be clubbed in the hands of donor.

#### 6. When does an HUF cease to exist ?

HUF ceases to exist when any of the following event occurs :

- On total partition of HUF,
- There is left only one member in HUF due to death of other member/s or for any other reason.

#### 7. What is 'Partition' of HUF ?

'Partition' means:

- (i) separation of coparcener / member from HUF.

OR

- (ii) The division of property between the coparceners / members of the HUF.

This means that partition can be vis-à-vis members or in respect of property. There can be two types of partitions – full or partial partition. Full partition takes place when all the properties of HUF are divided between all the coparceners / members. There is severance of status, HUF does not continue after the full partition. Partial partition can be as to the property or as to the members. This means that when some of the properties are partitioned, it is called 'partial partition'. Similarly if one or more members go out of the HUF, it is called 'partial partition'.

It is advisable to have a written document of partition. However, a partition of HUF has tax implications under Income Tax Act and also stamp duty implications under the stamp duty provisions of respective state government.

#### 8. To whom does the fund belong on cessation or partition of HUF ?

If we consider the example in Q.3 above, then the following position emerges :

- On expiry of Mr. Anand, Greater HUF viz. Anand HUF will continue to exist with Mr. Rohan as its Karta. Mr. Anand's share in HUF funds will go out of HUF funds and the remaining funds will remain in Anand HUF only.
- On partition of Mr. Anand HUF the amounts coming to each one will be of the ownership as per table below :

No.	Name	Ownership
1.	Anand	his individual
2.	Rukshmani	her individual
3.	Savita	her individual
4.	Kamini	her individual
5.	Rohan	Rohan HUF



---

## **PROFESSION TAX**

(As applicable in the State of Gujarat)

### **1. What is 'Profession Tax'?**

Profession Tax in the State of Gujarat is a TAX levied by Local Authorities like Municipalities, Municipal Corporations, District Panchayats etc with effect from 1<sup>st</sup> April, 2008. Before that date, Profession Tax was levied by the State Government.

This tax is payable by entities like businessmen, professionals, persons engaged in vocation and employees. Limited companies and partnership firms are also liable to pay Profession Tax. Charitable Trusts and other entities engaged in business are also liable to pay Profession Tax.

### **2. Whether a doctor is liable to pay Profession Tax?**

Yes. Doctors are liable to pay Profession Tax. You will have to apply for and obtain an 'Enrollment Number'. Failure to obtain such a number within 60 days from the date of commencement of profession attracts a penalty of Rs. 20 per day till such person remains unregistered.

### **3. What is the amount of Profession Tax payable by a doctor?**

The amount of Profession Tax payable by doctors is Rs. 2000/- per annum.

### **4. If I have any employee/s what is his liability towards Profession Tax?**

If you are paying any salary or wages to any employee / worker of Rs. 6,000/- or more per month, you are liable to deduct Profession Tax from the salary or wages so payable. Such deduction has to be made before the salary / wages are paid. You will have to obtain a separate Registration number for this purpose. If you fail to deduct the Profession Tax, you will have to pay the Tax.



**5. What is the amount of Profession Tax to be deducted from the salary of employee/s?**

The amount of Profession Tax to be deducted from the salary / wages is as per table below:

No.	Monthly Salary / wages Rs.	Profession Tax deductible per month Rs.
1.	0-5,999	Nil
2.	6,000-8,999	80
3.	9,000-11,999	150
4.	12,000 and more	200

**6. Where should I deposit the Profession Tax?**

The Tax should be deposited in the offices of Municipal Corporation or Municipality or District Panchayat as the case may be. If the said local authorities have sub divisional offices / civic centers then the tax should be deposited in the sub divisional office / civic centers. The same has to be deposited within 15<sup>th</sup> day from the end of the quarter in case there are 20 or less employees or within 15<sup>th</sup> day from the end of the month in case there are more than 20 employees. Late payment of tax will attract an interest of 18% per annum with penalties.

**7. Where should I file the Returns of Profession Tax?**

The Returns should be filed in the offices of Municipal Corporation or Municipality or District Panchayat as the case may be. If the said local authorities have sub divisional offices / civic centers then the Returns should be filed in the sub divisional office / civic centers. The returns are to be filed monthly or annually in Form 5 or 5B or 5AA depending on the type and structure of the establishment.



---

## WILL

### 1. Is it advisable to prepare a WILL ?

Yes. It is advisable to prepare a WILL. It will help the heirs in :

- Avoiding the misunderstandings between the heirs,
- Proper distribution of wealth,
- Making sufficient provision for comfortable life of wife,
- Tax planning vis-à-vis wealth.

### 2. Can a WILL be prepared on plain paper ?

Yes, A WILL can be prepared on plain paper. In other words no stamp paper is required. It can be hand written also.

### 3. Is a WILL required to be 'Registered' ?

No. A WILL is not required to be Registered. However it may be advisable to get it Registered to avoid dispute about its authenticity.

### 4. Is there a fixed format in which a WILL is to be prepared ?

No. There is no fixed format in which a WILL has to be prepared. It should contain the names of 'Executors', who execute the directions given in the WILL after the death of the person making the WILL. It should contain the names of all the persons to whom the wealth is given through the WILL, with proper and clear narration of the wealth bequeathed. However the WILL should be written in such a way that it leaves no scope for ambiguity.

### 5. Is it advisable to have a provisions of 'Trust' in WILL ?

Yes. Many people make a provision of a 'Trust' in WILL. Such a 'Trust' is generally a 'Discretionary' trust, where the share of beneficiaries in the income and corpus is not fixed but is left to the discretion of the Trustees. The WILL shall have the name of the trust, the names of trustees, the names of beneficiaries, the powers and duties of the trustees, the period of Trust etc. A certain fixed amount is generally bequeathed on such a Trust. The trust comes into existence on the death of the testator (person making the WILL). It is a tax planning tool since such a Discretionary Trust, If it is the only Trust under the WILL, will be liable to pay income tax as if it is an 'Individual'. Hence it enjoys the basic exemption limit and the slab rates of income tax as applicable to an individual.





## WEALTH TAX

### 1. Whether I am liable to pay Wealth Tax for WTAY 2015-16 onwards?

There is no Wealth Tax payable in India from WTAY 2015-16 onwards.

## COST INFLATION INDEX

Sr. No.	Financial Year	Cost Inflation Index	Sr. No.	Financial Year	Cost Inflation Index
1.	1981-1982	100	18	1998-1999	351
2.	1982-1983	109	19	1999-2000	389
3.	1983-1984	116	20	2000-2001	406
4.	1984-1985	125	21	2001-2002	426
5.	1985-1986	133	22	2002-2003	447
6.	1986-1987	140	23	2003-2004	463
7.	1987-1988	150	24	2004-2005	480
8.	1988-1989	161	25	2005-2006	497
9.	1989-1990	172	26	2006-2007	519
10.	1990-1991	182	27	2007-2008	551
11.	1991-1992	199	28	2008-2009	582
12.	1992-1993	223	29	2009-2010	632
13.	1993-1994	244	30	2010-2011	711
14.	1994-1995	259	31	2011-2012	785
15.	1995-1996	281	32	2012-2013	852
16.	1996-1997	305	33	2013-2014	939
17.	1997-1998	331	34	2014-2015	1024
			35	2015-2016	1081





## Office Bearers

CA. Yamal A. Vyas  
**President**

CA. Raju C. Shah  
**Vice - President**

CA. Nirav R. Choksi  
**Hon. Secretary**

CA. Dilip U. Jodhani  
**Hon. Secretary**

### **Executive Committee Members**

CA. Atul R. Shah

CA. Devang A. Doctor

CA. Jainik N. Vakil

CA. Kunal A. Shah

CA. Purushottam H. Khandelwal

CA. Bhupendra M. Shah

CA. Mukesh O. Parikh

CA. Rutvij P. Shah

CA. Shrenik A. Shah

### **Imm. Past President**

CA. Shailesh C. Shah

### **Co-opted Members**

CA. Ajit C. Shah

CA. Bipinchandra M. Shah

CA. Durgesh V. Buch