



HANDBOOK ON
EXEMPTIONS
UNDER
THE
INCOME TAX ACT 1961



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

Vision Statement

"The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally."

Mission Statement

"The Cost and Management Accountant professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting"

Objectives of Taxation Committee:

1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
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President's Message



I would like to acknowledge the contribution of Tax Research Department in taking the opportunity in bringing out the Handbook on '**Exemptions under the Income Tax Act, 1961**'.

The Income Tax Act of 1961 has 298 Sections and XIV Schedules. Under the provisions of the Act, certain incomes are fully exempt and certain incomes are partly exempt as specified in Section 10. Such incomes are not included in the computation of total income. The specified exemptions include Income from Agriculture, Sum received as refund of LIC Policy, Receipt of Provident Fund of Employer Contribution & Interest, Interest on notified Bonds, Income of Local Authority, Income of CERC, IRDA & certain other institutions, Long Term Capital Gain and so on. Partial Exemptions, i.e., exemptions subject to certain limits under Section 10 include HRA, LTC, Superannuation Fund, Gratuity, Commuted Pension, Retirement Compensation etc. One need to be fully conversant with all the provisions of Section 10 so as to make full use of the exemptions available and thus one can plan the tax liability under the ambit of law. Section 10 also covers special provisions in respect of newly established undertakings in SEZ.

Section 80 specifies the deductions allowable in the computation of total income. Such incomes are included in the computation of Gross total income and Net taxable income is computed after allowing deductions under Section 80 of the Income Tax Act. The popular deductions amongst the individual assesseees include Section 80C i.e. deductions based on investment and savings and Medical insurance (Section 80D). The deduction relevant to business entities are specified under Section 80IA & onwards.

This publication deals all aspects of exemptions as well as deductions available in the Income Tax Act, 1961. Special provisions specified in Section 10 in respect of undertakings set up in SEZ are also covered in this publication.

I would also like to congratulate Team – Tax Research for nurturing the Handbook on "**Exemptions under the Income Tax Act, 1961**", other members of the Taxation Committee and Tax Research Department of the Institute for bringing this out.

CMA Balwinder Singh

President

Date: 21.12.2019

Chairman's Message



Congratulations to Tax Research Department on their successful accomplishment of the Task of publishing the Handbook on "**Exemptions under the Income Tax Act, 1961**". I along with my colleagues at The Council of The Institute of Cost Accountants of India wish them all the luck for their endeavour. I acknowledge that this output in form of Handbook on 'Exemptions under the Income Tax Act, 1961' was the natural result of their outstanding efforts and toil.

We all, whether salaried or business have to bear the burden of Tax. Even our capital gain, house property and other incomes are being taxed... but the Government also provides us with certain exemptions.

Any income that an individual acquires or earns during the course of a financial year that is deemed to be non taxable is referred to as 'Exempt Income'. As per the Income Tax Act, there are specific kinds of income that are exempt from tax as long as these types of income fulfill the guidelines and provisions outlined in the Act. Exempt income comes in many forms such as the interest received through agricultural means, interest received through PPF, long term capital gains earned through shares and stocks, and much more. However, there is still some debate on what exactly constitutes 'exempt income', and whether such income is required to be declared by the taxpayer when filing his or her income tax returns.

I congratulate Team – Tax Research, for all their commitments and achievements. I acknowledge that the Tax Research Department is inspired and committed, on behalf of the Institute to put in efforts to contribute positively in this field.

Jai Hind.

A handwritten signature in blue ink, which appears to read 'Rakesh Bhalla'. Below the signature, the name '(Rakesh Bhalla)' is printed in a small, black, sans-serif font.

CMA Rakesh Bhalla

Chairman – Direct Taxation Committee

Date: 21.12.2019

Chairman's Message



Congratulations Team - Tax Research on successful accomplishment of the ordeal of publishing the Handbook on '**Exemptions under the Income Tax Act, 1961**'. I truly wish them all the luck for all their activities and assure my whole hearted support. I acknowledge that this handbook was the result of their dedication and commitment.

Tax exemption is the reduction or removal a liability to make a compulsory payment that would otherwise be imposed by a the statute upon persons, property, income, or transactions. Tax-exempt status may provide complete relief from taxes, reduced rates, or tax on only a portion of items. Examples include exemption of [charitable organizations](#) from [property taxes](#) and [income taxes](#), veterans, and certain cross-border or multi-jurisdictional scenarios.

Tax exemption generally refers to a statutory exception to a general rule rather than the mere absence of taxation in particular circumstances, otherwise known as exclusion. Tax exemption also refers to removal from taxation of a particular item rather than a deduction.

In India there are various ways in which individuals or corporate or different bodies can get exemptions. I am happy to note that this handbook addresses most of these aspects.

I look forward to the department for continuing this important work towards fulfilling the vision of members and stakeholders. I congratulate the team for their efforts and toil. I wish them all the Luck!!

CMA Niranjana Mishra

Chairman – Indirect Taxation Committee

Date: 21.12.2019

Preface

It is generally believed that one person cannot have the best of both the worlds, especially when it comes to income and taxation. The more one earns, the more would be the tax liability. But, not many people are aware that this is not completely true and there exist certain types of income for which income tax liability is zero.

Such incomes are not added to the total taxable income for that assessment year and thereby remain tax-free. Section 10 of the Indian Income Tax Act of 1961 lists the various incomes that come under this category.

Taxpayers are normally aware of deduction under the Income Tax Act, 1961 for which they are eligible but it is noticed that many taxpayers are found unaware of Taxability of Various Allowances and exemptions available to them under different sources of Income i.e. Salary, Business Income, House property other sources etc.

In this handbook an effort has been made to summarise Allowances /exemptions available to different categories of Tax Payers under Various sources of Income. We, at Tax Research Department are grateful to **CMA Balwinder Singh, President of the Institute** for his support to the Department as always. We are happy to have this opportunity to work on this handbook with **CMA Niranjan Mishra, Chairman – Indirect Taxation Committee** and **CMA Rakesh Bhalla - Direct Taxation Committee** along with the members of both the Taxation committees for being our guiding star. We are deeply indebted to **Advocate Tapas Majumder** who is our pillar of support.

Thank You.

Tax Research Department

Date: 21.12.2019

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CHAPTER 01

EXEMPTED INCOMES (SECTION 10)

Any income earned which is not subject to income tax is called exempt income. As per Section 10 of the Income Tax Act, 1961, there are certain types of income which will be subjected to income tax within a financial year, provided they meet certain guidelines and conditions.

List of Exempted Incomes:

1. Agricultural Incomes [Section 10(1)]
2. Any sum received by a Co-parcener from Hindu Undivided Family (H.U.F.) [Section 10(2)]
3. Share of Income from the Firm [Section 10(2A)]
4. Interest paid to Non-Resident [Section 10(4)(i)]
5. Interest to Non-Resident on Non-Resident (External) Account [Section 10(4)(ii)]
6. Interest paid to a person of Indian Origin and who is Non-Resident [Section 10(4B)]
7. Leave Travel Concession or Assistance (LTC/LTA) to an Indian Citizen Employee [Section 10(5)]
8. Remuneration received by an individual who is not a citizen of India [Section 10(6)]
9. Tax paid by Government or Indian concern on Income of a Foreign Company [Section 10(6A), (6B), (6BB) and (6C)]
10. Perquisites and Allowances paid by Government to its Employees serving outside India [Section 10(7)]
11. Employees of Foreign Countries working in India under Cooperative Technical Assistance Programme [Section 10(8)]
12. Income of a Consultant [Section 10(8A)]



13. Income of any member of the family of individuals working in India under co-operative technical assistance programme [Section 10(9)]
14. Gratuity [Section 10(10)]
15. Commuted value of pension received [Section 10(10A)]
16. Amount received as leave encashment on retirement [Section 10(10AA)]
17. Retrenchment compensation paid to workmen [Section 10(10B)]
18. Compensation received in case of any disaster [Section 10(10BC)]
19. Retirement Compensation from a Public Sector Company or any other Company [Section 10 (10C)]
20. Tax on Non-monetary Perquisites paid by Employer [Section 10(10CC)]
23. Tax on Non-monetary Perquisites paid by Employer [Section 10(10CC)]
24. Any sum received under a Life Insurance Policy [Section 10(10D)]
25. Payment from Statutory Provident Fund [Section 10(11)]
26. Payment from Recognised Provident Fund [Section 10(12)]
27. Payment from Superannuation Fund [Section 10(13)]
28. House Rent Allowance-HRA [Section 10(13A) Read with Rule 2A]
29. Any Allowance given for meeting Business Expenditure [Section 10(14)]
30. Interest Incomes [Section 10(15)]
31. Scholarship to meet the Cost of Education [Section 10(16)]
32. Allowance of M.P./M.L.A. or M.L.C. [Section 10(17)]
33. Awards Instituted by Government [Section 10(17A)]
34. Pension received by certain winners of gallantry awards [Section 10(18)]



35. Family pension received by family members of armed forces including para military forces [Section 10(19)]
36. Income of a local authority [Section 10(20)]
37. Income of Scientific Research Association [Section 10(21)]
38. Income of a News Agency [Section 10(22B)]
39. Income of some Professional Institutions [Section 10(23A)]
40. Exemption of Income Received by Regimental Fund [Section 23AA]
41. Income of a Fund set-up for the welfare of employees or their dependents [Section 10(23AAA)]
42. Income of a pension fund set up by LIC or other insurer [Section 10(23AAB)]
43. Income of State Level Khadi and Village Industries Board [Section 10(23BB)]
44. Income of certain authorities set up to manage exclusively for Religious and/or Charitable Institutions [Section 10(23BBA)]
45. Income of European Economic Community [Section 10(23BBB)]
46. Income of a SAARC Fund for regional projects [Section 10(23BBC)]
47. Any income of Insurance Regulatory and Development Authority [Section 10(23BBE)]
48. Income of Prasar Bharti [Section 10(23BBH)]
49. Any income received by a person on behalf of certain Funds [Section 10(23C)]
50. Income of Mutual Fund [Section 10(23D)]
51. Exemption of income of a securitisation trust [Section 10(23DA)]
52. Income of Investor Protection Fund [Section 10(23EA)]
53. Exemption of income of investor protection fund of depository [Section 10(23ED)]



54. Exemption for Certain Incomes of a Venture Capital Company or Venture Capital Fund from Certain Specified Business or Industries [Section 10 (23FB)]
55. Income of Registered Trade Unions [Section 10(24)]
56. Income of Provident and Superannuation Funds [Section 10(25)]
57. Income of Employee's State Insurance Fund [Section 10 (25A)]
58. Income of Schedule Tribe Members [Section 10(26) and 10(26A)]
59. Income of Sikkimese individual [Section 10(26AAN)]
60. Regulating the marketing of agricultural produce [Section 10[26AAB]
61. Income of a corporation set-up for promoting the interests of Scheduled Castes, Scheduled Tribes or Backward Classes [Section 10(26B)]
62. Income of a corporation set-up to protect the interests of Minorities [Section 10(26BB)]
63. Any income of a corporation for ex-servicemen [Section 10(26BBB)]
64. Income of cooperative society looking after the interests of Scheduled Castes or Scheduled Tribes or Both [Section 10(27)]
65. Any income accruing or arising to Commodity Boards etc. [Section 10(29A)]
66. Amount received as subsidy from or through the Tea Board [Section 10(30)]
67. Amount received as subsidy from or through the concerned Board [Section 10(31)]
68. Income of Child Clubbed U/s 64 (IA) [Section 10(32)]
69. Income by way of dividend from Indian company [Section 10(34)]
70. Exemption of income to a shareholder on buyback of shares of unlisted company [Section 10 (34A)]



71. Exemption of income from Units [Section 10(35)]
72. Exemption of income from Securitisation Trust [Section 10(35A)]
73. Capital Gain on compulsory acquisition of urban Agricultural Land [Section 10(37)]
74. Income from international Sporting event [Section 10(39)]
75. Exemption of 'specified income' of certain bodies or authorities [Section 10(46)]
76. Exemption of Income of a foreign company from sale of Crude Oil in India [Section 10 (48)]

Agriculture Income [Section 10(1)]

As per section 10(1), agricultural income earned by the taxpayer in India is exempt from tax. Agricultural income is defined under section 2(1A) of the Income-tax Act. As per section 2(1A), agricultural income generally means:

- a. Any rent or revenue derived from land which is situated in India and is used for agricultural purposes.
- b. Any income derived from such land by agriculture operations including processing of agricultural produce so as to render it fit for the market or sale of such produce.
- c. Any income attributable to a farm house subject to satisfaction of certain conditions specified in this regard in section 2(1A). Any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.

Any sum received by a Co-parcener from Hindu Undivided Family (H.U.F.) [Section 10(2)]

As per section 10(2), amount received out of family income, or in case of impartible estate, amount received out of income of family estate by any member of such HUF is exempt from tax. . .



Example-1.

HUF earned Rs.1,00,000 during the previous year and paid tax on its income. Mr. A, a co-parcener is an employee and earns a salary of Rs.25,000 p.m. During the previous year Mr. A also received Rs.50,000 from HUF. Mr. A will pay tax on his salary income but any sum of money received from his HUF is not chargeable to tax in Mr. A's hands.

Example-2.

HUF earned ` .75,000 during the previous year 2018-19 and it is not chargeable to tax. Mr. A, a co-parcener is earning individual income of Rs.40,000 p.m. Besides his individual income, Mr. A receives Rs.20,000 from his HUF.

Mr. A will pay tax on his individual income but any sum of money received by him from his HUF is not chargeable to tax in the hands of co-parcener whether the HUF has paid tax or not on that income.

Share of Income from the Firm [Section 10(2A)]

As per section 10(2A), share of profit received by a partner from a firm is exempt from tax in the hands of the partner. Further, share of profit received by a partner of LLP from the LLP will be exempt from tax in the hands of such partner. This exemption is limited only to share of profit and does not apply to interest on capital and remuneration received by the partner from the firm/LLP.

Interest paid to Non-Resident [Section 10(4)(i)]

As per section 10(4)(i), in the case of a non-resident any income by way of interest on certain notified securities or bonds (including income by way of premium on the redemption of such bonds) is exempt from tax.

As per section 10(4)(ii), in the case of an individual, any income by way of interest on money standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the Foreign Exchange Management Act, 1999, and the rules made thereunder is exempt from tax.



Exemption under section 10(4)(ii) is available only if such individual is a person resident outside India as defined in clause (q) of section 2 of the said Act or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account.

Interest to Non-Resident on Non-Resident (External) Account [Section 10(4)(ii)]

Any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India shall be exempt from tax in case of an individual who is a person resident outside India or is a person who has been permitted by the RBI to maintain the aforesaid account. The person residing outside India shall have the same meaning as defined under Foreign Exchange Regulation Act, 1973, FEMA, 1999. This exemption shall not be available on any income by way of interest paid or credited on or after 1-4-2005.

Interest paid to a person of Indian Origin and who is Non-Resident [Section 10(4B)]

In case of an individual, being a citizen of India or a person of Indian origin, who is nonresident, any income from interest on such savings certificates issued by the Central Government, as Government may specify in this behalf by notification in the Official Gazette, shall be fully exempt. The exemption under this section shall not be allowed on bonds or securities issued on or after 1-6-2002.

This exemption shall be allowed only if the individual has subscribed to such certificates in Foreign Currency or other foreign exchange remitted from a country outside India in accordance with the provisions of the Foreign Exchange Act, 1973, FEMA, 1999 and any rules made there under.

For this purpose, a person shall be deemed to be of Indian origin if he or either of parents or any of his grandparents, was born in India or in undivided India.



Leave Travel Concession or Assistance (LTC/LTA) to an Indian Citizen Employee [Section 10(5)]

The employee is entitled to exemption under section 10(5) in respect of the value of travel concession or assistance received by or due to him from his employer or former employer for himself and his family, in connection with his proceeding—

- a. on leave to any place in India.
- b. to any place in India after retirement from service or after the termination of his service.

The exemption shall be allowed subject to the following:

- i. where journey is performed by air — Maximum exemption shall be an amount not exceeding the air economy fare of the National Carrier by the shortest route to the place of destination;
- ii. where places of origin of journey and destination are connected by rail and the journey is performed by any mode of transport other than by air — Maximum exemption shall be an amount not exceeding the air-conditioned first class rail fare by the shortest route to the place of destination; and
- iii. where the places of origin of journey and destination or part thereof are not connected by rail and the journey is performed between such places — The amount eligible for exemption shall be:
 - A. where a recognised public transport system exists, an amount not exceeding the 1st class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination; and
 - B. where no recognised public transport system exists, an amount equivalent to the air conditioned first class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail.

Exemption will, however, in no case exceed, actual expenditure incurred on the performance of journey.



HOW MANY TIMES CAN EXEMPTION BE CLAIMED?

- The assessee can claim exemption in respect of any two journeys in a block of 4 years. For this purpose, the first block of 4 years was calendar years 1986-89, second block was 1990-93, third block was 1994-97, fourth block was 1998-2001, fifth block was 2002-05 sixth block was 2006-09, seventh block is 2010 to 2013, eight block is 2014-2017 and ninth block will be 2018-2021.
- If the assessee has not availed of the exemption of LTC in a particular block, whether for both the journeys or for one journey, he can claim the exemption of first journey in the calendar year immediately succeeding the end of the block of four calendar years. In other words, maximum one journey can be carried forward and that too only for the first journey in the following calendar year unless the period is otherwise extended. Such journey undertaken during the extended period will not be taken into account for determining the tax exemption of two journeys for the succeeding block.

Exemption available only in respect of two children

The exemption relating to LTC shall not be available to more than two surviving children of an individual after 1.10.1998.

Exception: The above rule will not apply in respect of children born before 1.10.1998 and also in case of multiple birth after one child.

IMPORTANT NOTES :

1. In case the LTC is encashed without performing the journey, the entire amount received by the employee would be taxable.
2. Family for this purpose includes:
 - a. the spouse and children of the employee;
 - b. parents, brothers & sisters of the employee, who are wholly or mainly dependent upon him.



3. The exemption can be availed for the journey undertaken while on leave during the tenure of service or even after retirement/termination from service.
4. The exemption is allowed only in respect of fare. Expenses incurred on portage, conveyance from residence to the railway station/airport/bus stand and back, boarding and lodging or expenses during the journey will not qualify for exemption.
5. Exemption is available in respect of shortest route. Where the journey is performed from the place of origin to different places in a circular form or in any other manner, the exemption for that journey will be limited to what is admissible for the journey from the place of origin to the farthest point reached, by the shortest route.

Remuneration or Salary received by an individual who is not a citizen of India [Section 10(6)]

The following incomes are exempt when received by an individual who is not a citizen of India:

- (i) Remuneration [U/s 10(6)(ii)].
 - a. The remuneration received by an ambassador or other officials of the Embassy, High Commission or Legation of a foreign State in India.
 - b. The remuneration by a consular officer of a foreign State in India.
 - c. The remuneration received by a trade commissioner or other official representative in India of a foreign State, provided corresponding officials of the Government of India in that country are given a similar concession.
 - d. The remuneration received by a member of the staff of any of the officials referred to in (a), (b) and (c) above.

If the person mentioned above in (a) to (d) is a subject of the country represented, is not engaged in any business, profession or employment in India (otherwise than as a member of such staff), and the country represented gives similar concession to the members of the staff of corresponding officials of the Government of India.



(ii) Remuneration received by him as an employee of foreign enterprise [U/s 10(6)(vi)]

(e.g., technician deputed by a foreign firm to work in India), for service rendered by him during his stay in India provided the following conditions are fulfilled—

1. the foreign enterprise is not engaged in any trade or business in India ;
2. his stay in India does not exceed in the aggregate a period of 90 days in such previous year ; and
3. such remuneration is not liable to be deducted from the income of the employer chargeable under the Act.

(iii) Employment on a foreign ship [U/s 10(6)(viii)].

Any income chargeable under the head “Salaries” received by or due to any such individual being a non-resident, as remuneration for service rendered in connection with his employment on a foreign ship where his total stay in India does not exceed in the aggregate of a period of 90 days in the previous year.

(iv) Remuneration received by an employee of foreign govt. during his stay in India for his training in India [U/s 10(6)(xi)].

Such remuneration shall be fully exempted if he is taking training in any of the following concern :

- a. Institution owned by govt.
- b. A company wholly owned by Central or State govt. or partly owned by Central and partly by State govt.
- c. A subsidiary Co. of company referred at point (b) above
- d. Any corporation established by or under Central, State or Provincial Act
- e. Any society registered under Societies Registration Act; 186Q and which is wholly financed by Central or State govt.



Tax paid by Government or Indian concern on Income of a Foreign Company [Section 10(6A), (6B), (6BB) and (6C)]

(6A):

1. Where a foreign company renders technical services to Government of India or to a State Government or to an Indian enterprise and for such services a foreign company is paid income by way of royalty or fees.
2. Such fees or royalty is paid by an India concern in pursuance of an agreement entered into before 1-6-2002 and such agreement is approved by Government of India and it is in accordance with the Industrial Policy of the Government of India.
3. Since royalty or fees paid to a foreign company accrues in India, so such income is liable to be taxed in India and as per agreement the payer of income in India pays tax liability of the foreign company.
4. Tax so paid by Government of India or a State Government or an Indian enterprise will be exempted i.e., it will not be grossed up with the income of the foreign company.

Example. A foreign company renders technical services to an Indian company and as per agreement, foreign company is to be paid a fees of Rs.2,00,000. Tax of Rs. 30,000 on such fees is also paid by the Indian company. Tax paid by Indian company will be exempt and so it will not be grossed up with the income of the foreign company and such foreign company's income will be only Rs.2,00,000.

(6B):

The tax liability of a non-resident (Not being a company) or a foreign company if paid by an Indian concern or Government of India or a State Government the same will be exempted and so will not be grossed up with the income of the foreign entity.

(6BB):

Tax paid on income received by foreign government or a foreign enterprise on leasing aircraft.

In case any income is received by a foreign government or a foreign enterprise from an Indian company which is



engaged in the operation of aircraft and such income is by way of consideration of acquiring an aircraft or an engine of aircraft (other than payment for providing spares or services in connection with the operation of leased aircraft) on lease under an agreement entered into after 31-3-1996 but before 1-4-2007 and approved by the Central Government in this behalf, and the tax on such income is payable by such Indian company under the terms of agreement, the tax so paid shall be fully exempted.

This benefit shall be available only to that foreign enterprise which is non-resident.

(6C):

Any income derived by a foreign company (so notified by Central govt.) by way of royalty or fees for technical services under an agreement for providing services in or outside India in projects connected with security of India shall be fully exempted.

Perquisites and Allowances paid by Government to its Employees serving outside India [Section 10(7)]

Any allowances or perquisites paid or allowed, as such, outside India by the Government to a citizen of India, for rendering services outside India, are exempt.

The following conditions have to be satisfied before such income is treated as deemed to accrue or arise in India:

- i. Income should be chargeable under the head 'Salaries';
- ii. The payer should be Government of India;
- iii. The recipient should be an Indian citizen — whether Resident or Non-Resident;
- iv. The services should be rendered outside India.

While salary of Indian citizen in the above case shall be deemed to accrue or arise in India but all allowances or perquisites paid outside India by the Government to the above Indian citizens for their rendering services outside India are exempt under section 10(7).



Employees of Foreign Countries working in India under Cooperative Technical Assistance Programme [Section 10(8)]

The persons who are working in India under co-operative technical assistance programmes in accordance with an agreement entered into by the Central Government and the Government of a foreign State, the following incomes of such individuals shall be exempt provided the terms of agreements provide for such exemption

1. the remuneration received by him directly or indirectly from the Government of the foreign State for such duties rendered in India ; and
2. any other income of such individual which accrues or arises outside India and is not deemed to accrue or arise in India, in respect of which individual is required to pay any income or social security tax to the Government of that foreign State.

Income of a Consultant [Section 10(8A)]

Any remuneration or fee received by a consultant from an international organisation who derives its fund under technical assistance grant agreement between such organisation and the Foreign Government, and any other income accruing or arising to him outside India (which is not deemed to accrue or arise in India) and which is subject to income-tax or social security tax in foreign country, shall be fully exempted. The agreement of the service of consultant must be approved by the competent authority.

The consultant means :

1. an individual who is (a) not a citizen of India; or (b) if citizen but is not ordinarily resident in India ; or
2. any person who is non-resident ; and is rendering technical services in India in connection with any technical assistance programme or project.

**Conditions laid down for Tax Exemption U/s 10(8A)**

- A. The fees or remuneration is paid for technical services rendered in India under the technical assistance programme or project.
- B. The sum is paid directly or indirectly out of funds made available to international organization as per agreement between such organization & government of foreign state.
- C. The technical assistance provided is in accordance with such agreement.
- D. Any agreement for appointment of consultant shall have to be approved by the authorities prescribed.
- E. Any other income which accrues or arises outside India is subjected to any income or social security tax in other state.

Income of Employees of Consultant [Section 10(8B)]

In case of an individual who is assigned duties in India under technical assistance programme—

- 1. the remuneration received by him directly or indirectly from any consultant as referred u/s 10 (8A) above and
- 2. any other income accruing or arising to him outside India (which is not deemed to accrue or arise in India) and which is subject to income-tax or social security tax in foreign country. shall be fully exempted provided
- 3. such individual is not a citizen of India ; or
- 4. if citizen but is not ordinarily resident and
- 5. the contract of service is approved by the competent authority.

Conditions laid down for Tax Exemption U/s 10(8B)

- A. The individual should be an employee of consultant referred to in clause 8A above.
- B. His contract of service is approved by the prescribed authority.



- C. The remuneration is received in connection with technical assistance programme referred to in clause 8A.
- D. Any other income which accrues or arises outside India is subjected to any income or social security tax in other state.

The prescribed authority for clauses 8A & 8B are :

The Additional Secretary, Department of Economic Affairs in Ministry of Finance, Government of India, in concurrence with members CBDT

Income of any member of the family of individuals working in India under co-operative technical assistance programme [Section 10(9)]

As per section 10(9), the income of any member of the family of any such individual as is referred to in section 10(8)/(8A)/(8B) accompanying him to India, which accrues or arises outside India and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State or country of origin of such member, as the case may be, is exempt from tax.

Gratuity [Section 10(10)]

Gratuity is a payment made by the employer to an employee in appreciation of the past services rendered by the employee. Gratuity can either be received by:

- (a) the employee himself at the time of his retirement; or
- (b) the legal heir on the event of the death of the employee.

Gratuity received by an employee on his retirement is taxable under the head "Salary" whereas gratuity received by the legal heir of the deceased employee shall be taxable under the head "Income from other sources". However, in both the above cases, according to section 10(10) gratuity is exempt upto a certain limit. Therefore, in case gratuity is received by employee, salary would include only that part of the gratuity which is not exempt under section 10(10).



A. Death-cum-retirement gratuity received by Government servants [Section 10(10)(i)]

Section 10(10)(i) grants exemption to gratuity received by Government employee (i.e., Central Government or State Government or local authority).

B. Gratuity Received by a Non-Government Employee covered by Payment of Gratuity Act, 1972 [Section 10(10)(ii)]

Minimum of the following 3 limits:

- (1) Actual gratuity received, or
- (2) 15 days salary for every completed year, or part thereof exceeding six months 7 days salary for each season in case of employee in seasonal establishment; or
- (3) Rs. 10,00,000

Meaning of Salary:

- (i) Basic salary plus dearness allowance.
- (ii) Last drawn salary. Average salary for preceding 3 months in case of piece rates employees
- (iii) No. of days in a month to be taken as 26

C. Any other Employee

Minimum of the following 3 limits:

- (1) Actual gratuity received
- (2) Half months average salary of each completed year of service
- (3) Rs. 10,00,000

Meaning of Salary:

- (i) Basic Salary plus D.A. to the extent the terms of employment so provide Commission, if fixed percentage of turnover.
- (ii) Average salary of last 10 months preceding the month in which event occurs.
- (iii) Only completed year of service is to be taken.



C. Any other Employee

Minimum of the following 3 limits:

- (1) Actual gratuity received
- (2) Half months average salary of each completed year of service
- (3) Rs. 10,00,000

Meaning of Salary:

- (i) Basic Salary plus D.A. to the extent the terms of employment so provide Commission, if fixed percentage of turnover.
 - (ii) Average salary of last 10 months preceding the month in which event occurs.
 - (iii) Only completed year of service is to be taken.
1. Where an employee had received gratuity in any earlier year(s) and had claimed exemptions under section 10(10) in respect of the gratuity received earlier also, he will still be entitled to this exemption but the limit which at present is Rs.10,00,000 shall be reduced by the amount of exemption(s) availed in the earlier year(s). There will be no change in the other two limits.
 2. The words "completed service" occurring in section 10(10) should be interpreted to mean an employee's total service under different employers including the employer other than the one from whose service he retired, for the purpose of calculation of period of years of his completed service, provided he was not paid gratuity by the former employer. CIT v P.M. Mehra (1993) 201 ITR 930 (Bom).
 3. Any gratuity paid to an employee, while he continues to remain in service with the same employer is taxable under the head "Salaries" because gratuity is exempt only on retirement or on his becoming incapacitated or on termination of his employment or death of the employee. In this case, however the assessee can claim relief under section 89.



4. The CBDT vide its instruction in F. No. 194/0/73-IT, dated 19.6.1973 has clarified that the expression "termination of employment" would cover an employee who has resigned from the service.

Commuted value of Pension Received [Section 10(10A)]

Pension received on commutation is fully exempt subject to the following criteria as enumerated as under.

Segregation

- a) Govt. employees, employees of local authorities and employees of statutory corporations
- b) Other Employees

Govt. employees, employees of local authorities and employees of statutory corporations	Any other employee
Fully Exempt	<p>(a) If gratuity is not received Commuted value of half of pension which he is normally entitled to receive.</p> <p>(b) If gratuity is also received Commuted value of 1/3rd of pension which he is normally entitled to receive.</p>
<p>Pension received by the employee is taxable under the head "Salaries". However, the family pension received by the legal heirs after the death of the employee is taxable in the hands of the legal heir under the head "Income from other sources" because in this case there is no relationship of employer and employee. Treatment of family pension is discussed in detail under the head 'Income from other sources'.</p>	

**Amount received as Leave Encashment on Retirement
[Section 10(10AA)]**

Govt. employee i.e. Central and State Govt. employees	Any other employee
Fully Exempt	Minimum of the following four limits: 1. Leave encashment actually received; or 2. 10 months average salary; or 3. Cash equivalent of un-availed leave calculated on the basis of maximum 30 days leave for every year of actual service rendered; or 4. Rs.3,00,000
Meaning of salary : 1. Basic salary plus D.A. to the extent the terms of employment so provide plus Commission, if fixed percentage of turnover. 2. Average salary of last 10 months immediately proceeding the date of retirement.	

**Retrenchment Compensation received by Workmen
[Section 10(10B)]**

Any compensation received by a workman at the time of his retrenchment, under the Industrial Disputes Act, 1947 or under:

1. any other Act or rules or any order or notification issued there under; or
2. any standing order; or
3. any award, contract of service or otherwise,

shall be exempt to the extent of minimum of the following limits:

1. Actual amount received;
2. 15 days' average pay for every completed year of service or part thereof in excess of 6 months;



3. Amount specified by the Central Government, i.e. Rs. 5,00,000.

Compensation received in excess of the aforesaid limit is taxable and would, therefore, form part of Gross Salary. However, the assessee shall be eligible for relief under section 89 read with rule 21A.

1. Where retirement compensation is received by a workman in accordance with any scheme which the Central Government having regard to the need for extending special protection to the workman in the undertaking to which such scheme applies, has approved in this behalf, the entire amount of compensation so received shall be exempt under section 10(10B).
2. Where retrenchment compensation received by a workman exceeds the amount which qualifies for exemption under the new clause, he will be entitled to relief under section 89 read with rule 21A of the Income-tax Rules, in respect of such excess.

Payment received under Bhopal Gas Leak Disaster (Processing of Claims) Act 1985 [Section 10 (10BB)]

Any amount received under the provision of such Act or any scheme framed there under shall be fully exempted but in case payment is received against a loss or damage, for which deduction has been claimed earlier, it shall be taxable.

Compensation received in case of any disaster [Section 10(10BC)]

Any amount received from the Central Government or State Government or a Local Authority by an individual or his legal heirs as compensation on account of any disaster is exempt from tax. However, no deduction is available in respect of the amount received or receivable to the extent such individual or his legal heirs has been allowed a deduction under the Act on account of loss or damage caused due to such disaster. Disaster here means any disaster due to any natural or man-made causes or by accident/negligence which results in substantial loss of human life or damage to property or environment and the magnitude of such disaster is beyond coping capacity of community of the affected area.



Retirement Compensation from a Public Sector Company or any other Company [Section 10(10C)]

The compensation received or receivable by the employee of the following, on voluntary retirement, under the golden hand shake scheme, is exempt under section 10(10C):

1. a public sector company; or
2. any other company; or
3. an authority established under a Central, State or Provincial Act; or
4. a local authority; or
5. a co-operative society; or
6. a University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956; or
7. an Indian Institute of Technology within the meaning of clause (g) of section 3 of the Institutes of Technology Act, 1961; or
8. such institute of management as the Central Government may, by notification in the Official Gazette, specify in this behalf;
9. State Government;
10. Central Government;
11. Institutions having importance throughout India or in any State or States as may be notified.

Exemption shall be available, subject to the following conditions:

1. The compensation is received only at the time of voluntary retirement or termination of his services in accordance with any scheme or schemes of voluntary retirement or in the case of public sector company, a scheme of voluntary separation. Even if the compensation is received in instalments, the exemption shall be allowed.



2. Further, the scheme of the said companies or authorities or societies or universities or the institutes referred to in clauses (vii) and (viii) above, as the case may be, governing the payment of such amount, are framed in accordance with such guidelines (including inter alia criteria of economic viability) as may be prescribed. In the case of public sector companies, if there is a scheme of voluntary separation, it shall also be according to the said prescribed guidelines.

Quantum of Exemption:

1. The amount of exemption is the actual amount of compensation received
2. or Rs. 5,00,000,
whichever is less.

1. The exemption is available to an employee only once and if it has been availed for an assessment year it shall not be allowed to him for any other assessment year.
2. The assessee shall not be eligible for relief under section 89 in case he has claimed exemption under section 10(10C). On the other hand, if he claims relief under section 89, he cannot claim exemption under section 10(10C).

Tax on Non-monetary Perquisites paid by Employer [Section 10(10CC)]

The income-tax actually paid by the employer himself on a non-monetary perquisite provided to the employee shall be exempt in the hands of the employee..

Any sum received under a Life Insurance Policy [Section 10(10D)]

Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, is wholly exempt from tax. However, the following sum received are not exempt under this section:

1. any sum received from a policy under section 80DD(3) or section 80DDA(3); or
2. any sum received under a Keyman Insurance Policy; or



3. any sum received, under an insurance policy issued on or after 1.4.2003 but on or before 31.3.2012 in respect of which the premium payable for any of the years during the terms of the policy exceeds 20% of the actual capital sum assured. However, such sum received on the death of a person shall be exempt; or
4. any sum received under an insurance policy issued on or after 1.4.2012 in respect of which the premium payable for any of the years during the terms of the policy exceeds 10% of actual capital sum assumed; or
5. any sum received under an insurance policy issued on or after 1.4.2013 for insurance on the life of any person, who is
 - a person with disability or a person with severe disability as referred to in section 80U; or
 - suffering from disease or ailment as specified in the rules made under section 80DDB in respect of which the premium payable for any of the years during the terms of policy exceeds 15% of the actual capital sum assumed.

Keyman insurance policy means a life insurance policy taken by a person on the life of another person who is or was the employee of the first mentioned person or is or was connected in any manner whatsoever with the business of the first mentioned person and includes such policy which has been assigned to a person, at any time during the term of the policy, with or without any consideration.

Payment from Statutory Provident Fund [Section 10(11)]

Statutory Provident Fund	
Employer's Contribution	Employer's contribution to such fund is not treated as income of the employee
Interest	Interest credited to such fund is exempt in the hands of the employee.



Amount received at the time of termination	Lump sum amount received from such fund, at the time of termination of service is exempt in the hands of employees.
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Payment from Recognised Provident Fund [Section 10(12)]

The accumulated balance due and becoming payable to an employee participating in a recognised provident fund, is exempt to the extent provided in rule 8 of part A of the Fourth Schedule.

Recognised Provident Fund	
Employer's Contribution	Employer's contribution to such fund, up to 12% of salary is not treated as income of the employee (see Note 1).
Interest	Interest credited to such fund up to 9.5% per annum is exempt in the hands of the employee, interest in excess of 9.5% is charged to tax in the hands of the employee.
Amount received at the time of termination	If certain conditions are satisfied, then lump sum amount received from such fund, at the time of termination of service, is exempt in the hands of employees. (see Note 2)

Un-Recognised Provident Fund	
Employer's Contribution	Employer's contribution to such fund is not treated as income of the employee.
Interest	Interest credited to such fund is exempt in the hands of the employees.
Amount received at the time of termination	(See note 3)



Public Provident Fund	
Employer's Contribution	Employers do not contribute to such fund
Interest	Interest credited to such fund is exempt.
Amount received at the time of termination	Lump sum amount received from such fund at the time of termination of service is exempt from tax

Notes:

1. Salary for this purpose will include basic salary, dearness allowance, if the terms of service so provide and commission based on fixed percentage of turnover achieved by the employee.
2. Accumulated balance paid from a recognised provident fund will be exempt from tax in following cases:
 - (a) If the employee has rendered a continuous service of 5 years or more. If the accumulated balance includes amount transferred from other recognised provident fund maintained by previous employer, then the period for which the employee rendered service to such previous employer shall also be included in computing the aforesaid period of 5 years.
 - (b) If the service of employee is terminated before the period of 5 years, due to his ill health or discontinuation of business of the employer or other reason beyond his control.
 - (c) If on retirement, the employee takes employment with any other employer and the balance due and payable to him is transferred to his individual account in any recognised fund maintained by such other employer, then the amount so transferred will not be charged to tax.

Except above situations, payment from a recognised provident fund will be charged to tax considering such fund as un-recognised from the beginning (See note 3 given below for tax treatment of un-recognised provident fund).



3. Treatment of payment (at the time of termination) from un-recognised provident fund:

Payment on termination will include 4 things, viz., employee's contribution and interest thereto and employer's contribution and interest thereto, the tax treatment of such payment is as follows:

- Employee's contribution is not chargeable to tax; interest on employee contribution is taxed under the head "Income from other sources".
- Employer's contribution and interest thereon are taxed as salary income, however, an employee can claim relief under section 89 in respect of such payment.

Payment from Superannuation Fund [Section 10(13)]

Like Provident Fund, Superannuation fund is also a scheme of retirement benefits for the employee. These are funds, usually established under trusts by an undertaking, for the purpose of providing annuities, etc., to the employees of the undertaking on their retirement at or after a specified age, or on their becoming incapacitated prior to such retirement, or for the widows, children or dependents of the employees in case of the any employee's earlier death. The trust invests the money contributed to the fund in the form and mode prescribed. Income earned on these investments shall be exempt, if any such fund is an Approved Superannuation Fund.

Tax treatment: The tax treatment as regards the contribution to and payment from the fund is as under:

Employee's contribution: Deduction is available under section 80C from gross total income.

Employer's contribution: Contribution by the employer to the approved superannuation fund is exempt upto Rs.1,50,000 per year per employee. If the contribution exceeds Rs.1,50,000 the balance shall be taxable in the hands of the employee.

Interest on accumulated balance: It is exempt from tax.

Payment from the fund: Any payment from an approved superannuation fund shall be exempt if it is made:



1. on the death of a beneficiary; or
2. to any employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; or
3. by way of refund of contributions on the death of a beneficiary; or
4. by way of refund of contributions to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent to which such payment does not exceed the contributions made prior to the commencement of this Act and any interest thereon; or
5. by way of transfer to the account of the employee under a pension scheme referred to in section 80CCD and notified by the Central Government.

House Rent Allowance-HRA [Section 10(13A) Read with Rule 2A]

Quantum of Exemption: Minimum of following Three limits:

	Mumbai/Kolkata/Delhi/Chennai	Other Cities
(i)	Allowance actually received	Allowance actually received
(ii)	Rent paid in excess of 10% of Salary	Rent paid in excess of 10% of Salary
(iii)	50% of Salary	40% of Salary

The exemption in respect of HRA is based upon the following factors:

1. Salary
2. Place of residence
3. Rent paid
4. HRA received.

Since there is a possibility of change in any of the above factors during the previous year, exemption for HRA should not always be calculated on annual basis. As long as there



is no change in any of the above factors it can be calculated together for that period. Whenever there is a change in any of the above factors, it should be separately calculated till the next change.

To revert to the main question whether city compensatory allowance, house rent allowance and dearness allowance are of income character, we may first take into consideration as to how these receipts have been treated by the Legislature so far. Section 10 embodies several exemptions. Exemption implies or postulates income. If a given receipt is not of income character, then the same is not at all included in the total income. If a receipt is of income character, but exempted under Section 10, then the same, while computing the total income, will be deducted. Section 10(13A) clearly provides exemption with regard to house rent allowance to the extent expenditure has been actually incurred towards the payment of rent. The Explanation to Clause (14) of Section 10, which was inserted with retrospective effect from April 1, 1962, nullified the judgment of the Bombay High Court in CIT v. D.R. Phatak [1975] 99 ITR 14, in which it was held that city compensatory allowance was exempt under Section 10(14). The aforesaid judgment was not accepted by the Department and, therefore, the Explanation was added to Clause (14) of Section 10 with retrospective effect from April 1962, i.e., when the Act, 1961, came into force so that the exemption with regard to city compensatory allowance might not be allowed following the judgment of the Bombay High Court. Clause (14) of Section 10 has further been amended by the Direct Tax Laws (Amendment) Act, 1987, with effect from April 1, 1989, applicable to the assessment year 1989-90. Clause (14), amended with effect from April 1, 1989, runs as follows ;

12. When no exemption has been provided under the parent Act, but under the notification validly issued, and when in that situation, according to the Supreme Court, it can be held that exemption under the notification is as if it is contained in the parent Act itself, we fail to understand as to why in view of



Section 10(13A) and Section 10(14) including Sections 10(14)(i) and 10(14)(ii), city compensatory allowance, house rent allowance, dearness allowance could not be said to exist in Section 17 of the Act, 1961. Section 10(13A) and Section 10(14) clearly indicate the understanding and the intention of the Legislature. From the very fact that exemption has been provided with regard to house rent allowance with a rider under Section 10(13A) and that exemption has been specifically denied under the Explanation to Section 10(14) with regard to city compensatory allowance, house rent allowance and dearness allowance and these allowances are covered by Sections 10(14)(i) and 10(14)(ii), respectively, it is manifest that the Legislature treated all these allowances as income. But for the exemption, they will be taxed under the head "Salary" as defined under Section 17. What is implied in Section 10(13A) and Section 10(14) including Sections 10(14)(i) and 10(14)(ii) should clearly reflect in Section 17--the latter is the mirror of the former. The approach that when city compensatory allowance, house rent allowance and dearness allowance are not written in so many words in. Section 17 and, therefore, they cannot be taken to be "perquisites" or "profits in lieu of or in addition to any salary" within the meaning of Section 17, is an attempt at oversimplification. The contents of Section 17 have to be seen in totality and Section 10(13A) and Section 10(14) read with Sections 10(14)(i) and 10(14)(ii) furnish a very valuable clue in regard to the true scope or the overall scheme of Section 17. Section 10(13A) and Section 10(14), read with Sections 10(14)(i) & 10(14)(ii), bring to the surface what is dormant, inherent and implied in Section 17.

13. Section 17 gives an inclusive definition of the word "salary". Section 17(1)(iv) reads that salary includes any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages. Clause (2) of Section 17 again gives an inclusive definition of the word "perquisite" Clause (3) of Section 17 defines the expression "profits in lieu of salary" and this too is an inclusive definition. The word "includes" is



generally used as a word of extension, but the meaning of a word or phrase is extended when it is said to include things that would not properly fall within its ordinary connotation. Thus, where "includes" has an extended force, it adds to the word or phrase a meaning which does not naturally belong to it. Section 17(1)(iv) in particular and Section 17 in general refer to several things which, in ordinary connotation, do not belong to "salary" In Section 17(1)(iv), for example, "perquisites" or "profits in lieu of or in addition to any salary or wages" ordinarily do not form part of salary, but they have been made part of the salary by virtue of the extended definition. The scope of an inclusive definition cannot be restricted to those words only which occur in such definition, but an inclusive definition will extend to so many other things, which are not talked of in the section. Therefore, we do not find any warrant in the submission of Sri Upadhyaya that the definition of the word "salary" given in Section 17 cannot extend to city compensatory allowance, house rent allowance and dearness allowance which, in our view, are "perquisites" under Section 17(2). So far as city compensatory allowance and dearness allowance are concerned, they may partake of the character of "profit in lieu of salary" too within the meaning of Section 17(3)(ii), as these provisions are not mutually exclusive, but to some extent overlap each other. House rent allowance being exempted under Section 10(13A), cannot fall under Section 17(3)(ii).

(iii) that it must not be a payment falling under any of the clauses of Section 10, specified in the parenthetical clause of Section 17(3)(ii).

19. All these conditions stand fully satisfied so far as the city compensatory allowance and dearness allowance are concerned. House rent allowance is excluded from the application of Section 17(3)(ii) as it falls under Section 10(13A), specially in the parenthetical clause of Section 17(3)(ii). For the reasons, we hold, whereas house rent allowance



is only a perquisite within the meaning of Section 17(2), city compensatory allowance and dearness allowance may be "perquisites" within the meaning of Section 17(2) and also "profits in lieu of salary" under Section 17(3)(ii), being profits in addition to the salary.

The relevant provisions is enumerated as under.

Cit vs P.D. Singhanian on 17 August, 2006

Showing the contexts in which sec 10(13A)

- a. The assessee appealed to the Commissioner (Appeals). The Commissioner (Appeals) accepted the claim of the assessee and held that to the extent of Rs. 4,800 the assessee was entitled to exemption as laid down under section 10(13A) of the Act.
- b. The Income Tax Officer appealed to the Tribunal. The learned Departmental Representative relied on the orders of the Income Tax Officer. On the other hand, the assessee's learned counsel Shri Agarwal submitted before the Tribunal that in view of the rulings of the Hon'ble High Court of Punjab & Haryana in the case of CIT v. Justice S.C. Mittal (1980) 121 ITR 503 (P&H;), CIT v. B.R. Tuli (1980) 125 ITR 460 (P&H;) and CIT v. M.S. Gujral, Chief Justice (1980) 125 ITR 655 (P&H;) the assessee's claim of exemption under section 10(13A) was admissible and was rightly allowed by the Commissioner (Appeals). Proceeding further Shri Agarwal pointed out that the municipal assessment of the house was on a value of Rs. 6,000 and the claim under section 10(13A) was limited to Rs. 4,800 which was the maximum admissible under the Act and the Rules.
- c. We have heard Shri Shambhoo Chopra, learned standing counsel appearing for the revenue. Nobody has appeared on behalf of the respondent-assessee.
- d. We have heard Shri Shambhoo Chopra, learned standing counsel appearing for the revenue. Nobody has appeared on behalf of the respondent-assessee.



- e. Learned standing counsel submitted that it is not in dispute that the respondent-assessee was living in his own house, therefore, the question of payment of rent to anybody did not arise. According to him, whatever may have been position regarding grant of exemption under section 10(13A) of the Act, in view of the Explanation which was inserted by the Taxation Laws (Amendment) Act, 1984 with effect from 1-4-1976 the provisions of sub-section (13A) of section 10 of the Act cannot be applied in the case where the residential accommodation occupied by the assessee is owned by him. For a ready reference the provisions of sub-section (13A) of section 10 of the Act as it stood at the relevant period is reproduced below :
- f. As in the present case we find that the assessee was residing in his own house, there was no payment of rent, the provisions of sub-section (13A) of section 10 of the Act was not attracted. We are fortified with the Division Bench decision of the Madras High Court in the case of CIT v. K. Chockalingam (2001) 248 ITR 557 (Mad) wherein the Madras High Court has held that in view of the introduction of the Explanation to section 10(13A) of the Act, with retrospective effect from 1-4-1976, the assessee was not entitled to claim the benefit of section 10(13A).
- g. As in the present case we find that the assessee was residing in his own house, there was no payment of rent, the provisions of sub-section (13A) of section 10 of the Act was not attracted. We are fortified with the Division Bench decision of the Madras High Court in the case of CIT v. K. Chockalingam (2001) 248 ITR 557 (Mad) wherein the Madras High Court has held that in view of the introduction of the Explanation to section 10(13A) of the Act, with retrospective effect from 1-4-1976, the assessee was not entitled to claim the benefit of section 10(13A).

Any Allowance given for meeting Business Expenditure [Section 10(14)] As per section 10(14), read with rule 2BB



following allowances granted to an employee are exempt from tax subject to certain limit:

Allowances	Exemption Limit
Children Education Allowance	Up to Rs. 100 per month per child up to a maximum of 2 children is exempt
Hostel Expenditure Allowance	Up to Rs. 300 per month per child up to a maximum of 2 children is exempt
Transport Allowance granted to an employee to meet expenditure on commuting between place of residence and place of duty	Up to Rs. 1,600 per month (Rs. 3,200 per month for blind and handicapped employees) is exempt
Allowance granted to an employee working in any transport business to meet his personal expenditure during his duty performed in the course of running of such transport from one place to another place provided employee is not in receipt of daily allowance	Amount of exemption shall be lower of following:
a) 70% of such allowance; or	
b) Rs. 10,000 per month	
Conveyance Allowance granted to meet the expenditure on conveyance in performance of duties of an office	Exempt to the extent of expenditure incurred for official purposes
Travelling Allowance to meet the cost of travel on tour or on transfer	Exempt to the extent of expenditure incurred for official purposes
Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty	Exempt to the extent of expenditure incurred for official purposes



Helper/Assistant Allowance	Exempt to the extent of expenditure incurred for official purposes
Research Allowance granted for encouraging the academic research and other professional pursuits	Exempt to the extent of expenditure incurred for official purposes
Uniform Allowance	Exempt to the extent of expenditure incurred for official purposes
Special compensatory Allowance (Hilly Areas) (Subject to certain conditions and locations)	Amount exempt from tax varies from Rs. 300 to Rs. 7,000 per month.
Border area, Remote Locality or Disturbed Area or Difficult Area Allowance (Subject to certain conditions and locations)	Amount exempt from tax varies from Rs. 200 to Rs. 1,300 per month.
Tribal area allowance in (a) Madhya Pradesh (b) Tamil Nadu (c) Uttar Pradesh (d) Karnataka (e) Tripura (f) Assam (g) West Bengal (h) Bihar (i) Orissa	Up to Rs. 200 per month
Compensatory Field Area Allowance. If this exemption is taken, employee cannot claim any exemption in respect of border area allowance (Subject to certain conditions and locations)	Up to Rs. 2,600 per month
Compensatory Modified Area Allowance. If this exemption is taken, employee cannot claim any exemption in respect of border area allowance (Subject to certain conditions and locations)	Up to Rs. 1,000 per month



Counter Insurgency Allowance granted to members of Armed Forces operating in areas away from their permanent locations. If this exemption is taken, employee cannot claim any exemption in respect of border area allowance (Subject to certain conditions and locations)	Up to Rs. 3,900 per month
Underground Allowance to employees working in uncongenial, unnatural climate in underground mines	Up to Rs. 800 per month
High Altitude Allowance granted to armed forces operating in high altitude areas (Subject to certain conditions and locations)	a) Up to Rs. 1,060 per month (for altitude of 9,000 to 15,000 feet)
b) Up to Rs. 1,600 per month (for altitude above 15,000 feet)	
Highly active field area allowance granted to members of armed forces (Subject to certain conditions and locations)	Up to Rs. 4,200 per month
Island Duty Allowance granted to members of armed forces in Andaman and Nicobar and Lakshadweep group of Island (Subject to certain conditions and locations)	Up to Rs. 3,250 per month

Interest Incomes [Section 10(15)]

Interest incomes which are exempt under section 10(15) could be explained with the help of the following table-



Section	Income	Exemption to
10(15)(i)	Interest, premium on redemption, or other payment on notified securities, bonds, certificates, and deposits, etc. (subject to notified conditions and limits)	All assesses
10(15)(iib)	Interest on notified Capital Investment Bonds notified prior to 1-6-2002	Individual/HUF
10(15)(iic)	Interest on notified Relief Bonds	Individual/HUF
10(15)(iid)	Interest on notified bonds (notified prior to 1-6-2002) purchased in foreign exchange (subject to certain conditions)	Individual - NRI/ nominee or survivor of NRI / individual to whom bonds have been gifted by NRI
10(15)(iii)	Interest on securities	Issue Department of Central Bank of Ceylon
10(15)(iiia)	Interest on deposits made with scheduled bank with approval of RBI	Bank incorporated
Abroad		
10(15)(iiib)	Interest payable to Nordic Investment Bank	Nordic Investment Bank
10(15)(iiic)	10(15)(iiic) Interest payable to the European Investment Bank on loan granted by it in pursuance of framework agreement dated 25-11-1993 for financial corporation between Central Government and that bank	European Investment bank



10(15)(iv) (a)	Interest received from Government or from local authority on moneys lent to it before 1-6-2001 or debts owed by it before 1-6-2001, from sources outside India	All assesseees who have lent money, etc., from sources outside India
10(15)(iv) (b)	Interest received from industrial undertaking in India on moneys lent to it under a loan agreement entered into before 1-6-2001	Approved foreign financial institution
10(15)(iv) (c)	Interest at approved rate received from Indian industrial undertaking on moneys lent or debt incurred before 1-6-2001 in a foreign country in respect of purchase outside India of raw materials, components or capital plant and machinery, subject to certain limits and conditions	All assesseees who have lent such money, or in favour of whom such debt has been incurred
10(15)(iv) (d)	Interest received at approved rate from specified financial institutions in India on moneys lent from sources outside India before 1-6-2001	All assesseees who have lent such moneys
10(15)(iv) (e)	Interest received at approved rate from other Indian financial institutions or banks on moneys lent for specified purposes from sources outside India before 1-6-2001 under approved loan agreement	All assesseees who have lent such moneys



10(15)(iv) (f)	Interest received at approved rate from Indian industrial undertaking on moneys lent in foreign currency from sources outside India under loan agreement approved before 1-6-2001	All assesseees who have lent such moneys
10(15)(iv) (fa)	Interest payable by scheduled bank, on deposits in foreign currency when acceptance of such deposits by bank is approved by RBI	Non-resident or individual/HUF who is not ordinarily resident in India
10(15)(iv) (g)	Interest received at approved rate, from Indian public companies eligible for deduction under section 36(1)(viii) and formed with main object of providing long-term housing finance, on moneys lent in foreign currency from sources outside India under loan agreement approved before 1-6-2003	All assesseees who have lent such moneys
10(15)(iv) (h)	Interest received from any public sector company in respect of notified bonds or debentures and subject to certain conditions	All assesseees
10(15)(iv) (i)	Interest received from Government on deposits in notified scheme out of moneys due on account of retirement	Individual-Employee of Central Government/ State Government/ Public sector company

10(15)(v)	Interest on securities held in Reserve Bank's SGL A/c No. SL/DH-048 and Deposits made after 31-3-1994 for benefit of victims of Bhopal Gas Leak Disaster held in such account with RBI or with notified public sector bank	Welfare Commissioner, Bhopal Gas Victims, Bhopal
10(15)(vi)	Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015	All assesses
10(15)(vii)	10(15)(vii) Interest on notified bonds issued by a local authority/State Pooled Finance Entity	All assesses
10(15)(viii)	Interest on deposit made on or after 1-4-2005 in an Offshore Banking Unit referred to in section 2(u) of the Special Economic Zones Act, 2005	Non-resident or person who is not ordinarily resident

Scholarship [Section 10(16)]

The full amount of scholarship granted to meet the cost of education is exempted.

'Cost of education' includes not only the tuition fees but all other expenses which are incidental to acquiring education. Scholarship may have been given by Govt., University, Board, Trust, etc. The exemption is irrespective of actual expenditure incurred by the recipient to meet the cost of education.

Allowance of M.P./M.L.A. or M.L.C. [Section 10(17)]

Following allowances are exempt from tax in the hands of a Member of Parliament and a Member of State Legislature—



- Daily allowance received by a Member of Parliament or by a Member of State Legislature or by member of any committee thereof.
- Any Constituency allowance received by a Member of State Legislature

Awards Instituted by Government [Section 10(17A)]

Any payment received in pursuance of following (whether paid in cash or in kind) is exempt from tax:

- Any award instituted in the public interest by the Central Government or State Government or by any other body approved by the Central Government in this behalf.
- Any reward by the Central Government or any State Government for such purpose as may be approved by the Central Government in this behalf in the public interest.

Pension received by certain winners of gallantry awards [Section 10(18)]

1. Any amount received by an individual as pension shall be exempt if:

such individual has been in the service of the Central or State Government, and he/she has been awarded 'Param Vir Chakra' or 'Mahavir Chakra' or 'Vir Chakra' or such other notified gallantry awards.

2. Also, any amount received as family pension by any member of the family of an individual referred above shall be fully exempted.

Family pension received by family members of armed forces including para military forces [Section 10(19)]

With effect from the 1st day of April, 2005 family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including paramilitary forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed shall be fully exempted



Income of a Local Authority [Section 10(20)]

The following income of a local authority is exempt from tax:

1. Income which is chargeable under the head "Income from house property", "Capital gains" or "Income from other sources" or
2. Income from a trade or business carried on by it which accrues or arises from the supply of a commodity or service (not being water or electricity) within its own jurisdictional area or
3. Income from business of supply of water or electricity within or outside its own jurisdictional area

Income of Scientific Research Association [Section 10(21)]

Any income of a research association, approved under section 35(1)(ii)/(iii) is exempt from tax, if following conditions as specified in section 10(21) are satisfied:

1. Income should be applied or accumulated wholly and exclusively for the objects for it established.
2. Funds should not be invested or deposited for any period during the previous year otherwise than in any one or more of the forms/modes specified in section 11(5). However, this condition is not applicable in respect of the following:-
 - o any assets held by the research association where such assets form part of the corpus of the fund of the association as on the 1st day of June, 1973;
 - o Debentures of a company acquired by the research association before the 1st day of March, 1983;
 - o any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (i) by way of bonus shares allotted to the research association;
 - o voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

**Note:**

1. Exemption shall not be denied in relation to voluntary contribution [other than voluntary contribution in cash or voluntary contribution of the nature referred to in (i), (ii), (iii) or (iv) supra]subject to the condition that such voluntary contribution is not held by the research association otherwise than in any one or more of the forms or modes specified in subsection (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired.
2. Exemption is not available in relation to any income of the research association, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business

Income of a News Agency [Section 10(22B)]

In case there is any income of a news agency set up solely in India for collection and distribution of news and which is so notified in this behalf shall be fully exempted provided such income or accumulated income is used solely for collection and distribution of news and not to be distributed in any manner amongst its members.

The approval given under this section shall be withdrawn if the news agency has not applied, accumulated or distributed its income in accordance with the prescribed conditions, the notification issued under this section shall be cancelled

Income of some Professional Institutions [Section 10(23A)]

Any income (other than income from house property and income from rendering any specific service or income by way of interest or dividend on investment) of an professional institution/association is exempt from tax, if the following conditions are satisfied:

1. Professional institution is established in India for the purpose of control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or such other notified profession.



2. The institution applies its income, or accumulates it for application, solely to the objects for which it is established.
3. The institution is approved by the Central Government by general or special order.

Exemption of Income Received by Regimental Fund [Section 23AA]

Any income received by any person on behalf of any Regimental Fund or Non Public Fund established by the armed forces of India for the welfare of the past and present members of such forces or their dependents shall be exempted from tax.

Income of a Fund set-up for the welfare of employees or their dependents [Section 10(23AAA)]

Any income of such fund which is approved by Commissioner of Income-tax shall be fully exempted provided its income is applied wholly and exclusively for the objects for which it is established.

The CBDT has notified following purposes for which the fund is expected to help its members or their dependents—

1. Cash amount given to a member of the fund—
2. on superannuation, or
3. in the event of member's own illness or illness of his/her spouse or dependent children; or
4. to meet the cost of education of dependent children of members.
5. Cash amount given to the dependents of members in the event of death of such a member

Income of a pension fund set up by LIC or other insurer [Section 10(23AAB)]

Income of an institution constituted as a public charitable trust or society which is established for the development of khadi and village industries (not for profit purpose) is exempt from tax, if following conditions are satisfied:

1. Income is attributable to the business of production, sale, or marketing, of khadi or products of village industries.



2. Institution applies its income, or accumulates it for application, solely for the development of khadi or village industries or both
3. Institution is approved by the Khadi and Village Industries Commission

Income of State Level Khadi and Village Industries Board [Section 10(23BB)]

Any income from an authority (whether known as the Khadi and Village Industries Board, or by any other name) established in a State by or under a State or Provincial Act for the development of Khadi or Village Industries in the State, shall be exempted from tax.

Income of certain Authorities set up to manage Religious and Charitable Institutions [Section 10(23BBA)]

Any income of any body or authority established, or appointed by or under any Central, State or Provincial Act which provides administration of any of the following institutions

1. Public, Religious or Charitable Trusts
2. Endowments (including Maths, Gurudwaras, Temples, Wakfs etc.) ; or
3. a society for religious or charitable purposes registered under Societies Act 1860, shall be exempted from tax.

Income of European Economic Community [Section 10(23BBB)]

Any income of European Economic community derived in India by way of interest, dividend or capital gain from investments made out of its funds under such scheme as the Central Govt. may notify is fully exempted.

Income of a SAARC Fund for regional projects [Section 10(23BBC)]

Any income of a fund set up as SAARC Fund for Regional Projects set up by Colombo Declaration issued on 21st. Dec. 1991 by Heads of State or Government of the Member Countries of South Asian Association for Regional Co-operation shall be fully exempted.



Any income of Insurance Regulatory and Development Authority [Section 10(23BBE)]

Any income of Insurance Regulatory and Development Authority established under Insurance Regulatory and Development Authority Act 1999 shall be fully exempted

Income of Prasar Bharti [Section 10(23BBH)] [Inserted by the Finance Act 2012, w.e.f. 2013-14]

Any income of the Prasar Bharti (Broadcasting Corporation of India) established under section 3(1) of the Prasar Bharti (Broadcasting Corporation of India) Act, 1990, shall be exempt.

Any income received by a person on behalf of following Funds [Section 10(23C)]

Any income received by any person on behalf of the Prime Minister's National Relief Fund, the Prime Minister's Fund (Promotion of Folk Art) or the Prime Minister's Aid to Students Fund is exempt from tax under clause (i), (ii) and (iii) of section 10(23C) respectively.

1. Any income received by any person on behalf of :
2. the Prime Minister's National Relief Fund ; or
3. the Prime Minister's Fund (Promotion of Folk Art) ; or
4. the Prime Minister's Aid to Student's Fund ; or
5. The National Foundation for Communal Harmony
6. Any educational institution which is
7. a non profit earning body and is wholly or substantially financed by the Government;
8. a non profit earning body whose aggregate annual receipts do not exceed the prescribed limits (to be notified) ; or
9. a non profit earning body other than those mentioned at (a) and (b) above but are approved by the prescribed authority.
10. any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or reception and treatment of persons during convalescence or of persons requiring medical attention and existing solely for philanthropic purposes and which:



11. is wholly or substantially financed by the Government ; or
12. whose aggregate annual receipts do not exceed the prescribed limits (to be notified); or
13. other than those mentioned a) and (b) above but is approved by the prescribed authority.
14. any other fund established for charitable purposes which may be notified by Central Government ; or
15. any trust or institution set up wholly for religious purposes or purpose which may be notified by the Central Government.

The above exemption shall not be available for the profits and gains of any business which is carried on, on behalf of or by any fund or institution referred in points (iv) and (v) above or to the profits or gains of any business undertaking held under trust for the purposes of any fund or institution referred in points (iv) and (v) above. This amendment has come into effect from assessment year 1984-85.

In case annual receipts of such an institution exceeds Rs. 1 crore in a previous year, it has to file an application upto 30th September in the succeeding financial year.

Under Section 10(23C) income of institutions specified above shall be exempt from income tax. In certain cases, approvals are required to be taken from prescribed authority in the prescribed manner to become eligible for claiming exemption.

Income of Mutual Fund [Section 10(23D)]

Any income of following mutual funds (subject to provisions of sections 115R to 115T) is exempt from tax:

- A mutual fund registered under the Securities and Exchange Board of India Act or regulation made thereunder.
- A mutual fund set-up by a public sector bank, or a public financial institution or authorised by RBI (subject to conditions notified by the Central Government).

Exemption of income of a securitisation trust [Section 10(23DA)j [w.e.f. A.Y. 2014-15]

Any income of a securitisation trust from the activity of securitisation shall be exempt.



Income of Investor Protection Fund [Section 10(23EA)]

Any income by way of contributions received from recognised stock exchanges and the members thereof, of a notified Investor Protection Fund set up by recognised stock exchanges in India is exempt from tax.

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a recognised stock exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax

Exemption of income of investor protection fund of depository [Section 10(23ED)] [w.e.f. A.Y. 2014-15]

Any income, by way of contributions received from a depository, of notified Investor Protection Fund set up by a depository in accordance with the regulations made under the SEBI Act and Depository Act is exempt from tax

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with a depository, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

Exemption for Certain Incomes of a Venture Capital Company or Venture Capital Fund from Certain Specified Business or Industries [Section 10 (23FB)]

As per this amendment, the exemption will now be available only in respect of income of a Venture Capital Company or Venture Capital Fund from investment in a venture capital undertaking engaged in certain specified businesses or industries.

New definition of "Venture Capital Company", "Venture Capital Fund" and "Venture Capital undertaking" [Explanation 1 of section 10 (23FB)] [w.e.f A.Y. 20 13-14]

1. Meaning of Venture Capital Company. A company which has been registered before 21-5-2012 under the SEBI Regulations, 1996 (Venture Capital Fund Regulation) or which has been registered as venture capital fund being



a sub category of category 1 Alternative Investment Fund under the SEBI Regulation 2012 (Alternative Investment Fund Regulations). The Company has to satisfy the conditions mentioned in clause (a).

2. Meaning of Venture Capital fund. A trust which has been registered before 21-5-2012 under the Venture Capital Fund Regulations or which has been registered as venture capital fund being a sub-category of category 1 Alternative Investment Fund under the Alternative Investment Funds Regulations. The trust has to satisfy the conditions mentioned in clause (b).
3. Meaning of venture Capital undertaking. As defined under the Venture Capital Fund Regulation or under the Alternative Investment Funds Regulation.

Income of Registered Trade Unions [Section 10(24)]

The following incomes of registered trade unions are exempt from tax :

1. Income from house property.
2. Income from other sources.

The trade union must be a registered one and formed primarily for the purpose of regulating the relations between workmen and employer or between workmen and workmen. This benefit shall also be available to an association of registered trade unions.

Income of Provident and Superannuation Funds [Section 10(25)]

1. Interest on securities which are held by or are the property of any provident fund to which Provident Funds Act, 1925 applies and any capital gains of the fund arising from the sale, exchange or transfer of such securities.
2. Any income received by the trustees on behalf of a recognised provident fund.
3. Any income received by the trustees on behalf of an approved superannuation fund



Income of Employee's State Insurance Fund [Section 10 (25A)]

Income of such fund is fully exempted.

Income of Schedule Tribe Members [Section 10(26) and 10(26A)]

Certain types of incomes of the members of Scheduled Tribes living in tribal areas are exempt from tax. The Scheduled Tribes to which this exemption applies are defined in Clause (25) of Article 366 of the Constitution, residing in any areas specified in Part A or Part B of the table appended to paragraph 20 of the Sixth Schedule of the Constitution or in the State of Arunachal Pradesh, Manipur, Tripura, Mizoram and Nagaland or in the Ladakh region of the State of Jammu & Kashmir.

The exempted incomes are incomes which accrue or arise to him :

1. from any source in the area, State, or Union Territories aforesaid, or
2. by way of dividend.

This means that if a member of a Schedule Tribe sets up a business at any place other than mentioned above, profit from such business will be taxable.

Income of Sikkimese individual [Section 10(26AAN)] (With retrospective effect from 1-4-1990)

The following incomes which accrues or arises to a Sikkimese individual shall be exempt from income tax—

1. income from any source in the State of Sikkim; or
2. income by way of dividend or interest on securities.

This exemption will not be available to a Sikkimese women who, on or after 1-4-2008 marries a non-Sikkimese individual.



Regulating the marketing of agricultural produce [Section 10[26AAB]]

Any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce shall be exempted.

Income of a corporation set-up for promoting the interests of Scheduled Castes, Scheduled Tribes or Backward Classes [Section 10(26B)]

Income of such corporation or body, institutions or associations which are wholly financed by govt. and which have been set-up to promote the interest of above mentioned communities shall be fully exempted.

Income of a corporation set-up to protect the interests of Minorities [Section 10(26BB)]

Any income of a corporation established by the Central Government or State Government for promoting the interests of the members of such minority community as notified by the Central Government from time-to-time, is exempt from tax under Section-10(26BB).

Any income of a Corporation established for Ex-Servicemen [Section 10(26BBB)]

From assessment year 2004-05, any income of a statutory corporation established by Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen (being citizen of India) is exempt from tax under section 10(26BBB).

“Ex-Serviceman” means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-serviceman immediately before his death or incapacitation.



Income of cooperative society looking after the interests of Scheduled Castes or Scheduled Tribes or Both [Section 10(27)]

Such income shall be fully exempted provided the membership of such society consists of only other cooperative societies formed for similar purposes and the finances of the society are provided by Government and such other societies.

Any income accruing or arising to Commodity Boards etc. [Section 10(29A)]

Any income accruing to

1. The Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942), in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later
2. The Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 (24 of 1947), in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later
3. The Tea Board established under section 4 of the Tea Act 1953 (29 of 1953), in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later
4. The Tobacco Board constituted under the Tobacco Board Act, 1975 (4 of 1975), in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1975 or the previous year in which such Board was constituted, whichever is later
5. The Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972), in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1972 or the previous year in which such Authority was constituted, whichever is later



6. The Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 (2 of 1986), in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1985 or the previous year in which such Authority was constituted, whichever is later
7. The Spices Board constituted under sub-section (1) of section 3 of the Spices Board Act, 1986 (10 of 1986), in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1986 or the previous year in which such Board was constituted, whichever is later.
8. The Coir Board established under section 4 of the Coir Industry Act, 1953.

Amount received as subsidy from or through the Tea Board [Section 10(30)]

In the case of a taxpayer, who carries on business of growing and manufacturing tea in India, the amount of any subsidy received from or through the Tea Board under the notified scheme for replantation or replacement of tea bushes or for rejuvenation or consolidation of the area used for cultivation of tea, is exempt from tax (for notified schemes see Notification No. S.O. 3616, dated September 27, 1976).

To claim exemption, a certificate from the Tea Board as to the amount of subsidy paid to the taxpayer during the year is to be obtained.

A similar exemption is available under section 10(31) in respect of subsidy received by an taxpayer engaged in the business of growing and manufacturing rubber, coffee, cardamom or such other commodities as the Central Government may by notification specify [Section 10(31)]

Amount received as subsidy from or through the concerned Board [Section 10(31)]

Any amount received as subsidy from or through the concerned Board for replantation or replacement of Rubber, Coffee, cardamom plants or plants for growing of such other commodities or for any other scheme so notified shall be fully exempted.



Income of Child Clubbed U/s 64 (IA) [Section 10(32)]

In case income of a minor child is clubbed with the income of his parent, the parent can claim exemption upto actual income of child clubbed or 1,500 whichever is less in respect of each minor child whose income is included.

Income by way of dividend from Indian company [Section 10(34)]

Dividend received from a domestic company is exempt in the hands of the shareholders provided such dividend has already suffered Dividend Distribution Tax (DDT) under section 115-O

Exemption of income to a shareholder on buyback of shares of unlisted company [Section 10 (34A) [w.e.f. A.Y. 2014-15]

Any income arising to an assessee being a shareholder, on account of buyback of shares, (not being listed on a recognised stock exchange) by the company as referred to in section 115QA shall be exempt.

Exemption of income from Units [Section 10(35)]

Like in case of dividend, section 10(35) provides that any income received in respect of—

1. units from the Administrator of the specified undertaking, or
2. the specified company, or
3. a Mutual Fund specified under clause (23D)

shall be Exempt.

Exemption of income from Securitisation Trust [Section 10(35A)] [w.e.f A.Y. 2014-15]

Any income received by any person being an investor of the Securitisation Trust from such a trust, by way of distributed income referred to in section 115TA shall be exempt.



Capital Gain on compulsory acquisition of urban Agricultural Land [Section 10(37)]

With a view to mitigate the hardship faced by the farmers whose agricultural land situated in specified urban limits has been compulsorily acquired, the Finance (No. 2) Act, 2004 has inserted a new clause (37) in section 10 so as to exempt the capital gains (whether short-term or long-term) arising to an individual or a Hindu undivided family from transfer of agricultural land by way of compulsory acquisition where the compensation or the enhanced compensation or consideration, as the case may be, is received on or after 1.4.2004. The exemption is available only when such land has been used for agricultural purposes during the preceding two years by such individual or a parent of his or by such Hindu undivided family.

Where the compulsory acquisition has taken place before 1.4.2004 but the compensation is received after 31.3.2004, it shall be exempt. But if part of the original compensation in the above case has already been received before 1.4.2004, then exemption shall not be available even though balance original compensation is received after 31.3.2004.

However, enhanced compensation received on or after 1.4.2004 against agricultural land compulsorily acquired before 1.4.2004 shall be Exempt.

If such urban agricultural land is held as stock-in-trade, section 10(37) shall not be applicable as it is not a capital asset. Profit from the compulsory acquisition of such urban land shall be taxable under business head.

Income from international Sporting event [Section 10(39)]

Any specified income (which is from such international event and which is notified by the Central Govt.) of specified persons from any international event held in India shall be fully exempted if

1. such event is approved by the international body regulating the international sport relating to such event
2. it has participation by more than two countries ; and
3. is notified by the Central Govt. in this regard.



Exemption of 'specified income' of certain bodies or authorities [Section 10(46)]

Any 'Specified Income' arising to a body or authority or Board or Trust or Commission (by whatever name called) which—

1. has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
2. is not engaged in any commercial activity; and
3. is notified by the Central Government in the Official Gazette for the purposes of this clause. shall be exempt.

Any Specified Income arising to a body or authority or Board or Trust or Commission (by whatever name called) which—

- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;
- (b) is not engaged in any commercial activity; and
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause. shall be exempt.

Exemption of Income of a foreign company from sale of Crude Oil in India [Section 10 (48)]

Any income of a foreign Co. received in India in Indian currency on account of sale of crude oil to any person in India shall be exempt if the following conditions are satisfied

1. Such Income is in pursuant to an agreement or an arrangement entered into by
2. the Central Govt. or approved by the Central Govt.;
3. having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Govt. in this behalf; and
4. the foreign company is not engaged in any activity, other than receipt of such income, in India.



Deductions under HEADS OF INCOME

The specific deductions apart from the lawful exemptions under section 10 are enumerated in a nutshell as under.

Income from Salary

Apart from the usual exemptions in respect of Leave travel Assistance, House Rent Allowances, Any Special Allowances the assessee can avail deduction on sweat Equity shares, Standard Deduction up to Rs.50,000/- ,Tax on Employment as deducted by the employer (payment of Profession Tax) etc.

Income from House Property

Municipal Tax, Standard deduction restricted to 30% of the Annual Value derived after deduction of Municipal Tax and deduction under Interest on borrowed capital to extent of Rs.2,00,000/--

Profits & Gains from Business or Professions

All the deductions available U/s 32,33,34,35, 36 and 37 of the Act which are basically covered as Depreciation, contribution on specific reserve, Contribution on scientific Research or expenses on scientific Research, Insurance Premium including Keyman Insurance premium, Interest on loan, Bad Debt and any expenses which are related to the earnings and which are also reasonable in nature such as Trade subscription and even subscription on Puja on specific occasion,

Capital Gain

All the deduction U/s 54 of the Act

Income from Other Sources

Expenses related to the earnings under this heads such as bank charges, Depreciation on assets which are not covered under section 32 and other expenses related to such earnings covered under the other sources.



CHAPTER 02

DEDUCTIONS UNDER SECTION 80

These provisions are applicable after computation of "Gross Total Income" i.e. the gross income from the respective heads after applicable exemptions and deductions as embedded under that particular source such as Income from Salary, Income from House Property, Profits & Gains from Business or Professions, Capital Gain and lastly from Income from Other Sources on that particular heads. These various deductions are available to taxpayer who can claim from his/her gross total income to arrive taxable income and thereby reduce the tax burden.

Section 80C, Deductions on Investments

The taxpayers can claim a deduction of Rs 1.5 lakh from his/her Gross Total Income under section 80C. In simple terms, the taxpayer can reduce up to Rs 1,50,000/- from his/her income investing money in the undermentioned captioned elements and it is available for individuals and HUFs.

Elements of Section 80C

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Investment in PPF

- Employee's share of PF contribution
- NSCs
- Life Insurance Premium payment
- Children's Tuition Fee
- Principal Repayment of home loan
- Investment in Sukanya Samridhi Account
- ULIPS



- ELSS
- Sum paid to purchase deferred annuity
- Five year deposit scheme
- Senior Citizens savings scheme
- Subscription to notified securities/notified deposits scheme
- Contribution to notified Pension Fund set up by Mutual Fund or UTI.
- Subscription to Home Loan Account scheme of the National Housing Bank
- Subscription to deposit scheme of a public sector or company engaged in providing housing finance
- Contribution to notified annuity Plan of LIC
- Subscription to equity shares/ debentures of an approved eligible issue
- Subscription to the notified bonds of NABARD

Section 80CCC – Deduction for Premium Paid for Annuity Plan of LIC or Other Insurer

Section 80CCC provides a deduction to an individual for any amount paid or deposited in any annuity plan of LIC or any other insurer. The plan must be for receiving a pension from a fund referred to in Section 10(23AAB). Pension received from the annuity or amount received upon surrender of the annuity, including interest or bonus accrued on the annuity, is taxable in the year of receipt.

Section 80CCD – Deduction for Contribution to Pension Account

a. Employee's contribution under Section 80CCD (1)

The Taxpayer can claim this provided the Taxpayer deposit in its pension account. Where the maximum deduction that can be availed is 10% of salary (in case the taxpayer is an employee) or 20% of gross total income (in case the taxpayer being self-employed) or Rs 1.5 lakh – whichever is less.



- b. Deduction for self-contribution to NPS – section 80CCD (1B) A new section 80CCD (1B) has been introduced for an additional deduction of up to Rs 50,000 for the amount deposited by a taxpayer to their NPS account. Contributions to Atal Pension Yojana are also eligible.
- c. Employer's contribution to NPS – Section 80CCD (2) Claim additional deduction on the contribution to employee's pension account for up to 10% of salary. There is no monetary ceiling on this deduction.

Section 80 TTA – Interest on Savings Account

Deduction from Gross Total Income for Interest on Savings Bank Account

It is applicable to the Taxpayer who is an individual or an HUF, the Taxpayer may claim a deduction of maximum Rs 10,000 against interest income from his/her savings account with a bank, co-operative society, or post office. Do include the interest from savings bank account in other income.

Section 80TTA deduction is not available on interest income from fixed deposits, recurring deposits, or interest income from corporate bonds.

Section 80GG – Deduction for House Rent Paid Where HRA is not Received

- a. Section 80GG deduction is available for rent paid when HRA is not received. The taxpayer, spouse or minor child should not own residential accommodation at the place of employment
- b. The taxpayer should not have self-occupied residential property in any other place
- c. The taxpayer must be living on rent and paying rent
- d. The deduction is available to all individuals

Deduction available is the least of the following:

- a. Rent paid minus 10% of adjusted total income
- b. Rs 5,000/- per month
- c. 25% of adjusted total income*



*Adjusted Gross Total Income is arrived at after adjusting the Gross Total Income by all the deductions, excluding all the deduction under this section exempt income, long-term capital gains and income related to non-residents and foreign companies.

Section 80E – Deduction for Interest on Education Loan for Higher Studies

A deduction is allowed to an individual for interest on loans taken for pursuing higher education. This loan may have been taken for the taxpayer, spouse or children or for a student for whom the taxpayer is a legal guardian.

80E deduction is available for a maximum of 8 years (beginning the year in which the interest starts getting repaid) or till the entire interest is repaid, whichever is earlier. No restriction on the quantum of the amount that can be claimed.

Section 80EE – Deductions on Home Loan Interest for First Time Home Owners

FY 2017-18 and FY 2016-17 This deduction is available in FY 2017-18 if the loan has been taken in FY 2016-17. The deduction under section 80EE is available only to home-owners (individuals) having only one house property on the date of sanction of the loan. The value of the property must be less than Rs 50 lakh and the home loan must be less than Rs 35 lakh. The loan taken from a financial institution must have been sanctioned between 1 April 2016 and 31 March 2017. There is an additional deduction of Rs 50,000 available on the assessee's home loan interest on top of deduction of Rs 2 lakh (on interest component of home loan EMI) allowed under section 24.

FY 2013-14 and FY 2014-15 During these financial years, the deduction available under this section was first-time house worth Rs 40 lakh or less. The tax payer can avail this only when the tax payer's loan amount during this period is Rs 25 lakh or less. The loan must be sanctioned between 1 April 2013 and 31 March 2014. The aggregate deduction allowed under this section cannot exceed Rs 1 lakh and is allowed for FY 2013-14 and FY 2014-15. From the F.Y. 2019-20 the additional interest is enhanced to Rs.1,50,000/- in addition to Rs.2,00,000/- under the head of Income from House Property.



Section 80CCG –Rajiv Gandhi Equity Saving Scheme (RGESS)

The deduction under this section 80CCG is available to a resident individual, whose gross total income is less than Rs.12 lakh. To avail the benefits under this section the following conditions should be met:

- a. The assessee should be a new retail investor as per the requirement specified under the notified scheme.
- b. The investment should be made in such listed investor as per the requirement specified under the notified scheme.
- c. The minimum lock in period in respect of such investment is three years from the date of acquisition in accordance with the notified scheme.

Upon fulfillment of the above conditions, a deduction, which is lower of the following is allowed.

- 50% of the amount invested in equity shares; or
- Rs. 25,000 for three consecutive Assessment Years.

Rajiv Gandhi Equity Scheme has been discontinued starting from 1 April 2017. Therefore, no deduction under section 80CCG will be allowed from FY 2017-18. However, if the taxpayer have invested in the RGESS scheme in FY 2016-17, then the tax payer can claim deduction under Section 80CCG until FY 2018-19.

Section 80D – Deduction for the premium paid for Medical Insurance

As an individual or HUF can claim a deduction of Rs.25,000 under section 80D on insurance for self, spouse and dependent children. An additional deduction for insurance of parents is available up to Rs 25,000, if they are less than 60 years of age. If the parents are aged above 60, the deduction amount is Rs 50,000, which has been increased in Budget 2018 from Rs 30,000.

In case, both taxpayer and parent(s) are 60 years or above, the maximum deduction available under this section is up to Rs.1 lakh.



Example:

Mr. Chiranjib's age is 61 and his father's age is 90. In this case, the maximum deduction available to Mr. Chiranjib who can claim under section 80D is Rs. 100,000/-. From FY 2015-16 a cumulative additional deduction of Rs.5,000 is allowable for preventive health checkup also.

Section 80DD – Deduction for Rehabilitation of Handicapped Dependent Relative

Section 80DD deduction is available to a resident individual or a HUF and is available on:

- a. Expenditure incurred on medical treatment (including nursing), training and rehabilitation of handicapped dependent relative
- b. Payment or deposit to specified scheme for maintenance of handicapped dependent relative.
 - i. Where disability is 40% or more but less than 80% – fixed deduction of Rs 75,000/-.
 - ii. Where there is severe disability (disability is 80% or more) – fixed deduction of Rs 1,25,000/-.

To claim this deduction a certificate of disability is required from prescribed medical authority. From FY 2015-16 – The deduction limit of Rs 50,000/- has been raised to Rs 75,000/- and Rs 1,00,000/- has been raised to Rs 1,25,000/-.

Section 80DDB - Deduction for Medical Expenditure on Self or Dependent Relative

a. For individuals and HUFs below age 60

A deduction up to Rs.40,000 is available to a resident individual or a HUF. It is available with respect to any expense incurred towards treatment of specified medical diseases or ailments for himself or any of his dependents. For an HUF, such a deduction is available with respect to medical expenses incurred towards these prescribed ailments for any of the HUF members.

**b. For senior citizens and super senior citizens**

In case the individual on behalf of whom such expenses are incurred is a senior citizen, the individual or HUF taxpayer can claim a deduction up to Rs 1 lakh. Until FY 2017-18, the deduction that could be claimed for a senior citizen and a super senior citizen was Rs 60,000 and Rs 80,000 respectively. This has now become a common deduction available upto Rs 1 lakh for all senior citizens (including super senior citizens) unlike earlier.

c. For reimbursement claims

Any reimbursement of medical expenses by an insurer or employer shall be reduced from the quantum of deduction the taxpayer can claim under this section.

Also remember that the Tax payer need to get a prescription for such medical treatment from the concerned specialist in order to claim such deduction. under Section 80DDB.

Section 80U – Deduction for Person suffering from Physical Disability

A deduction of Rs.75,000 is available to a resident individual who suffers from a physical disability (including blindness) or mental retardation. In case of severe disability, one can claim a deduction of Rs 1,25,000/-.

From FY 2015-16 – Section 80U deduction limit of Rs 50,000/- has been raised to Rs 75,000 and Rs 1,00,000/- has been raised to Rs 1,25,000/-.

Section 80EEA – Deduction for interest paid on home loan for affordable housing

The government has now extended the interest deduction allowed for low-cost housing loans under section 80EEA. Read here to know more about 80EEA.



Section 80EEB – Deduction in respect of interest paid on loan taken for the purchase of electric vehicle

A new section 80EEB has been introduced allowing a deduction for interest paid on loan taken for the purchase of electric vehicles. Read to know more.

Section 80G – Deduction for donations towards Social Causes

The various donations specified in u/s 80G are eligible for deduction up to either 100% or 50% with or without restriction. From FY 2017-18 any donations made in cash exceeding Rs 2,000 will not be allowed as deduction. The donations above Rs 2000 should be made in any mode other than cash to qualify for 80G deduction.

- a. Donations with 100% deduction without any qualifying limit
 - National Defence Fund set up by the Central Government
 - Prime Minister's National Relief Fund
 - National Foundation for Communal Harmony
 - An approved university/educational institution of National eminence
 - Zila Saksharta Samiti constituted in any district under the chairmanship of the Collector of that district
 - Fund set up by a State Government for the medical relief to the poor
 - National Illness Assistance Fund
 - National Blood Transfusion Council or to any State Blood Transfusion Council
 - National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities
 - National Sports Fund
 - National Cultural Fund



- Fund for Technology Development and Application
 - National Children's Fund
 - Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund with respect to any State or Union Territory
 - The Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund, Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996
 - The Maharashtra Chief Minister's Relief Fund during October 1, 1993 and October 6, 1993
 - Chief Minister's Earthquake Relief Fund, Maharashtra
 - Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat
 - Any trust, institution or fund to which Section 80G(5C) applies for providing relief to the victims of earthquake in Gujarat (contribution made during January 26, 2001 and September 30, 2001) or
 - Prime Minister's Armenia Earthquake Relief Fund
 - Africa (Public Contributions — India) Fund
 - Swachh Bharat Kosh (applicable from financial year 2014-15)
 - Clean Ganga Fund (applicable from financial year 2014-15)
 - National Fund for Control of Drug Abuse (applicable from financial year 2015-16)
- b. Donations with 50% deduction without any qualifying limit
- Jawaharlal Nehru Memorial Fund
 - Prime Minister's Drought Relief Fund
 - Indira Gandhi Memorial Trust
 - The Rajiv Gandhi Foundation



- c. Donations to the following are eligible for 100% deduction subject to 10% of adjusted gross total income
- Government or any approved local authority, institution or association to be utilized for the purpose of promoting family planning
 - Donation by a Company to the Indian Olympic Association or to any other notified association or institution established in India for the development of infrastructure for sports and games in India or the sponsorship of sports and games in India
- d. Donations to the following are eligible for 50% deduction subject to 10% of adjusted gross total income
- Any other fund or any institution which satisfies conditions mentioned in Section 80G(5)
 - Government or any local authority to be utilized for any charitable purpose other than the purpose of promoting family planning
 - Any authority constituted in India for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns, villages or both
 - Any corporation referred in Section 10(26BB) for promoting the interest of minority community
 - For repairs or renovation of any notified temple, mosque, gurudwara, church or other places.

Section 80GGB – Deduction on contributions given by companies to Political Parties

Section 80GGB deduction is allowed to an Indian company for the amount contributed by it to any political party or an electoral trust. Deduction is allowed for contribution done by any way other than cash.



Section 80GGC – Deduction on contributions given by any person to Political Parties

Deduction under section 80GGC is allowed to an individual taxpayer for any amount contributed to a political party or an electoral trust. It is not available for companies, local authorities and an artificial juridical person wholly or partly funded by the government. The Tax payer can avail this deduction only if the Tax payer pay by any way other than cash.

Section 80RRB – Deduction with respect to any Income by way of Royalty of a Patent

80RRB Deduction for any income by way of royalty for a patent, registered on or after 1 April 2003 under the Patents Act 1970, shall be available for up to Rs.3 lakh or the income received, whichever is less. The taxpayer must be an individual patentee and an Indian resident. The taxpayer must furnish a certificate in the prescribed form duly signed by the prescribed authority.

Section 80 TTB – Deduction of Interest on Deposits for Senior Citizens

A new section 80TTB has been inserted vide Budget 2018 in which deductions with respect to interest income from deposits held by senior citizens will be allowed. The limit for this deduction is Rs.50,000.

No further deduction under section 80TTA shall be allowed. In addition to section 80 TTB, section 194A of the Act will also be amended so as to increase the threshold limit for TDS on interest income payable to senior citizens. The earlier limit was Rs 10,000, which was increased to Rs 50,000 as per the latest Budget.



Deductions-Summary

Section 80 Deduction Table

Section	Deduction on	Allowed Limit (maximum) FY 2018-19
80C	<p>Investment in PPF</p> <ul style="list-style-type: none">– Employee's share of PF contribution– NSCs– Life Insurance Premium payment– Children's Tuition Fee– Principal Repayment of home loan– Investment in Sukanya Samridhi Account– ULIPS– ELSS– Sum paid to purchase deferred annuity– Five year deposit scheme– Senior Citizens savings scheme– Subscription to notified securities/notified deposits scheme– Contribution to notified Pension Fund set up by Mutual Fund or UTI.– Subscription to Home Loan Account scheme of the National Housing Bank– Subscription to deposit scheme of a public sector or company engaged in providing housing finance– Contribution to notified annuity Plan of LIC– Subscription to equity shares/ debentures of an approved eligible issue– Subscription to notified bonds of NABARD	Rs. 1,50,000
80CCC	For amount deposited in annuity plan of LIC or any other insurer for a pension from a fund referred to in Section 10(23AAB)	



80CCD(1)	Employee's contribution to NPS account (maximum up to Rs 1,50,000)	
80CCD(2)	Employer's contribution to NPS account	Maximum up to 10% of salary
80CCD(1B)	Additional contribution to NPS	Rs. 50,000
80TTA(1)	Interest Income from Savings account	Maximum up to 10,000
80TTB	Exemption of interest from banks, post office, etc. Applicable only to senior citizens	Maximum up to 50,000
80GG	For rent paid when HRA is not received from employer	Least of : – Rent paid minus 10% of total income – Rs. 5000/- per month – 25% of total income
80E	Interest on education loan	Interest paid for a period of 8 years
80EE	Interest on home loan for first time home owners	Rs 50,000
80CCG	Rajiv Gandhi Equity Scheme for investments in Equities	Lower of – 50% of amount invested in equity shares; or – Rs 25,000
80D	Medical Insurance – Self, spouse, children Medical Insurance – Parents more than 60 years old or (from FY 2015-16) uninsured parents more than 80 years old	– Rs. 25,000 – Rs. 50,000



80DD	Medical treatment for handicapped dependent or payment to specified scheme for maintenance of handicapped dependent – Disability is 40% or more but less than 80% – Disability is 80% or more	– Rs. 75,000 – Rs. 1,25,000
80DDB	Medical Expenditure on Self or Dependent Relative for diseases specified in Rule 11DD – For less than 60 years old – For more than 60 years old	– Lower of Rs 40,000 or the amount actually paid – Lower of Rs 1,00,000 or the amount actually paid
80U	Self-suffering from disability : – An individual suffering from a physical disability (including blindness) or mental retardation. – An individual suffering from severe disability	– Rs. 75,000 – Rs. 1,25,000
80GGB	Contribution by companies to political parties	Amount contributed (not allowed if paid in cash)
80GGC	Contribution by individuals to political parties	Amount contributed (not allowed if paid in cash)
80RRB	Deductions on Income by way of Royalty of a Patent	Lower of Rs 3,00,000 or income received

CHAPTER 03

FREQUENTLY ASKED QUESTIONS

1. Can I claim the 80C deductions at the time of filing return in case I have not submitted proof to my employer?

Proofs for making investments are submitted to the employer before the end of a Financial Year (FY) so that the employer considers these investments while determining your taxable income and the tax deduction that needs to be made. However, even if you miss submitting these proofs to your employer, the claim for such investments made can be done at the time of filing your return of income as long as these investments have been made before the end of the relevant FY.

2. I have made an 80C investment on 30 April 2018. For which year can I claim this investment as a deduction?

You can claim deduction for investments made in the return of income for the year in which you have made the investment. Therefore, if you have made the investment on 30 April 2018, you will be eligible to claim such investment as a deduction during FY 2018-19.

3. I have availed a loan from my employer for pursuing higher education. Can I claim the interest paid on such loan as a deduction under Section 80E?

A deduction of interest paid on education loan under Section 80E can be made only if the loan has been availed from a financial institution for pursuing higher education. Therefore, availing a loan from your employer will not entitle you to claim the interest under Section 80E.



4. Is there any restriction or maximum limit upto which I can claim a deduction under Section 80E?

Law has not prescribed any upper limit for making a claim of deduction under Section 80E. Hence, the actual interest paid during a year can be claimed as a deduction.

5. Can a company or a firm take the benefit of Section 80C?

The provisions of Section 80C apply only to individuals or a Hindu Undivided Family (HUF). Hence, a company or a firm cannot take the benefit of Section 80C.

6. I have been paying life insurance premium to a private insurance company. Can I claim 80C deduction for the premium paid?

Deduction under Section 80C is available in respect of life insurance premium paid to any insurer approved by the Insurance Regulatory and Development Authority of India, whether public or private. Hence, the insurance premium you are paying will also help you claim an 80C deduction.

7. In which year can I claim deduction of the stamp duty paid for purchase of a house property

You can go ahead claiming the stamp duty for purchase of a house in the year in which the payment is made towards stamp duty under Section 80C.

8. Can a company claim a deduction for donations made under Section 80G

Any taxpayer making donations towards specified institutions, funds etc will be eligible to claim a deduction under Section 80G.

9. I am paying medical insurance premium for a medical policy taken in my name, my wife and children. I am also paying premium on a medical policy taken in the name of my parents who are above 60 years. Can I claim a deduction for both premiums paid?



The premium you have paid on the policy taken for yourself, spouse and children is eligible for a deduction under Section 80D upto a maximum of Rs 25,000. In addition to this, you will also be eligible to claim deduction of premium paid on the policy taken for your senior citizen parents upto a maximum of Rs 50,000 (this limit was Rs 30,000 until FY 2017-18. Hence, you can claim both premiums paid as a deduction under Section 80D.

10. Is my FD interest exempt under Section 80TTB?

If you are a senior citizen above 60 years of age, then your interest income from a Fixed Deposit is exempt under Section 80TTB.

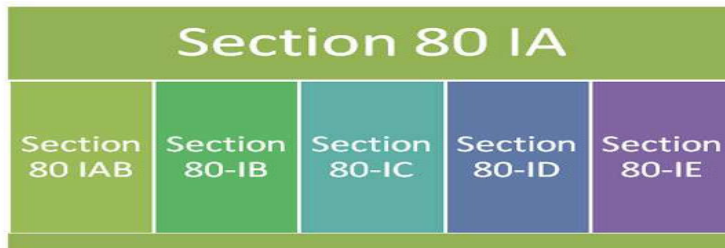
Deduction in respect of certain undertaking in North-Eastern States [Section 80-IE].

1. It has during the period beginning on 1.4.2007 and ending before 1.4.2017 begun or begins in any of the North-Eastern States:
2. It is not formed by splitting up, or the reconstruction, of a business already in existence:
3. It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.
4. Deduction under this section is not available in respect of manufacture or production of tobacco, pan masala, plastic carry bags or less than 20 microns or goods produced by petroleum oil and gas refineries.
5. Deduction should be claimed in the Return of Income.
6. Quantum and Period of Deduction under Section 80-IE :
7. Other Condition of Section 80-IA also applicable [Section 80-IE(6)]:

Deduction under this section is allowed to an assessee whose gross total income includes any profits and gains derived by an undertaking which fulfils the following conditions:

It has during the period beginning on 1.4.2007 and ending before 1.4.2017 begun or begins in any of the North-Eastern States:

1. to manufacture or produce any eligible article or thing;
2. to undertake substantial expansion to manufacture or produce any eligible article or thing;
3. to carry on any eligible business.



Deduction under this section is allowed to an assessee whose gross total income includes any profits and gains derived by an undertaking which fulfils the following conditions:

It has during the period beginning on 1.4.2007 and ending before 1.4.2017 begun or begins in any of the North-Eastern States:

1. to manufacture or produce any eligible article or thing;
2. to undertake substantial expansion to manufacture or produce any eligible article or thing;
3. to carry on any eligible business.

It is not formed by splitting up, or the reconstruction, of a business already in existence:

However, this condition shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in the said section.

It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.



However, plant and machinery, already used for any purpose, can be transferred to the new industrial undertaking, provided value of such plant and machinery does not exceed 20% of the total value of plant and machinery of the new industrial undertaking.

Eligible services for this purpose are hotel (3 star or above), nursing home (25 beds or more), old age homes, vocational training institutes (such as hotel management, catering, entrepreneurship development, nursing and paramedical, civil aviation related training, fashion designing and industrial training), IT related training centres, IT hardware units and bio-technology.

(5) Deduction should be claimed in the Return of Income.

Return of income should be submitted on or before the due date of submission of return of income. Books of account should be audited and audit report should be submitted electronically.

Quantum and Period of Deduction under Section 80-IE :

100% of the profits and gains derived from such business for 10 consecutive assessment years commencing with the initial assessment year.

Initial Assessment Year:

“Initial assessment year” means the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things, or completes substantial expansion.

Other Condition of Section 80-IA also applicable [Section 80-IE(6)]:

The provisions contained in sub-section (5) and sub-sections (7) to (12) of section 80-IA shall, so far as may be, apply to the eligible undertaking under this section.



1. Audit of accounts [Section 80-IA(7)]:

The deduction under section 80-IA from profits and gains derived from an undertaking shall not be admissible unless the accounts of the undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by a chartered accountant and the assessee furnishes, along with his return of income, the report of such audit in Form No. 10CCB duly signed and verified by such accountant.

2. Inter-unit transfer of goods or services [Section 80-IA(8)]:

Where any goods or services held for the purposes of the eligible business are transferred to any other business carried on by the assessee, or where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the eligible business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of such eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date:

However, where in the opinion of the Assessing Officer, the computation of the profits and gains of the eligible business in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such profits and gains on such reasonable basis as he may deem fit. "Market value" in relation to any goods or service, means the price that such goods or service, would ordinarily fetch on sale in the open market.

3. Double deduction not allowed [Section 80-IA(9)]:

Where any amount of profits and gains of an undertaking or of an enterprise in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not



be allowed under the heading "deductions in respect of certain incomes", and shall in no case exceed the profits and gains of such eligible business of undertaking or enterprise, as the case may be.

4. Restriction of excessive profits [Section 80-IA(10)]:

Where it appears to the Assessing Officer that, owing to the (i) close connection between the assessee carrying on the eligible business to which this section applies and any other person, or (ii) for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as maybe reasonably deemed to have been derived therefrom.

5. Power of Central Government to declare that the section shall not apply [Section 80-IA(11)]:

The Central Govt. may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section not apply to any class of industrial undertaking or enterprise with effect from such date as it may specify in the notification.



CHAPTER 04

SPECIAL PROVISION IN RESPECT OF NEWLY ESTABLISHED UNDERTAKINGS IN FREE TRADE ZONE, SEZ, 100% EXPORT ORIENTED UNDERTAKINGS

A. Section 10A- Special provision in respect of newly established undertakings in free trade zone.

The benefit in respect of newly established Industrial Undertaking in FTZ, EHTP SEZ or STP is Available to all Assessee on Export of Certain Articles or things or software

Subject to the following Conditions: –

- (i) Should not be formed by splitting up or reconstruction of unit already in existence
- (ii) Should not be formed by transferring machinery or plant previously used. In certain conditions as specified in the Act second hand machinery is allowed.
- (iii) Sale proceeds should be brought in convertible forex within 6 months from the end of P.Y.
- (iv) Report in Form No.56F
- (v) Filing of return within due date under Section 139(1)
- (vi) Tax Holiday: – For units which have begun prior to AY 2003-04, 100% profit from export of such article, thing, software for 10 consecutive A.Y. from the A.Y. relevant to P.Y. in which it begun to manufacture subject to some conditions and restrictions mentioned in the Act. However for AY 2003-04 it is 90%. For units which have begun on or after AY 2003-04 the deduction is 100% for first 5 years and 50% for next 2 years and next 3 years 50% subject to creation of "Special Economic Zone Reinvestment Allowance Reserve Account" and fulfillment of conditions relating thereto failing which the unutilized or wrongly utilised Reserve would be deemed income as per the provisions of the Act and the Rules.



- (vii) No deduction for A.Y.2012 – 13 or thereafter
- (viii) The computation of profits is as per the following formula:-
- $$\frac{\text{Profit from the business of the under-taking} \times \text{Export Turnover}}{\text{Total Turnover of Undertaking}}$$
- (ix) No deduction shall be allowed under Section 80HH or Section 80HHA or Section 80-I or Section 80-IA or Section 80-IB in relation to the profits and gains of the undertaking
- (x) No loss referred to in sub-section (1) of Section 72 or sub-section (1) or sub-section (3) of Section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years [ending before the 1st day of April, 2001]
- (xi) In computing the depreciation allowance under Section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.
- (xii) Market value of goods to be transferred to be as per market rate on the date of transfer and as per arms length price as per the provisions of sub-section (8) and sub-section (10) of Section 80-IA.
- (xiii) The provisions of this section does not apply to any undertaking, being a Unit referred to in clause (zc) of section 2 of the Special Economic Zones Act, 2005, which has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year commencing on or after AY 2006-07 in any Special Economic Zone.
- (xiv) Provisions related to amalgamation and demerger:-
The benefit under this section is not available to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and it is available to the the amalgamated or the resulting company as it would have been available to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.



2. Definitions. – For the purposes of this section, –

1. “computer software” means –

(a) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(b) any customized electronic data or any product or service of similar nature, as may be notified by the Board,

which is transmitted or exported from India to any place outside India by any means;

2. “export turnover” means the consideration in respect of export [by the undertaking] of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

3. The Assessing Officer should look into the following important factual areas:

Section 10A:

- i) The year in which the manufacture or production begins must be noted as this is very crucial for the allowance of deduction.
- ii) The undertaking must be a new undertaking and must not be formed by splitting or re-construction or transfer of old machinery, plant etc.
- iii) The undertaking must be in a Free Trade Zone, or Economic Trade Zone or Software Technology Park or SEZ.
- iv) The sale proceeds must be obtained in foreign exchange from export outside India within 6 months from the end of previous year.
- v) There must be an audit report as prescribed along with the return of income.
- vi) The assessee must not be claiming deduction under Sections 80HH, 80HHA, 80I, 80IA, 80IB with respect to the same undertaking.
- vii) The assessee must be allowed, even if not claimed, depreciation under Section 32.



- viii) The sale proceeds of the goods must be on market value and not understated.
- ix) If the claim is made for the 8th, 9th or 10th year, then it is only allowed on creation of reserved account. This must be seen.
- x) If reserved account is not utilized within the specified period, or utilized for some other purpose, it would be a deemed income.
- xi) Deduction is not available for A.Y.2012-13 and subsequent years.
- xii) The export turnover does not include freight, telecommunication charges or insurance attributable to the goods outside India or any expenses incurred in foreign exchange in rendering of services outside India.
- xiii) The deduction is not available on other income like interest etc.

4. Critical Areas in draft of assessment order:

- The date of issue and service of original and first notice under Section 143(2) must be mentioned in the beginning of the assessment order.
- While drafting the assessment order, the Assessing Officers must bring out the facts very clearly on the basis of which the deduction is being reduced or disallowed.
- If any inquiry has been made, then report of the inquiry or the statement recorded which are being used against the assessee must be confronted to the assessee before making the disallowance or reducing the claim. The fact of confronting the inquiry report to the assessee must also be brought on record and mentioned in the assessment order.
- If statement of any third party is being relied upon against the assessee then cross-examination opportunity must be provided to the assessee. These facts of providing cross examination opportunity must be brought on record and mentioned in the assessment order.
- The reply of the assessee to the inquiry report or the statement recorded under cross-examination must also be part of assessment order.



B. Section 10AA – Special provisions in respect of newly established Units in Special Economic Zones.

The benefit in respect of newly established Industrial Undertaking in SEZ is Available to all Assesseees on Export of Certain Articles or things or software

Subject to the following Conditions: –

- i. Begin its production, etc. on or after 01-04-2006 relevant to AY 2006-07 but before 01.04.2021
- ii. Should not be formed by splitting up or reconstruction of unit already in existence
- iii. Should not be formed by transferring machinery or plant previously used. In certain conditions as specified in the Act second hand machinery is allowed.
- iv. Report in Form No.56Fv. Tax holiday:- 100% of the profits from the export for the first 5 years from the beginning and 50% for next 5 years and for further 5 Years 50% subject to creation of "Special Economic Zone Reinvestment Allowance Reserve Account" and fulfillment of conditions relating thereto failing which the unutilized or wrongly utilised Reserve would be deemed income as per the provisions of the Act and the Rules.

Wef A.y 2018-19, For the removal of doubts, it is hereby declared that the amount of deduction under this section shall be allowed from the total income of the assessee computed in accordance with the provisions of this Act, before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.

- vi. The computation of profits is as per the following formula:-

$$\text{Profit from the business of the under-taking} \times \text{Export Turnover} \div \text{Total Turnover of Undertaking}$$
- vii. Loss referred to in sub-section (1) of Section 72 or sub-section (1) or sub-section (3) of Section 74, in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set off



- viii. No deduction shall be allowed under Section 80HH or Section 80HHA or Section 80-I or Section 80-IA or Section 80-IB in relation to the profits and gains of the undertaking
- ix. No loss referred to in sub-section (1) of Section 72 or sub-section (1) or sub-section (3) of Section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years [ending before the 1st day of April, 2006]
- x. In computing the depreciation allowance under Section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.
- xi. The Market value of goods to be transferred to be as per market rate on the date of transfer and as per arms length price as per the provisions of sub-section (8) and sub-section (10) of Section 80-IA.
- xii. The profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India..
- xiii. Subject to some conditions mentioned in the Act the Deduction is available only for unexpired period if claim made under Section 10A
- xiv. Provisions relating to amalgamation or demerger:- The benefit under this section is not available to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and it is available to the the amalgamated or the resulting company as it would have been available to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.



2. Definitions

a. "export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;

b. "export in relation to the Special Economic Zones" means taking goods or providing services out of India from a Special Economic Zone by land, sea, air, or by any other mode, whether physical or otherwise;

3. The Assessing Officer may look into the following important factual areas:

Section 10AA:

- i) This is applicable to newly established units in SEZs and must have begun manufacture or production or articles in A.Y.2006-07 onwards. and before 01.04.2021
- ii) The unit must not be formed by splitting or re-construction of an already existing business and old machineries must not be used.
- iii) The assessee must file audit report along with the Income-tax return.
- iv) The assessee must not be claiming deduction under Sections 80HH, 80HHA, 80I, 80IA, 80IB with respect to the same undertaking.
- v) The assessee must be allowed, even if not claimed, depreciation under Section 32.
- vi) The sale proceeds of the goods must be on market value and not understated.
- vii) If the unit/undertaking has already claimed benefit under Section 10A, then under this section benefit is available only for unexpired period.
- viii) The benefit is available for 6th year onwards only on creation of SEZ re-investment reserve account.



- ix) If the amount credited to the reserve account is not utilized before the expiry of the specified period or utilized for some other purpose, then it will be treated as deemed income.
- x) The export turnover does not include freight, telecommunication charges or insurance attributable to the goods outside India or any expenses incurred in foreign exchange in rendering of services outside India.
- xiv) The deduction is not available on other income like interest etc.

4. Critical Areas in draft of assessment order:

- The date of issue and service of original and first notice under Section 143(2) must be mentioned in the beginning of the assessment order.
- While drafting the assessment order, the Assessing Officers must bring out the facts very clearly on the basis of which the deduction is being reduced or disallowed.
- If any inquiry has been made, then report of the inquiry or the statement recorded which are being used against the assessee must be confronted to the assessee before making the disallowance or reducing the claim. The fact of confronting the inquiry report to the assessee must also be brought on record and mentioned in the assessment order.
- If statement of any third party is being relied upon against the assessee then cross-examination opportunity must be provided to the assessee. These facts of providing cross-examination opportunity must be brought on record and mentioned in the assessment order.
- The reply of the assessee to the inquiry report or the statement recorded under cross-examination must also be part of assessment order.

C. Section 10B – Special provisions in respect of newly established hundred percent export-oriented undertakings.



The benefit in respect of newly established 100% Export Oriented Units is Available to all Assesseees on Export of Certain Articles or things or software

Subject to the following Conditions:

- (i) Undertaking must be approved as a 100% EOU.
- (ii) The Income Tax Return must be filed on or before the due date under Section 139(1).
- (iii) The assessee has a choice not to claim the deduction for any particular AY if he makes a declaration before the AO, before the due date of filing of return for that AY.
- (iv) Manufacture of any article thing or software
- (v) Should not be formed by splitting up or reconstruction of unit already in existence
- (vi) Should not be formed by transferring machinery or plant previously used. In certain conditions as specified in the Act second hand machinery is allowed.
- (vii) There must be repatriation of sale proceeds into India within 6 months.
- (viii) Report in Form No.56G
- (ix) Audit of Books of Accounts.
- (x) Tax Holiday: – 100% profit from export of such article, thing, software for 10 consecutive A.Y. from the A.Y. relevant to P.Y. in which it begun to manufacture. The deduction is 90% for AY 2003-04.
- (xi) No deduction for A.Y.2012 – 13 or thereafter
- (xii) The computation of profits is as per the following formula:-

$$\text{Profit from the business of the under- taking} \times \text{Export Turnover} \div \text{Total Turnover of Undertaking}$$
- (xiii) No loss referred to in sub-section (1) of Section 72 or sub-section (1) or sub-section (3) of Section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set-off where such loss relates to any of the relevant assessment years [ending before the 1st day of April, 2001];



- (xiv) No deduction shall be allowed under Section 80HH or Section 80HHA or Section 80-I or Section 80-IA or Section 80-IB in relation to the profits and gains of the undertaking; and
- (xv) In computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.
- (xvi) The Market value of goods to be transferred to be as per market rate on the date of transfer and as per arms length price as per the provisions of sub-section (8) and sub-section (10) of section 80-IA.
- (xvii) The profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India
- (xviii) For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones
- (xix) Provisions relating to amalgamation or demerger:- The benefit under this section is not available to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and it is available to the the amalgamated or the resulting company as it would have been available to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.

2. Definitions

- "export turnover" means the consideration in respect of export [by the undertaking] of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;



- “hundred per cent export-oriented undertaking” means an undertaking which has been approved as a hundred per cent export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act;

3. The Assessing Officer may look into the following important factual areas:

Section 10B:

- i) This is applicable to newly established 100% export oriented undertakings.
- ii) No deduction is allowed under this section for any undertaking for A.Y.2012-13 and subsequent years.
- iii) For claiming the deduction return has to be furnished on or before due date of filing the return.
- iv) The undertaking must be a new undertaking and must not be formed by splitting or re-construction or transfer of old machinery, plant etc.
- v) The sale proceeds must be obtained in foreign exchange from export outside India within 6 months from the end of previous year.
- vi) There must be an audit report as prescribed along with the return of income.
- vii) The assessee must not be claiming deduction under Sections 80HH, 80HHA, 80I, 80IA, 80IB with respect to the same undertaking.
- viii) The assessee must be allowed, even if not claimed, depreciation under Section 32.
- ix) The sale proceeds of the goods must be on market value and not understated.
- x) The export turnover does not include freight, telecom-communication charges or insurance attributable to the goods outside India or any expenses incurred in foreign exchange in rendering of services outside India.
- xi) The deduction is not available on other income like interest etc.



4. Critical Areas in draft of assessment order:

- The date of issue and service of original and first notice under Section 143(2) must be mentioned in the beginning of the assessment order.
- While drafting the assessment order, the Assessing Officers must bring out the facts very clearly on the basis of which the deduction is being reduced or disallowed.
- If any inquiry has been made, then report of the inquiry or the statement recorded which are being used against the assessee must be confronted to the assessee before making the disallowance or reducing the claim. The fact of confronting the inquiry report to the assessee must also be brought on record and mentioned in the assessment order.
- If statement of any third party is being relied upon against the assessee then cross-examination opportunity must be provided to the assessee. These facts of providing cross-examination opportunity must be brought on record and mentioned in the assessment order.
- The reply of the assessee to the inquiry report or the statement recorded under cross-examination must also be part of assessment order.

D. CASE LAWS RELEVANT FOR Section 10A, Section 10AA & Section 10B

1. Condition that return should be filed within due date is mandatory.

M/s. Saffire Garments vs. ITO (ITAT Special Bench) (Rajkot) 04.12.2012

S. 10A: Condition that ROI should be filed within due date is mandatory. For AY 2006-07, the assessee filed a ROI on 31.1.2007 when the due date was 31.12.2006. The assessee claimed s. 10A deduction. The AO & CIT(A) rejected the claim by relying on the Proviso to s. 10A(1A). The Special Bench had to consider whether the Proviso to s. 10A(1A) was mandatory or directory and whether s. 10A deduction could be allowed even to a belated return. HELD by the Special Bench: The Proviso to s. 10A(1A)



provides that “no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under Section 139(1)”. The assessee’s argument that the said Proviso is merely directory and not mandatory is not acceptable. The Proviso is one of the several consequences (such as interest under Section 234A) that befall an assessee if he fails to file a ROI on the due date. As the other consequences for not filing the ROI on the due date are mandatory the consequence in the Proviso cannot be held to be directory (Shivanand Electronics 209 ITR 63 (Bom) & other judgments distinguished).

2. Specific conditions of sections under which claim is made has to be followed.

Commissioner of Income tax VS. Regency Creations Ltd. [2012] 27 taxmann.com 322 (DELHI) Assessment years 2003-04, 2004-05, 2006-07 and 2007-08 – Whether though considerations which apply for granting approval under Sections 10-A and 10-B may to an extent, overlap, yet deliberate segregation of these two benefits by statute reflects Parliamentary intention, that to qualify for benefit under either, specific procedure enacted for that purpose has to be followed – Held, yes – Whether, therefore, approval granted to a 100 per cent EOU set up under Software Technology Park Scheme cannot be deemed to be an approval under section 10-B – Held, yes [Para 14] [In favour of revenue] Circulars and Notifications : Circular Nos. 1 of 2005, dated 6-1-2005, 149/194/2004/TPL, dated 6-1-2005, 200/20/2006, dated 31-3-2006 and 694, dated 23-11-1994; Instruction No. 1 of 2006, dated 6-1-2005

3. Reopening under Section 147 justifiable even after 4 years under certain conditions.

Siemens Information Systems Ltd. VS. Assistant Commissioner of Income-tax [2012] 20 taxmann.com 666 (BOM.) / [2012] 207 TAXMAN 132 (BOM.) (MAG.) / [2012] 343 ITR 188 (BOM.) Assessment year 2004-05 – Assessee-company claimed deduction under section 10A which was allowed by Assessing Officer without specifically



dealing with eligibility of assessee to said claim – During course of assessment proceedings for subsequent assessment year 2006-07, materials on record revealed that units of assessee were not independent units; no independent accounts were maintained and there was an overlapping of work and use of resources amongst units and several non section 10A activities were being carried on in section 10A units – On basis of such disclosure Assessing Officer sought to reopen assessment – Whether even if reopening of assessment had taken place beyond a period of four years of end of relevant assessment year reopening assessment under section 147 was justified – Held, yes [In favour of revenue]

4. Deduction is to be allowed only after allowing depreciation.

Siemens Information Systems Ltd. VS. Deputy Commissioner of Income-tax, Circle 7(2) [2012] 19 taxmann.com 6 (MUM.) / [2012] 135 ITD 196 (MUM.) / [2012] 146 TTJ 303 (MUM.) Assessment year 2006-07 – Whether deduction under section 10A/10B has to be allowed only after deducting depreciation from profits of eligible business even though such a claim for depreciation has not been raised by assessee – Held, yes [In favour of revenue]

5. Conditions for Adjustment of unabsorbed depreciation.

- Phoenix Lamps Ltd. VS. Additional Commissioner of Income-tax, Range, Noida [2009] 29 SOT 378 (DELHI) / [2009] 126 TTJ 945 (DELHI) – Assessment year 2003-04 – Whether in view of Circular No. 7/2003, dated 5-9-2003 where unabsorbed depreciation for assessment years 1993-94 to 1995-96 pertained to period ended before 1-4- 2001, same could not be set off against income of assessment year 2003-04 – Held, yes.CBDT's Circular No. 7 of 2003, dated 5-9-2003
- Commissioner of Income-tax, Cochin VS. Patspin India Ltd. [2011] 15 taxmann.com 122 (KER.) / [2011] 203 TAXMAN 47 (KER.) / [2011] 245 CTR



- 97 (KER.)- Assessment years 200 1-02 to 2005-06
– Whether deduction under Section 10B on export profit of EOU has to be computed after setting off carried forward unabsorbed depreciation as provided under Section 32(2) – Held, yes
- Commissioner of Income-tax, Karnataka I, Bangalore VS. HimatasingikeSeide Ltd. [2006] 156 TAXMAN 151 (KAR.) / [2006] 206 CTR 106 (KAR.) / [2006] 286 ITR 255 (KAR.) Assessment year 1994-95 – Assessee was 100 per cent export oriented industrial unit in terms of Section 10B – Assessee filed nil return claiming exemption under Section 10B and it also adjusted brought forward unabsorbed depreciation against income from other sources – Assessing Officer, accepting assessee's claim, assessed total income at nil – Commissioner, in exercise of powers under Section 263, set aside assessment order holding that exemption under Section 10B was allowed on an inflated amount without deducting unabsorbed depreciation from export income
 - – Whether since Section 10B provides 100 per cent exemption for export income and not for other income, assessee could not have adjusted unabsorbed depreciation against other income so as to take exemption from payment of tax even for other income – Held, yes – Whether, therefore, order of Commissioner was to be sustained – Held, yes
 - Assistant Commissioner of Income-tax VS. Jewellery Solutions International (P.) Ltd. [2009] 28 SOT 405 (MUM.) – Assessment year 2003-04 – Whether deduction under Section 10B is to be allowed from total income of assessee after adjusting unabsorbed depreciation – Held, yes
6. Carry forward of lossesSword Global (I) (P.) Ltd. VS. Income-tax Officer, Co. Ward-II(1), Chennai [2010] 122 ITD 103 (CHENNAI) / [2008] 119 TTJ 427 (CHENNAI) – Assessment year 2003-04- Whether carry forward losses of earlier assessment years have to be set off first against total income of relevant assessment year and, it is out of balance income only that deduction under Section 10B can be granted – Held, yes



7. Conversion of existing unit• Infracsoft Technologies Ltd. Vs. Deputy Commissioner of Income-tax, Circle 11(1) (, New Delhi [2012] 19 taxman.com 86 (DELHI)/[2012] 135 ITD 19 (DELHI)/[2012] 114 TTJ 622 (DELHI) – Assessment Year 2002-03 – Assessee-company set up its industrial undertaking in assessment year 1996-97 in domestic tariff area – Assessee-company received approval of STPI on 28/3/2000 – Thereupon, assessee claimed deduction under Section 10A which was rejected on two grounds (i) there was conversion of undertaking established in assessment year 1996-97 into STPI unit and (ii) ownership/beneficial interest had been transferred in year under consideration in terms of Section 10A(9) read with Explanation

1 – On instant appeal, it was noted that there was neither any whisper of a word in STP registration application suggesting that assessee had intended to set up a new unit nor such intention could be gathered from conduct of assessee while seeking STP from competent authority – Rather, assessee had categorically mentioned in application for conversion of existing unit – It was also apparent that assessee had included infrastructure, staff and skilled labour etc. of existing unit in STP registration application form

– Whether on facts, finding of Commissioner (Appeals) that it was a case of conversion of an existing software export unit to STP unit which would connote conversion of a unit already set up, was to be upheld – Held, yes – Whether, moreover, since it was apparent that share holding of five persons as on 31/3/2002 had declined to 37.66 per cent from 100 per cent in the previous year when undertaking was set up, assessee's case was squarely covered by provisions of section 10A(9) – Held, yes – Whether in view of aforesaid, revenue authorities were justified in rejecting assessee's claim – Held, yes.

- Chenab Information Technologies (P.) Ltd. VS. Income-tax Officer, Ward 8(1)2[2008] 25 SOT 432 (MUM.) – Assessment year 2001-02 – Assessee had established a software unit at SEEPZ which was not eligible for exemption under Section 10A – In order to take benefit of new policy of Government



to exempt income from Software Technology Park Unit (STP Unit), assessee set up a new unit which was approved as STP unit – However, assessee's claim for exemption under Section 10A for certain amount being income of new unit was rejected by Assessing Officer holding that software development activity in new unit had been carried out mainly by employees of existing unit and, thus, it was a mere case of splitting/reconstruction of existing business – On appeal, Commissioner (Appeals) upheld order of Assessing Officer

–Whether since existing business of assessee was development of software and in new unit also, assessee had done same business using same employees, it could not be a case of different business requiring different specialization, being taken up for which setting up of a new unit could be said to have become a business necessity – Held, yes

– Whether, moreover, merely because customers in new unit were different, it could not be a basis to hold that new unit was separate and independent – Held, yes – Whether, therefore, authorities below rightly concluded that new unit had been set up by splitting up of business of old unit and was, thus, not eligible for deduction under Section 10A – Held, yes

- Income-tax Officer Ward-(1), Range-1, Trivandrum VS. Stabilix Solutions (P.) Ltd. [2010] 8 taxmann.com 45 (COCH) – Assessment year 2004- 05 – Assessee-company set up a 100 per cent export oriented undertaking by taking on sub-lease 4000 sq.ft. built up area from STPL which held leasehold rights in total area of 6000 sq.ft. – STPL also leased out plant and machinery to assessee-company in excess of statutory limit of 20 per cent – Both companies manufactured same product i.e., computer software and sold same to a particular company abroad – Even employees of both companies, who represented human capital were headed by same functional head – Whether, on facts, it could be concluded that assessee's undertaking stood formed almost wholly by transfer of resources, including plant and



machinery, from STPL, and, therefore, it was not entitled to deduction under Section 10B as it failed to fulfill conditions stipulated under section 10B(2) – Held, yes

8. Sale proceeds must be brought in India in foreign exchange.

- Commissioner of Income-tax, Cochin VS. Electronic Controls & Discharge Systems (P.) Ltd. [2011] 13 taxmann.com 193 (KER.) / [2011] 202 TAXMAN 33 (KER.) / [2011] 245 CTR 465 (KER.) Assessment years 2003-04 and 2004-05
- – Whether Section 1 0A provides for exemption only on profits derived on export proceeds received in convertible foreign exchange – Held, yes – Whether, therefore, benefit of exemption under section 1 0A cannot be extended to local sales made by units in Special Economic Zone, whether as part of domestic tariff area sales or as inter-unit sales within zone or units in other zones – Held, yes [In favour of revenue]
- Swayam Consultancy (P.) Ltd. VS. Income-tax Officer[2012] 20 taxmann.com 803 (AP.) / [2011] 336 ITR 189 (AP)- Assessment year 2007-08 – Delivery of goods to a foreign buyer in India does not amount to export.
- Assistant Commissioner of Income-tax, Range 1, Hyderabad VS. Bodhtree Consulting Ltd. [2010] 41 SOT 230 (HYD.) / [2010] 134 TTJ 214 (HYD.) – Assessment year 2004-05 –Whether in order to avail deduction under section 1 0B sale proceeds must be receivable in convertible foreign exchange – Held, yes – Whether sale proceed received in convertible foreign exchange means 'actual receipt' and not deemed receipt – Held, yes
 - Whether if that object is kept in mind, amount received by an assessee in form of investment in equity shares in foreign exchange cannot be considered to be received in form of convertible foreign exchange – Held, yes – Whether merely because an assessee



takes permission from RBI to receive foreign exchange in form of equity investment it does not lead to conclusion that assessee has received export proceeds in foreign exchange, as RBI has no role to play to suggest whether any investment/income for capitalization of expenditure is genuine or otherwise in terms of section 10B – Held, yes

- – Whether, therefore, an assessee would not be eligible for benefit of section 10B on such investments – Held, yes

9. Transactions must be at Arm's Length pricing and the basis of calculation of export turnover and total turnover should be same.

ADP (P.) Ltd. VS. Deputy Commissioner of Income-tax, Circle 1(1) [2011] 45 SOT 172 (HYD.) / [2011] 10 taxmann. com 160 (HYD.) / [2012] 144 TTJ 520 (HYD.) / [2012]15 ITR(TRIB.) 203 (HYD.) Assessment year 2004-05 –Whether in view of provisions of Rule 10B(4), data to be used in analyzing comparability of an uncontrolled transaction with an international transaction shall be data relating to financial year in which international transaction has been entered into, with only exception being that data of earlier two years may also be considered, if such data reveals facts which could have an influence on determination of transfer prices in relation to transactions being compared – Held, yes

– Whether in view of above, data of subsequent period cannot be considered for comparison while determining arm's length price – Held, yes.

Section 10A of the Income-tax Act, 1961 – Free trade zone – Assessment year 2004-05 – Whether while computing amount of exemption under section 10A in respect of software development services, if data link charges are reduced from export turnover, then same should also be reduced from total turnover – Held, yes

10. What is manufacture

- Deputy Commissioner of Income-tax VS. Girnar Industries [2010] 35 SOT 11 (COCH)(URO)/[2009]



124 TTJ 517 (COCH) – Assessment year 2004-05 – Assessee-firm, engaged in activities of blending and export of different grades of tea, claimed exemption under section 10A – Whether since term ‘manufacture’ as mentioned in section 10A did not include activity of ‘blending’ at relevant time, assessee’s claim could not be allowed – Held, yes

- Tonira Pharma Ltd. VS. Assistant Commissioner of Income-tax, Bharuch Circle, Bharuch [2010] 39 SOT 28 (AHD.) – Assessment year 2002-03 – Whether in order to claim benefit of section 10B, essence of determining whether new article or thing is manufactured or produced lies in identity and use of commodity before undergoing processing and after processing – Held, yes – Whether if identity and character of article remain same then there is no manufacturing or production but where identity and character get transformed then it would be a manufacturing or production of new article or thing – Held, yes

– Assessee-company was engaged in business of manufacturing and export of bulk drugs, drugs intermediates, fine chemicals (organic/inorganic), etc. – During relevant assessment year, assessee purchased ascorbic acid FCC Grade IV and after processing, sold it as ascorbic acid IP Grade – Assessee’s claim for exemption under section 10B was rejected –

Whether since there was no material on record to show that use of ascorbic acid FCC Grade IV and ascorbic acid IP Grade was different, it was to be held that no manufacturing or production of any new article or thing had taken place and, therefore, assessee’s claim was rightly rejected by authorities below – Held, yes

11. Income having direct nexus with export only is eligible.

- Deputy Commissioner of Income-tax, Company Circle I(1), Chennai VS. Astron Document Management (P.)



Ltd. [2011] 16 taxmann.com 33 (CHENNAI) / [2012] 49 SOT 46 (CHENNAI)(URO) – Assessment year 2004-05 – Whether gains derived by an assessee on conversions of funds from EEFC account into Indian rupee account, does not have any proximate or direct nexus with export transaction and, therefore, will not be eligible for deduction under section 10B – Held, yes

- – Section 10B of the Income-tax Act, 1961 – Export oriented undertaking – Assessment year 2004-05 –

Whether telecommunication charges attributable to delivery of software outside India by assessee– exporter had to be excluded from export turnover for working out deduction under section 10B whether or not billings of assessee specifically included such telecommunication expenses – Held, yes

- Orchid Chemicals & Pharmaceuticals Ltd. VS. Joint Commissioner of Income-tax, Special Range-X[2005] 97 ITD 277 (CHENNAI) / [2005] 98 TTJ (CHENNAI) 32 – Assessment year 1997-98 –Whether an assessee is entitled to claim deduction under section 10B of amount which it derives as direct profit by export of goods manufactured in its newly established hundred per cent export oriented unit [EOU] and any indirect or incidental profit cannot be regarded as profit earned out of main business activity – Held, yes – Whether deduction under section 10B can be allowed on interest income earned by EOU from margin money deposited with bankers for obtaining letter of credit for import of raw materials – Held, no
- Tocheunglee Stationery Mfg. Co. (P.) Ltd. VS. Income-tax Officer, Company Ward III(1) [2006] 5 SOT 428 (CHENNAI) – Assessment years 2000-01 and 2001-02 –

Whether for purpose of claiming deduction under section 10B, income should be derived from export business and form part of export turnover and assessee should show that profit was received from export for assessment year under consideration – Held, yes – Whether interest received by assessee on deposit made for purpose of getting bank guarantee



in favour of Government of India to import goods free of duty was eligible for deduction under section 10B – Held, no

Whether excess provision towards incentives and bonus for earlier years written back in books of account under section 41(1), refund of sales-tax, and resale value of special import licence, could be construed as income from export or as forming part of export turnover so as to be eligible for deduction under section 10B – Held, no

- Tricom India Ltd. VS. Assistant Commissioner of Income-tax, Central Circle 41, Mumbai [2010] 36 SOT 302 (MUM.) – Assessment year 2005-06 – Assessee was engaged in business of providing I.T. (Information Technology) enabled services and BPO transactions – During relevant assessment year, it claimed deduction under section 10B – On examination of details of profits, Assessing Officer found that profit declared by assessee included interest on fixed deposits, miscellaneous income, etc. – Assessing Officer opined that under section 10B(1), deduction was allowable only on profits derived from export of articles or things or computer software and, therefore, no deduction was possible on interest income – Commissioner (Appeals) upheld order of Assessing Officer –

Whether expression 'derived from' cannot be ignored in Section 10B(1) because said expression involves only those items of profit eligible for deduction which are derived from such undertaking – Held, yes – Whether since, in instant case, interest income was generated from interest, on FDRs and surplus funds, same could not be held to have been derived from export of I.T. Services – Held, yes – Whether, therefore, authorities below rightly rejected assessee's claim in respect of interest income – Held, yes. Words & Phrases : Words 'derived from' as occurring in section 10B of the Income-tax Act, 1961

- Taj International Jewelers VS. Income-tax Officer, Ward 33(2), New Delhi [2008] 19 SOT 587 (DELHI) –



A.Y.2004-05 – Assessee entered into agreement with export house for export of its goods through them – In course of business assessee disclaimed certain export benefits in favour of export house and in lieu thereof received commission as reimbursement of expenses – Assessee claimed that said amount should have been treated as its business income for purpose of deduction allowable under section 10B – Assessing Officer did not accept assessee's claim and held amount in question as income from other sources; consequently, he denied exemption under section 10B – Commissioner (Appeals) upheld order of Assessing Officer –

Whether since assessee had disclaimed export benefits in respect of certain goods and incentive was received in lieu of said disclaimer, proximate source of receipt was disclaimer of benefits and not export activities per se – Held, yes – Whether, therefore, while income might be attributable to export oriented unit of assessee, it could not be said that same was derived from unit – Held, yes – Whether, in such circumstances, authorities below rightly rejected assessee's claim – Held, yes

12. Interest Income.

- Cadila Exports (P.) Ltd. VS. Deputy Commissioner of Income-tax – [1994] 51 ITD 217 (AHD.) / [1994] 50 TTJ (AHD.) 603 Assessment year 1986-87 –

Whether income earned by way of interest on deposits of surplus funds could be regarded as incidental to production of goods at industrial undertaking established in free trade zone and, therefore, exemption under section 10A could be allowed on such income – Held, no.

- India Comnet International VS. Income-tax Officer [2009] 185 TAXMAN 51 (MAD.) / [2008] 304 ITR 322 (MAD.) – Assessment year 2002-03 –

Whether interest income earned by assessee-company, being a 100 per cent export-oriented



unit, on amount of export proceeds kept in foreign currency deposit account as permitted by FERA under Banking Regulations, would qualify for exemption under section 10A – Held, no

- Commissioner of Income-tax VS. MenonImpex (P.) Ltd. [2003] 128 TAXMAN 11 (MAD.) / [2003] 180 CTR 40 (MAD.) / [2003] 259 ITR 403 (MAD.) – Assessment year 1985-86 – Assessee had set up a new industrial undertaking in free trade zone – In course of business, assessee was required to open letters of credit with banks for which deposits were made – Interest earned on such deposits was claimed to be exempt on ground that it was derived from newly set up industrial undertaking – Such claim was negated by Assessing Officer but was allowed by Tribunal
- – Whether mere fact that deposit made was for purpose of obtaining letters of credit which letters of credit were, in turn, used for purpose of business of industrial undertaking did not establish a direct nexus between interest and individual undertaking, and, therefore, assessee was not entitled to get benefit under section 10A – Held, yes
- MKR Frozen Food Exports Ltd. VS. Income-tax Officer, Ward 6(1), New Delhi [2010] 126 ITD 1 (DELHI) – Assessment year 1998-99 – Assessee was engaged in business of export of frozen foods and meals – For this purpose, overdraft facilities were taken from bank to meet liquidity requirements – Subsequently, when assessee earned profit, money so generated was placed in fixed deposits with a bank – Assessee contended that deposits were placed with a view to reduce interest liability, and, therefore, interest income would partake character of profits and gains of business and became eligible for deduction under section 10B – Whether since interest earned from bank deposits did not have direct or proximate connection with business of export of EOU, same would be taxable under residuary head, i.e., 'Income from other sources' and was not eligible for deduction



under section 10B – Held, yes

- Assistant Commissioner of Income-tax VS. Shiva Shankar Granites (P.) Ltd. [2004] 89 ITD 625 (HYD.) / [2004] 83 TTJ (HYD.) 802 – Assessment year 1993-94 –

Whether interest on deposit towards bank guarantee money in favour of Central Excise & Customs Department as well as interest on deposit with State Electricity Board cannot be said to have been derived from industrial undertaking, and as such, are not eligible for benefit of exemption under section 10B – Held, yes

- CG International (P.) Ltd. VS. Assistant Commissioner of Income-tax, Cir. 10(3), Mumbai [2007] 13 SOT 280 (MUM.) Assessment year 2001-02 – Assessee-company, a hundred per cent export oriented unit, was engaged in business of manufacturing of plain and studded Jewellery and export thereof – Assessee claimed exemption qua interest income on ground that interest was earned during ordinary course of export business as same was earned by it from fixed deposits kept with bank for issue of bank guarantees for business purposes and from EEFC account maintained with Bank of India – Assessing Officer rejected assessee's reply and assessed interest income as assessee's income from other sources and, accordingly, held same as not exempt under section 10B – Whether Assessing Officer was justified – Held, yes

13. For computing the deduction all expenses relatable to that unit must be deducted. Nahar Spinning Mills Ltd. VS. Joint Commissioner of Income-tax, Range VII, Ludhiana [2012] 25 taxmann. com 342 (CHD.) / [2012] 54 SOT 134 (CHD.) (URO)- Assessment year 2007-08 – Whether while computing profits and gains of eligible units under section 10B all expenditure relatable to such units are to be deducted for computing eligible profits – Held, yes



- Whether therefore, remuneration paid to managing director being common expenditure between eligible units and non-eligible unit run by assessee-company it needed to be allocated in order to determine eligible profits of business under section 10B – Held, yes

14. Onus is on the successor company to prove that it is the

successor. Synergies Casting Ltd. VS. Dy. Commissioner of Income-tax, Circle 3(2)/ Assistant Commissioner of Income-tax, Circle 3(3), Hyderabad[2011] 13 taxmann.com 17 (HYD.) / [2011] 139 TTJ 627 (HYD.) / [2011] 47 SOT 82 (HYD.)(URO)- Assessment years 2006-07 and 2007-08 – Whether unless assessee who claims benefit under section 10B for unexpired period, establishes that it is a successor of a lessor and it fulfils all other necessary conditions in each year, it cannot claim benefit under section 10B for balance unexpired period – Held, yes

– ‘SDAL’ had an industrial undertaking with facilities of manufacturing of aluminium alloy wheels and was claiming relief under section 10B – Assessee-company took said unit on lease-license for operating and maintaining same to carry on manufacturing activity – Assessee claimed continuation of relief under section 10B for balance unexpired period, which was denied by revenue –Whether since assessee-company had not proved that it was a successor to predecessor who was enjoying benefit of Section 10B and it was found to be only a lessee, having a right to use plant and machinery, claim of exemption under section 10B could not be allowed – Held, yes Circulars and Notifications : CBDT Circular F. .No. 15/5/63-IT[A1]

15. First year of claim must be established.

- Sami Labs Ltd. VS. Assistant Commissioner of Income-tax[2012] 20 taxmann.com 785 (KAR.) / [2011] 239 CTR 510 (KAR.) / [2011] 334 ITR 157 (KAR.)- Assessment year 2002-03 – Starting point of limitation for claiming benefit flowing from section



1 0B would commence from year of manufacture or production of undertaking; assessee would not be able to claim such deduction in subsequent years unless said initial test on date of starting point of limitation has been satisfied

- Income-tax Officer, Ward 31(4), New Delhi VS. Vinod Chhabra [2008] 20 SOT 328 (DELHI) – Assessment year 200 1-02 – For relevant assessment year, assessee, a hundred per cent export oriented undertaking (EOU), claimed exemption under section 10B – Assessing Officer denied exemption under section 10B for certain reasons – He, however, allowed deduction under section 80HHC to assessee in respect of profits and gains derived from export of goods out of India – Commissioner (Appeals), on basis of exemption allowed under section 10B to assessee for assessment year 1994-95, allowed assessee's claim for exemption under section 10B – Whether since from assessment order for assessment year 1994-95 it was not clear as to in which year assessee started hundred per cent EOU and further since neither Assessing Officer nor Commissioner (Appeals) had examined matter in light of provisions of section 10B, issue was required to be remitted to file of Assessing Officer to examine claim of assessee in light of provisions of section 1 0B – Held, yes
- Whether if exemption under section 10B would be allowed, assessee would not be eligible for deduction under section 80HHC – Held, yes.

Assessment year 200 1-02 – Assessee was deriving income from a hundred per cent EOU (Export Oriented Unit) and claimed deduction under section 10B in respect of interest earned on FDRs – Whether since interest income earned by assessee on FDRs was not derived from export of eligible goods of hundred per cent EOU, assessee would not be eligible for exemption under section 10B in respect of interest income – Held, yes



16. Speculation profit not eligible.

Assistant Commissioner of Income-tax, Circle-11(5), Bangalore VS. K. Mohan & Co. (Exports) (P.) Ltd. [2010] 126 ITD 59 (BANG.) / [2010] 130 TTJ 719 (BANG.) / [2011] 7

ITR(TRIB.) 507 (BANG.) – Assessment year 2005- 06 –

- Assessee was engaged in business of manufacture and export of readymade garments – In order to avoid risk of loss due to foreign exchange fluctuation, it entered into forward contracts in respect of foreign exchange to be received as a result of export – During relevant assessment year, assessee claimed deduction under section 10B in respect of its entire income including profits derived from forward contracts

– Whether since forward contracts had been taken in respect of 46 per cent of export turnover and it was not an isolated transaction, in view of Explanation 2 to section 28, profit from forward contracts was to be assessed as profit from speculation business – Held, yes

– Whether since for purpose of computing deduction under section 10B, speculation business cannot be considered as business of undertaking, Assessing Officer was justified in rejecting assessee's claim for deduction in respect of profits derived from forward contracts – Held, yes.

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