

## UNIT – 5 : INCOME FROM OTHER SOURCES

### LEARNING OUTCOMES

After studying this unit, you would be able to-

- ♦ **identify** the income, which are chargeable to tax under the head "Income from other sources";
- ♦ **examine** the transactions of receipt of money and property without consideration or for inadequate consideration to determine whether such receipts are chargeable to tax under this head;
- ♦ **identify and comprehend** the admissible deductions while computing income under this head;
- ♦ **identify and comprehend** the inadmissible deductions while computing income under this head;
- ♦ **compute** the tax on casual income by applying the rate of tax applicable on such income;
- ♦ **compute** the income chargeable to tax under this head.

**Proforma for computation of "Income from Other Sources"**

	<b>Particulars</b>	<b>Amt</b>
(i)	Dividend Income	xxx
(ii)	Casual Income (winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc.)	xxx
(iii)	Consideration received in excess of FMV of shares of a closely held company, where such shares are issued at a premium [Section 56(2)(viib)]	xxx
(iv)	Interest received on compensation/ enhanced compensation deemed to be income in the year of receipt [Section 56(2)(viii)]	xxx
(v)	Advance forfeited due to failure of negotiations for transfer of a capital asset [Section 56(2)(ix)]	xxx
(vi)	Sum of money or property received by any person [Section 56(2)(x)]	xxx
(vii)	Compensation or other payment, due to or received by any person, in connection with termination of his employment or the modification of the terms and conditions relating thereto [Section 56(2)(xi)]	xxx
(viii)	Sum received, including the amount allocated by way of bonus, under a LIP other than under a ULIP and keyman insurance policy, which is not exempt u/s 10(10D) [Section 56(2)(xii)]	xxx
(ix)	The following income, if not chargeable under the head "Profits and gains of business or profession"	
	(a) Any sum received by an employer from his employees as contributions to any provident fund, superannuation fund or any other fund for the welfare of the employees	xxx
	(b) Interest on securities	xxx
	(c) Income from letting out on hire of machinery, plant or furniture	xxx
	(d) Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting	xxx

	(e) Any sum received under a Keyman insurance policy including bonus on such policy (if not chargeable to tax under the head "Salaries" also)	xxx	xxx
(x)	Any income chargeable to tax under the Act, but not falling under any other head of income		xxx
(xi)	Deemed income u/s 59 – Remission or cessation of a trading liability or receipt of any amount in respect of loss or expenditure allowed as deduction in an earlier P.Y.		xxx
			<b>xxx</b>
<b>Less: Deductions allowable [Section 57]</b>			
(a)	<b>In case of dividends or income in respect of units of a mutual fund or income in respect of units from a specified company</b> - interest expenditure allowable as deduction subject to a maximum of 20% of such income included in the total income for that year, without deduction under this section	xxx	
(b)	<b>In case of interest on securities</b> - Any reasonable sum paid by way of commission or remuneration to a banker or any other person	xxx	
(c)	<b>Income consists of recovery from employees as contribution to any PF, superannuation fund etc.</b> - Amount of contribution remitted before the due date under the respective Acts, in accordance with the provisions of section 36(1)(va)	xxx	
(d)	<b>Income from letting on hire of machinery, plant and furniture, with or without building</b> - current repairs to the machinery, plant, furniture or building - insurance premium - depreciation/unabsorbed depreciation	xxx	
(e)	<b>Family Pension</b> – 33-1/3% of such income or ₹ 15,000, whichever is less	xxx	
(f)	<b>Interest on compensation/enhanced compensation received</b> – 50% of such interest	xxx	

(g)	Any other expenditure not in the nature of capital expenditure incurred wholly and exclusively for earning such income	xxx	xxx
<b>Income from Other Sources</b>			xxx
<b>Deductions not allowable [Section 58]</b>			
(a)	Any personal expense of the assessee.		
(b)	Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.		
(c)	Any payment chargeable to tax under the head "Salaries", if it is payable outside India unless tax has been paid thereon or deducted at source therefrom.		
(d)	30% of sum payable to a resident on which tax is deductible at source, if such tax has not been deducted or after deduction has not been paid on or before the due date of return specified in section 139(1).		
(e)	Any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV.		
(f)	Any expenditure in respect of which a payment or aggregate payments exceeding ₹ 10,000 is made to a person in a day otherwise than by account payee cheque/bank draft or ECS through bank account or through such other prescribed electronic mode such as credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT, and BHIM Aadhar Pay.		

<b>Tax on Income from Other Sources</b>				
<b>Income</b>	Winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc. (other than winning from any online game)	Unexplained cash credits/ investments/ money, bullion, jewellery etc./ expenditure, etc.	Net winnings from online games	Other Income
<b>Section</b>	Section 115BB	Section 115BBE	Section 115BBJ	-

Tax on Income from Other Sources				
<b>Tax rate</b>	30% of such winnings (further increased by surcharge, if applicable, and health and education cess@4%)	60% of such income <i>plus</i> surcharge @25% of tax (Effective rate of tax is 78%, including health and education cess@4%)	30% of such winnings (further increased by surcharge, if applicable, and health and education cess@4%)	Normal rates of tax
<b>Other conditions</b>	<ul style="list-style-type: none"> <li>➤ No expenditure or allowance can be allowed from such income.</li> <li>➤ Deduction under Chapter VI-A is not allowable from such income.</li> <li>➤ Adjustment of unexhausted basic exemption limit is also not permitted against such income.</li> <li>➤ Set-off of losses is not permissible against such income.</li> </ul>			Deductions specified in section 57 allowable, subject to limits mentioned thereunder. Section 58 specifies the deductions not allowable.

## 5.1 INTRODUCTION

Any income, profits or gains includible in the total income of an assessee, which cannot be included under any of the preceding heads of income, is chargeable under the head 'Income from other sources'. Thus, this head is the residuary head of income and brings within its scope all the taxable income, profits or gains of an assessee which fall outside the scope of any other head. Therefore, when any income, profit or gain does not fall precisely under any of the other specific heads but is chargeable under the provisions of the Act, it would be charged under this head.



## 5.2 METHOD OF ACCOUNTING [SECTION 145]

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



## 5.3 INCOMES CHARGEABLE UNDER THIS HEAD [SECTION 56]

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

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

Dividend income is always taxable under the head "Income from other sources". The term 'dividend' as used in the Act has a wider scope and meaning than under the general law.

#### **Deemed dividend [Sections 2(22)(a) to (e)]:**

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

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

**Note:** If accumulated profits are distributed in cash, it is dividend in the hands of the shareholders. Where accumulated profits are distributed in kind, for example by delivery of shares etc. entailing the release of company's assets, the market value of such shares on the date of such distribution is deemed as dividend in the hands of the shareholder.

- (b) **Distribution of debentures, deposit certificates to shareholders and bonus shares to preference shareholders** - Any distribution to its shareholders by a company of debentures, debenture stock or deposit certificate in any form, whether with or without interest, and any distribution of bonus shares to preference shareholders to the extent to which the company possesses accumulated profits, whether capitalised or not, will be deemed as dividend.

The market value of such bonus shares is deemed as dividend in the hands of the preference shareholder.

In the case of debentures, debenture stock etc., their value is to be taken at the market rate and if there is no market rate they should be valued according to accepted principles of valuation.

**Note:** Bonus shares given to equity shareholders are not treated as dividend.

- (c) **Distribution on liquidation** - Any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not, is deemed to be dividend income.

**Note:** Any distribution made out of the profits of the company after the date of the liquidation cannot amount to dividend. It is a repayment towards capital.

- (d) **Distribution on reduction of capital** - Any distribution to its shareholders by a company on the reduction of its capital to the extent to which the company possessed accumulated profits, whether capitalised or not, shall be deemed to be dividend.

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

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

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

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

- (i) **Loan granted in the ordinary course of business** - If the loan is granted in the ordinary course of its business and lending of money is a substantial part of the company's business, the loan or advance to a shareholder or to the specified concern is not deemed to be dividend.
- (ii) **Dividend paid is set off against the deemed dividend** - Where a loan had been treated as dividend and subsequently, the company declares and distributes dividend to all its shareholders including the borrowing shareholder, and the dividend so paid is set off by the company against the previous borrowing, the adjusted amount will not be again treated as a dividend.

**Note:** Subsequent repayment of loan or charge of interest at market rate does not make any difference in the applicability of section 2(22)(e).

#### **Other exceptions**

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

- (i) **Distribution in respect of non-participating shares issued for full cash consideration** – Any distribution made in accordance with (c) or (d) in respect of any share issued for full cash consideration and the holder of such share is not entitled to participate in the surplus asset in the event of liquidation.
- (ii) **Payment on buy back of shares** - Any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956<sup>1</sup>;
- (iii) **Distribution of shares to the shareholders on demerger by the resulting company** - Any distribution of shares on demerger by the resulting companies to the shareholders of the

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<sup>1</sup> Now section 58 of the Companies Act, 2013



demerged company (whether or not there is a reduction of capital in the demerged company).

### **Meaning of “accumulated profits”**

Accumulated profits in point (a), (b), (d) and (e) above include all profits of the company up to the date of distribution or payment of dividend.

Accumulated profits in point (c) include all profits of the company up to the date of liquidation whether capitalised or not.

In the case of an amalgamated company, the accumulated profits, whether capitalized or not, of the amalgamating company on the date of amalgamation shall be included in the accumulated profits, whether capitalized or not or loss, as the case may be, of the amalgamated company.

### **Clarification regarding trade advance not to be treated as deemed dividend under section 2(22)(e) – [Circular No. 19/2017, dated 12.06.2017]**

Section 2(22)(e) provides that "dividend" includes any payment by a company in which public are not substantially interested, of any sum by way of **advance or loan** to a shareholder who is the beneficial owner of shares holding not less than 10% of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits.

The CBDT observed that some Courts in the recent past have held that trade advances in the nature of commercial transactions would not fall within the ambit of the provisions of section 2(22)(e) and such views have attained finality.

In view of the above, the CBDT has, vide this circular, clarified that it is a settled position that trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(22)(e) and therefore, the same would not to be treated as deemed dividend.

**Basis of charge of dividend [Section 8]**

Dividend declared or distributed or paid by a company is deemed to be the income of the shareholder in the previous year in which it is so declared or distributed or paid, as the case may be.

**Deemed dividend u/s 2(22)(a)/(b)/(c)/(d)** – Distribution by a company which is deemed as dividend u/s 2(22)(a)/(b)/(c)/(d) would be the income of the previous year in which it is so distributed.

**Deemed dividend u/s 2(22)(e)** – Payment of advance or loan to a shareholder or a concern, as the case may be, which is deemed as dividend u/s 2(22)(e) will be the income of the previous year in which it is so paid.

**Interim dividend** – Interim dividend would be deemed to be the income of the previous year in which such dividend is unconditionally made available by the company to the members who is entitled to it.

**Tax rate on dividend income** - Any income by way of dividends received by a resident from a company, whether domestic or foreign, is taxable in the hands of a resident shareholder at normal rates of tax.

**ILLUSTRATION 1**

*Rahul, a resident Indian, holding 28% of equity shares in a company, took a loan of ₹ 5,00,000 from the same company. On the date of granting the loan, the company had accumulated profit of ₹ 4,00,000. The company is engaged in some manufacturing activity.*

- (i) *Is the amount of loan taxable as deemed dividend, if the company is a company in which the public are substantially interested?*
- (ii) *What would be your answer, if the lending company is a private limited company (i.e. which is not a company in which the public are substantially interested)?*

**SOLUTION**

Any payment by a company, other than a company in which the public are substantially interested, of any sum by way of advance or loan to an equity shareholder, being a person who is the beneficial owner of shares holding not less than 10% of the voting power, is deemed as dividend under section 2(22)(e), to the extent the company possesses accumulated profits.

- (i) The provisions of section 2(22)(e), however, will not apply where the loan is given by a company in which public are substantially interested. In such a case, the loan would not be taxable as deemed dividend.
- (ii) However, if the loan is taken from a private company (i.e., a company in which the public are not substantially interested), which is a not a company where lending of money is a substantial part of the business of the company, the provisions of section 2(22)(e) would be attracted. In this case, since the company is a manufacturing company and not a lending company and Rahul holds more than 10% of the equity shares in the company, the provisions of section 2(22)(e) would be attracted.

The amount chargeable as deemed dividend cannot, however, exceed the accumulated profits held by the company on the date of giving the loan. Therefore, the amount taxable as deemed dividend would be limited to the accumulated profit i.e., ₹ 4,00,000 and not the amount of loan which is ₹ 5,00,000.

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

Casual income means income in the nature of winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, gambling, betting etc.

Casual income is chargeable to tax under the head "Income from Other Sources".

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

- (i) Section 56(2)(viib) brings to tax the consideration received from a person by a company, other than a company in which public are substantially interested, which is in excess of the fair market value (FMV) of shares<sup>2</sup>. *The person from whom the consideration is received may be a resident or non-resident.*

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<sup>2</sup> However, these provisions would not be attracted where consideration for issue of shares is received:  
(1) by a Venture Capital Undertaking (VCU) from a Venture Capital Company (VCC) or a Venture Capital Fund (VCF) or a Specified Fund; or  
(2) by a company from a class/classes of persons as notified by the Central Government for this purpose

- (ii) Such excess is to be treated as the income of a closely held company taxable under section 56(2) under the head "Income from Other Sources", in cases where consideration received for issue of shares exceeds the face value of shares i.e. where shares are issued at a premium i.e., (Issue price of share – FMV of such share) x No. of shares.
- (iii) Fair market value of the shares shall be the higher of, the value as may be –
  - (a) determined in accordance with the prescribed method; or
  - (b) substantiated by the company to the satisfaction of the Assessing Officer, based on the value of its assets on the date of issue of shares.

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

Co.	No. of shares	Face value of shares (₹)	FMV of shares (₹)	Issue price of shares (₹)	Applicability of section 56(2)(viib)
<b>Example:</b>					
A (P) Ltd.	10,000	100	120	130	The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium (i.e., issue price exceeds the face value of shares). The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). ₹ 1,00,000 [10,000 × ₹ 10 (₹ 130 - ₹ 120)] shall be treated as income in the hands of A (P) Ltd.
<b>Example:</b>					
B (P) Ltd.	20,000	100	120	110	The provisions of section 56(2)(viib) are attracted since the shares are

These exceptions will be dealt with in detail at the Final level.

					issued at a premium. However, no sum shall be chargeable to tax in the hands of B (P) Ltd. under the said section as the shares are issued at a price less than the FMV of shares.
<b>Example:</b>					
C (P) Ltd.	30,000	100	90	98	Section 56(2)(viib) is not attracted since the shares are issued at a discount, though the issue price is greater than the FMV.
<b>Example:</b>					
D (P) Ltd.	40,000	100	90	110	The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium. The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). Therefore, ₹ 8,00,000 [ $40,000 \times ₹ 20$ ( $₹ 110 - ₹ 90$ )] shall be treated as income in the hands of D (P) Ltd.

**(4) Interest received on compensation/ enhanced compensation deemed to be income in the year of receipt and taxable under the head “Income from Other Sources” [Sections 56(2)(viii)]**

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

145B(1) shall be assessed as "Income from other sources" in the year in which it is received.

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

- (i) Prior to A.Y. 2015-16, any advance retained or received in respect of a negotiation for transfer which failed to materialise is reduced from the cost of acquisition of the asset or the written down value or the fair market value of the asset, at the time of its transfer to compute the capital gains arising therefrom as per section 51. In case the asset transferred is a long-term capital asset, indexation benefit would be on the cost so reduced.
- (ii) With effect from A.Y. 2015-16, section 56(2)(ix) provides for the taxability of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset. Such sum shall be chargeable to income-tax under the head 'Income from other sources', if such sum is forfeited and the negotiations do not result in transfer of such capital asset.
- (iii) In order to avoid double taxation of the advance received and retained, section 51 was amended to provide that where any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year, in accordance with section 56(2)(ix), such amount shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.
- (iv) It may be noted that advance received and forfeited upto 31.3.2014 has to be reduced from cost of acquisition while computing capital gains, since such advance would not have been subject to tax under section 56(2)(ix). Only the advance received and forfeited on or after 1.4.2014 would be subject to tax under section 56(2)(ix). Hence, such advance would not be reduced from the cost of acquisition for computing capital gains.

**(6) Any sum of money or value of property received without consideration or for inadequate consideration to be subject to tax in the hands of the recipient [Section 56(2)(x)]**

(i) In order to prevent the practice of receiving sum of money or the property without consideration or for inadequate consideration, section 56(2)(x) brings to tax any sum of money or the value of any property received by any person without consideration or the value of any property received for inadequate consideration.

**(ii) Sum of Money:** If any sum of money is received without consideration and the aggregate value of which exceeds ₹ 50,000, the whole of the aggregate value of such sum is chargeable to tax.

**(iii) Immovable property [Land or building or both]:**

I. If an immovable property is received -

(a) **Without consideration:** The stamp duty value of such property would be taxed as the income of the recipient if it exceeds ₹ 50,000.

(b) **For Inadequate consideration:** If consideration is less than the stamp duty value of the property and the difference between the stamp duty value and consideration is more than the higher of –

(i) ₹ 50,000 and

(ii) 10% of consideration,

the difference between the stamp duty value and the consideration shall be chargeable to tax in the hands of the assessee as "Income from other sources".

**II. Value to be considered where the date of agreement is different from date of registration:** Taking into consideration the possible time gap between the date of agreement and the date of registration, the stamp duty value may be taken as on the date of agreement instead of the date of registration, if the date of the agreement fixing the amount of consideration for the transfer of the immovable property and the date of registration are not the same, provided whole or part of the

consideration has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system (ECS) through a bank account or through such prescribed electronic mode on or before the date of agreement.

The prescribed electronic modes notified are credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay as other electronic modes of payment [CBDT Notification No. 8/2020 dated 29.01.2020].

**III. If the stamp duty value of immovable property is disputed by the assessee,** the Assessing Officer may refer the valuation of such property to a Valuation Officer. If such value is less than the stamp duty value, the same would be taken for determining the value of such property, for computation of income under this head in the hands of the buyer.

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

If movable property is received -

- (a) **Without consideration:** The aggregate fair market value of such property on the date of receipt would be taxed as the income of the recipient, if it exceeds ₹ 50,000.
- (b) **For inadequate consideration:** If the difference between the aggregate fair market value and such consideration exceeds ₹ 50,000, such difference would be taxed as the income of the recipient.

**(v) Applicability of section 56(2)(x):** The provisions of section 56(2)(x) would apply only to property which is the nature of a capital asset of the recipient and not stock-in-trade, raw material or consumable stores of any business of the recipient. Therefore, only transfer of a capital asset, without consideration or for inadequate consideration would attract the provisions of section 56(2)(x).

**(vi) The table below summarizes the scheme of taxability of gifts –**

	Nature of asset	Taxable value
1	Money	The whole amount if the same exceeds ₹ 50,000.



2	<b>Movable property</b>	<b>(i) Without consideration:</b> The aggregate fair market value of the property, if it exceeds ₹ 50,000.
		<b>(ii) Inadequate consideration:</b> The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹ 50,000.
3	<b>Immovable property</b>	<b>(i) Without consideration:</b> The stamp value of the property, if it exceeds ₹ 50,000.
		<b>(ii) Inadequate consideration:</b> The difference between the stamp duty value and the consideration, if such difference is more than the higher of ₹ 50,000 and 10% of consideration.

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

- (a) from any relative; or
- (b) on the occasion of the marriage of the individual; or
- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer or donor, as the case may be; or
- (e) from any local authority<sup>3</sup>; or
- (f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution<sup>4</sup>; or
- (g) from or by any trust or institution registered<sup>5</sup>; or

<sup>3</sup>as defined in the Explanation to section 10(20)

<sup>4</sup>referred to in section 10(23C)

<sup>5</sup>under section 12AA or section 12AB

- (h) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution<sup>6</sup>.
- (i) by way of transaction not regarded as transfer<sup>7</sup> under section 47(i)/(iv)/(v)/(vi)/(vib)/(vid)/(vii).
- (j) from an individual by a trust created or established solely for the benefit of relative of the individual.
- (k) from such class of persons and subject to such conditions, as may be prescribed.
- (l) *by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to conditions notified by the Central Government*

*Accordingly, the Central Government has, vide Notification No. 91/2022 dated 5.8.2022, specified that for such purpose, the individual has to keep a record of the following documents, namely:-*

- (a) *the COVID-19 positive report of the individual or his family member, or medical report if clinically determined to be COVID-19 positive through investigations in a hospital or an in-patient facility by a treating physician for a person so admitted;*
- (b) *all necessary documents of medical diagnosis or treatment of the individual or family member due to COVID-19 or illness related to COVID-19 suffered within 6 months from the date of being determined as a COVID-19 positive;*

*The details of the amount so received in any financial year has to be furnished in the prescribed form to the Income-tax Department within 9 months from the end of such financial year.*

- (m) *by a member of the family of a deceased person -*
  - (A) *from the employer of the deceased person (without any limit); or*
  - (B) *from any other person or persons to the extent that such sum or aggregate of such sums  $\leq$  ₹ 10 lakhs,*

*where the cause of death of such person is illness related to COVID-19 and the payment is—*

<sup>6</sup>referred to in section 10(23C)(iv)/(v)/(vi)/(via)

<sup>7</sup>under section 47(via)/(viaa)/(vic)/(vica)/(vicb)/(viic)/(viid)/(viiae)/(viiaf)

- (i) *received within 12 months from the date of death of such person; and*
- (ii) *subject to such other conditions notified by the Central Government.*

*Accordingly, the Central Government has, vide Notification No. 92/2022 dated 5.8.2022, specified the following conditions -*

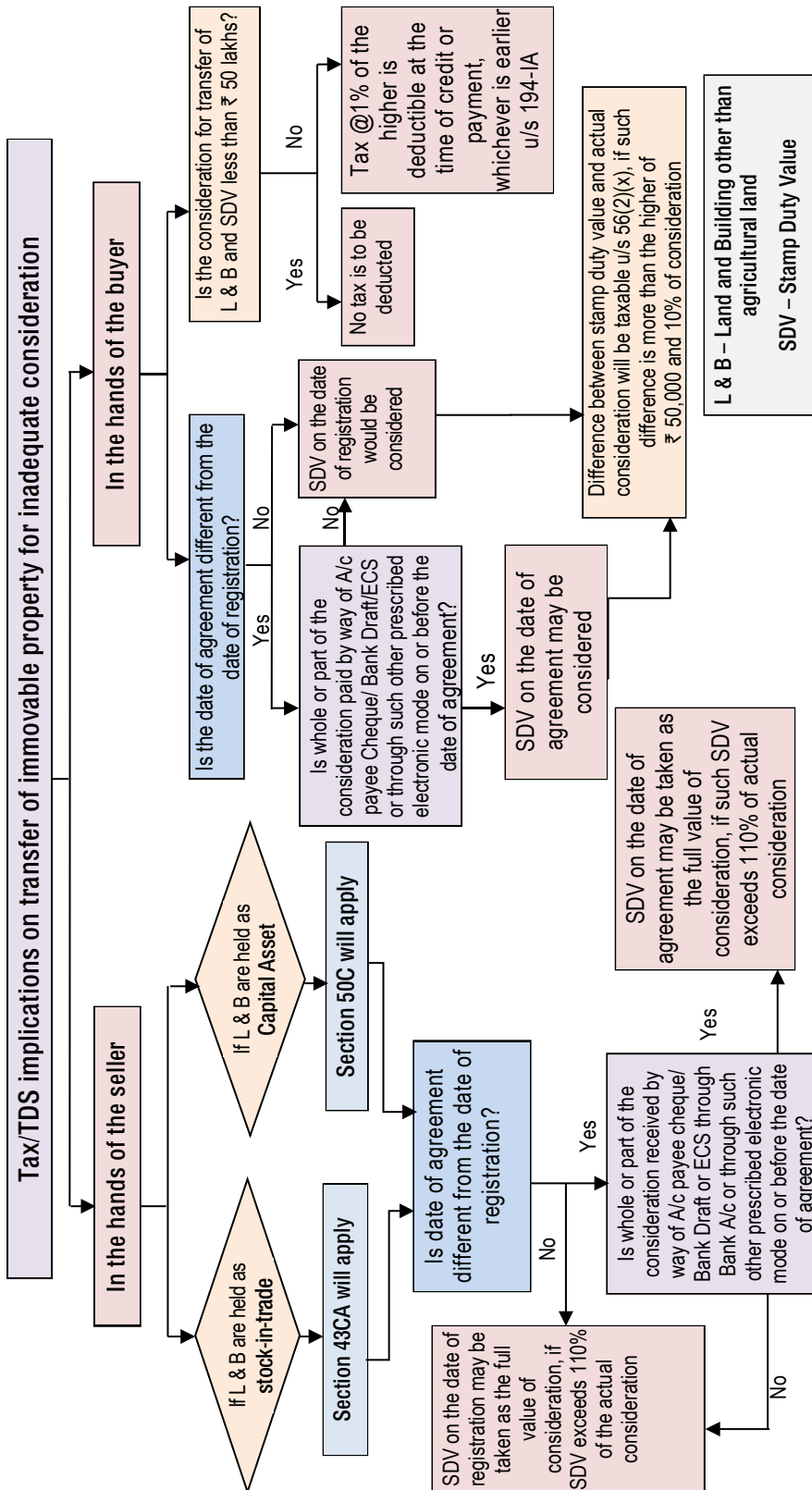
1.
  - (i) *the death of the individual should be within 6 months from the date of testing positive or from the date of being clinically determined as a COVID-19 case, for which any sum of money has been received by the member of the family;*
  - (ii) *the family member of the individual has to keep a record of the following documents,*
    - (a) *the COVID-19 positive report of the individual, or medical report if clinically determined to be COVID-19 positive through investigations in a hospital or an inpatient facility by a treating physician;*
    - (b) *a medical report or death certificate issued by a medical practitioner or a Government civil registration office, in which it is stated that death of the person is related to corona virus disease (COVID-19).*
2. *The details of such amount received in any financial year has to be furnished in the prescribed form to the Assessing Officer within 9 months from the end of such financial year.*

**(viii) Meaning of certain terms:**

Term	Meaning
<b>Property</b>	<p>A <b>capital asset</b> of the assessee, namely,-</p> <ul style="list-style-type: none"> <li>(a) immovable property being land or building or both,</li> <li>(b) shares and securities,</li> <li>(c) jewellery,</li> <li>(d) archaeological collections,</li> <li>(e) drawings,</li> <li>(f) paintings,</li> </ul>

	(g) sculptures, (h) any work of art or (i) bullion. It also includes virtual digital asset <sup>8</sup> .
<b>Relative</b>	<b>(a) In case of an individual –</b> (i) spouse of the individual; (ii) brother or sister of the individual; (iii) brother or sister of the spouse of the individual; (iv) brother or sister of either of the parents of the individual; (v) any lineal ascendant or descendant of the individual; (vi) any lineal ascendant or descendant of the spouse of the individual; (vii) spouse of any of the persons referred in (i) to (vi) above. <b>(b) In case of Hindu Undivided Family</b> , any member thereof.
<b>Family</b>	<i>For the purpose of (l) and (m) in page 3.498, family in relation to an individual means</i> (i) <i>the spouse and children of the individual; and</i> (ii) <i>the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.</i>

<sup>8</sup> The provisions relating to Virtual digital asset will be dealt with at Final level.



**ILLUSTRATION 2**

Mr. A, a dealer in shares, received the following without consideration during the P.Y. 2023-24 from his friend Mr. B, -

- (1) Cash gift of ₹ 75,000 on his anniversary, 15<sup>th</sup> April, 2023.
- (2) Bullion, the fair market value of which was ₹ 60,000, on his birthday, 19<sup>th</sup> June, 2023.
- (3) A plot of land at Faridabad on 1<sup>st</sup> July, 2023, the stamp value of which is ₹ 5 lakh on that date. Mr. B had purchased the land in April, 2009.

Mr. A purchased from his friend Mr. C, who is also a dealer in shares, 1000 shares of X Ltd. @ ₹ 400 each on 19<sup>th</sup> June, 2023, the fair market value of which was ₹ 600 each on that date. Mr. A sold these shares in the course of his business on 23<sup>rd</sup> June, 2023.

Further, on 1<sup>st</sup> November, 2023, Mr. A took possession of property (office building) booked by him two years back at ₹ 20 lakh. The stamp duty value of the property as on 1<sup>st</sup> November, 2023 was ₹ 32 lakh and on the date of booking was ₹ 23 lakh. He had paid ₹ 1 lakh by account payee cheque as down payment on the date of booking.

On 1<sup>st</sup> March, 2024, he sold the plot of land at Faridabad for ₹ 7 lakh.

Compute the income of Mr. A chargeable under the head "Income from other sources" and "Capital Gains" for A.Y. 2024-25.

**SOLUTION****Computation of "Income from other sources" of Mr. A for the A.Y. 2024-25**

Particulars	₹
(1) Cash gift is taxable under section 56(2)(x), since it exceeds ₹ 50,000	75,000
(2) Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds ₹ 50,000	60,000
(3) Stamp value of plot of land at Faridabad, received without consideration, is taxable under section 56(2)(x)	5,00,000
(4) Difference of ₹ 2 lakh in the value of shares of X Ltd. purchased from Mr. C, a dealer in shares, is not taxable as it represents the stock-in-trade of Mr. A. Since Mr. A is a dealer in shares and it has been mentioned that the shares were subsequently sold in the course of his business, such shares represent the stock-in-trade of Mr. A.	-

(5) Difference between the stamp duty value of ₹ 23 lakh on the date of booking and the actual consideration of ₹ 20 lakh paid is taxable under section 56(2)(x) since the difference exceeds ₹ 2,00,000, being the higher of ₹ 50,000 and 10% of consideration	3,00,000
<b>Income from Other Sources</b>	<b>9,35,000</b>

### Computation of "Capital Gains" of Mr. A for the A.Y.2024-25

Particulars	₹
Sale Consideration	7,00,000
Less: Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(x) as per section 49(4)]	5,00,000
<b>Short-term capital gains</b>	<b>2,00,000</b>

**Note** – The resultant capital gains will be short-term capital gains since for calculating the period of holding, the period of holding of previous owner is not to be considered.

### ILLUSTRATION 3

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

- (i) Akhil HUF received ₹ 75,000 in cash from niece of Akhil (i.e., daughter of Akhil's sister). Akhil is the Karta of the HUF.
- (ii) Nitisha, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is ₹ 9,00,000.
- (iii) Mr. Akshat received 100 shares of A Ltd. from his friend as a gift on occasion of his 25<sup>th</sup> marriage anniversary. The fair market value on that date was ₹ 100 per share. He also received jewellery worth ₹ 45,000 (FMV) from his nephew on the same day.
- (iv) Kishan HUF gifted a car to son of Karta for achieving good marks in XII board examination. The fair market value of the car is ₹ 5,25,000.

**SOLUTION**

	<b>Taxable/ Non- taxable</b>	<b>Amount liable to tax (₹)</b>	<b>Reason</b>
(i)	Taxable	75,000	Sum of money exceeding ₹ 50,000 received without consideration from a non-relative is taxable under section 56(2)(x). Daughter of Mr. Akhil's sister is not a relative of Akhil HUF, since she is not a member of Akhil HUF.
(ii)	Non-taxable	Nil	Immovable property received without consideration by a HUF from its relative is not taxable under section 56(2)(x). Since Nitisha is a member of the HUF, she is a relative of the HUF. However, income from such asset would be included in the hands of Nitisha under 64(2).
(iii)	Taxable	55,000	As per provisions of section 56(2)(x), in case the aggregate fair market value of property, other than immovable property, received without consideration exceeds ₹ 50,000, the whole of the aggregate value shall be taxable. In this case, the aggregate fair market value of shares (₹ 10,000) and jewellery (₹ 45,000) exceeds ₹ 50,000. Hence, the entire amount of ₹ 55,000 shall be taxable.
(iv)	Non-taxable	Nil	Car is not included in the definition of property for the purpose of section 56(2)(x), therefore, the same shall not be taxable.

**ILLUSTRATION 4**

*Mr. Hari, a property dealer, sold a building in the course of his business to his friend Mr. Rajesh, who is a dealer in automobile spare parts, for ₹ 90 lakh on 1.1.2024, when the stamp duty value was ₹ 150 lakh. The agreement was, however, entered into on 1.9.2023 when the stamp duty value was ₹ 140 lakh. Mr. Hari had received a down payment of ₹ 15 lakh by a crossed cheque from Rajesh on the date of agreement. Discuss the tax implications in the hands of Hari and Rajesh, assuming that Mr. Hari has purchased the building for ₹ 75 lakh on 12<sup>th</sup> July, 2022.*

*Would your answer be different if Hari was a share broker instead of a property dealer?*



**SOLUTION****Case 1: Tax implications if Mr. Hari is a property dealer**

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
<p>In the hands of Hari, the provisions of section 43CA would be attracted, since the building represents his stock-in-trade and he has transferred the same for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration.</p> <p>Under section 43CA, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay on or before the date of agreement. In this case, since the down payment of ₹ 15 lakh is received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.</p> <p>Therefore, <b>₹ 75 lakh</b>, being the difference between the stamp duty value on the date of transfer i.e., ₹ 150 lakh, and the purchase price i.e., ₹ 75 lakh, would be chargeable as <b>business income</b> in the hands of Mr. Hari, since stamp duty value exceeds <b>110% of the consideration</b></p>	<p>Since Mr. Rajesh is a dealer in automobile spare parts, the building purchased would be a capital asset in his hands. The provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds ₹ 9,00,000, being the higher of ₹ 50,000 and 10% of consideration.</p> <p>Therefore, <b>₹ 60 lakh</b>, being the difference between the stamp duty value of the property on the date of registration (i.e., ₹ 150 lakh) and the actual consideration (i.e., ₹ 90 lakh) would be taxable under section 56(2)(x) in the hands of <b>Mr. Rajesh</b>, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay.</p>

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

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
<p>In case Mr. Hari is a share broker and not a property dealer, the building would represent his capital asset and not stock-in-trade. In such a case, the provisions of section 50C would be attracted in the hands of Mr. Hari, since building is transferred for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration.</p> <p>Thus, <b>₹ 75 lakh, being the difference between the stamp duty value on the date of registration (i.e., ₹ 150 lakh) and the purchase price (i.e., ₹ 75 lakh) would be chargeable as short-term capital gains.</b></p> <p>It may be noted that under section 50C, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay on or before the date of agreement. In this case, since the down payment of ₹ 15 lakhs has been received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.</p>	<p>There would be no difference in the taxability in the hands of Mr. Rajesh, whether Mr. Hari is a property dealer or a stock broker. Therefore, the provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds ₹ 9,00,000, being the higher of ₹ 50,000 and 10% of consideration.</p> <p>Therefore, <b>₹ 60 lakh</b>, being the difference between the stamp duty value of the property on the date of registration (i.e., ₹ 150 lakh) and the actual consideration (i.e., ₹ 90 lakh) would be taxable under section 56(2)(x) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay.</p>

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

Any compensation or any other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto shall be chargeable to tax under this head.

**(8) Sum received, including the amount allocated by way of bonus, under a LIP other than under a ULIP and keyman insurance policy, which is not exempt u/s 10(10D) [Section 56(2)(xii)]**

Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy would not be included in the total income of a person [Section 10(10D)].

The following table summarizes the exemption available under section 10(10D) *vis-a-vis* the date of issue of such policies and the corresponding condition to be satisfied for exemption -

	<b>Exemption u/s 10(10D)</b>	
In respect of policies issued before 1.4.2003	Any sum received under a LIP including the sum allocated by way of bonus is exempt.	
In respect of policies issued between 1.4.2003 and 31.3.2012	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 20% of "actual capital sum assured".	
In respect of policies issued on or after 1.4.2012 but before 1.4.2013	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% of actual capital sum assured.	
In respect of policies issued on or after 1.4.2013	<b>(a)</b>	<b>Where the insurance is on the life of a person with disability or severe disability as referred to in section 80U or a person suffering from disease or ailment as specified under section 80DDB.</b>
		Any sum received under a LIP including the sum allocated by way of bonus is exempt. However,

		exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 15% of "actual capital sum assured"
	<b>(b)</b>	<b>Where the insurance is on the life of any person, other than mentioned in (a) above</b>
		Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% of "actual capital sum assured".
<i>In respect of policies issued on or after 1.4.2023</i>	<i>Any sum received under a LIP including the sum allocated by way of bonus is exempt.</i> <i>However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% or 15%, as the case may be, of "actual capital sum assured."</i> <i>Further, exemption would also not be available if the amount of premium payable exceeds ₹ 5,00,000 for any of the previous years during the term of such policy.</i> <i>In a case where premium is payable by a person for more than one LIP (other than ULIP) and the aggregate of premium payable on such policies exceed ₹ 5,00,000 for any of the previous years during the term of any such policy(ies), exemption would be available in respect of any of those LIPs (other than ULIP), at the option of the assessee, whose aggregate premium payable does not exceed ₹ 5,00,000 for any of the previous years during their term.</i>	
<i>Any sum is received on the death of a person is exempt irrespective of the annual premium payable on the policy. The condition of payment of premium of 10% or 15% or 20% or ₹ 5,00,000 would not be applicable.</i>		

**Exemption is not available in respect of amount received from an insurance policy taken for disabled person under section 80DD:** Any sum received under section 80DD(3) shall not be exempt under section 10(10D). Accordingly, if the dependent disabled, in respect of whom an

individual or the member of the HUF has paid or deposited any amount in any scheme of LIC or any other insurer, predeceases the individual or the member of the HUF, the amount so paid or deposited shall be deemed to be the income of the assessee of the previous year in which such amount is received. Such amount would not be exempt u/s 10(10D).

**Exemption is not available in respect of the sum received under a Keyman insurance policy:** Any sum received under a Keyman insurance policy shall also not be exempt.

*Explanation 1* to section 10(10D) defines "Keyman insurance policy" as a life insurance policy taken by one 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. The term includes within its scope a keyman insurance policy which has been assigned to any person during its term, with or without consideration. Therefore, such policies shall continue to be treated as a keyman insurance policy even after the same is assigned to the keyman. Consequently, the sum received by the keyman on such policies, being "keyman insurance policies", would not be exempt u/s 10(10D).

***Taxability of sum received under a LIP which is not exempt u/s 10(10D)***

*Where any sum is received (including the amount allocated by way of bonus) at any time during a previous year, under a life insurance policy, other than the sum*

*(i) received under a ULIP*

*(ii) received under a Keyman insurance policy*

*which is not exempt under section 10(10D), the sum so received as exceeds the aggregate of the premium paid during the term of such life insurance policy, and not claimed as deduction under any other provision of the Act, computed in the prescribed manner, would be chargeable to tax under the head "Income from other sources".*

**(ii) Income chargeable under the head "Income from other sources" only if not chargeable under the head "Profits and gains of business or profession" -**

- (1) Any sum received by an employer-assessee from his employees as contributions to any provident fund, superannuation fund or any other fund for the welfare of the employees

- (2) Income from letting out on hire, machinery, plant or furniture.
- (3) Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting.
- (4) Interest on securities

**However, certain interest income arising to certain persons would be exempt under section 10(15), for example,:**

- (i) Income by way of interest, premium on redemption or other payment on notified securities, bonds, annuity certificates or other savings certificates is exempt subject to such conditions and limits as may be specified in the notification.

It may be noted that interest on Post Office Savings Bank Account which was so far fully exempt would henceforth be exempt from tax for any assessment year only to the extent of:

- (1) ₹ 3,500 in case of an individual account.
  - (2) ₹ 7,000 in case of a joint account.
- (ii) Interest on Gold Deposit Bond issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetization Scheme, 2015 notified by the Central Government.
  - (iii) Interest on bonds, issued by –
    - (a) a local authority; or
    - (b) a State Pooled Finance Entity

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

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

### **(iii) Keyman Insurance Policy**

Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy is chargeable under the head “Income from other sources” if such income is not chargeable under the head “Profits and gains if business or profession” or under the head “Salaries” i.e. if such sum is received by

any person other than the employer who took the policy and the employee in whose name the policy was taken.

**(iv) Residual Income:**

Any income chargeable to tax under the Act, but not falling under any other head of income shall be chargeable to tax under the head "Income from other sources".

For example, salary received by an MPs/MLAs will not be chargeable to income-tax under the head 'Salary' but will be chargeable as "Income from other sources" under section 56. However, the following incomes of Members of Parliament or State Legislatures will be exempt under section 10(17):

- (i) Daily Allowance** - Daily allowance received by any Member of Parliament or of any State Legislatures or any Committee thereof.
- (ii) Constituency Allowance of MPs** - In the case of a Member of Parliament, any allowance received under Members of Parliament (Constituency Allowance) Rules, 1986; and
- (iii) Constituency allowance of MLAs** - Any constituency allowance received by any person by reason of his membership of any State Legislature under any Act or rules made by that State Legislature.

There are other exemptions also in respect of certain incomes which are as follows:

**1. Interest on moneys standing to the credit of individual in his NRE A/c [Section 10(4)(ii)]**

As per section 10(4)(ii), in the case of an individual, any income by way of interest on moneys standing to his credit in a Non-resident (External) Account (NRE A/c) in any bank in India in accordance Foreign Exchange Management Act, 1999 (FEMA, 1999), and the rules made thereunder, would be exempt, provided such individual;

- o is a person resident outside India, as defined in FEMA, 1999, or
- o is a person who has been permitted by the Reserve Bank of India to maintain such account.

In this context, it may be noted that the joint holders of the NRE Account do not constitute an AOP by merely having these accounts in joint names. The benefit of exemption under section 10(4)(ii) will be available to such joint

account holders, subject to fulfillment of other conditions contained in that section by each of the individual joint account holders.

## 2. Compensation received on account of disaster [Section 10(10BC)]

- (i) This clause exempts any amount received or receivable as compensation by an individual or his legal heir on account of any disaster.
- (ii) Such compensation should be granted by the Central Government or a State Government or a local authority.
- (iii) However, exemption would not be available in respect of compensation for alleviating any damage or loss, which has already been allowed as deduction under the Act.
- (iv) "Disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or manmade causes, or by accident or negligence. It should have the effect of causing -
  - (1) substantial loss of life or human suffering; or
  - (2) damage to, and destruction of, property; or
  - (3) damage to, or degradation of, environment.

It should be of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area.

### ILLUSTRATION 5

*Compensation on account of disaster received from a local authority by an individual or his/her legal heir is taxable. Examine the correctness of the statement with reference to the provisions of the Income-tax Act, 1961.*

### SOLUTION

The statement is **not** correct. As per section 10(10BC), any amount received or receivable as compensation by an individual or his/her legal heir on account of any disaster from the Central Government, State Government or a local authority is exempt from tax. However, the exemption is not available to the extent such individual or legal heir has already been allowed a deduction under this Act on account of such loss or damage caused by such disaster.



**3. Educational scholarships [Section 10(16)]**

The value of scholarship granted to meet the cost of education would be exempt from tax in the hands of the recipient irrespective of the amount or source of scholarship.

**4. Awards for literary, scientific and artistic works and other awards by the Government [Section 10(17A)]**

Any award instituted in the public interest by the Central/State Government or by any other body approved by the Central Government and a reward by Central/State Government for such purposes as may be approved by the Central Government in public interest, will enjoy exemption under this clause.

**5. Payment in commutation of pension received from a set up by LIC [Section 10(10A)]**

Any commuted pension received by an individual from a fund set up by LIC of India, approved by Controller of Insurance or IRDA of India will be exempted.

***Interest from non-SLR Securities of Banks: Whether chargeable under the head "Profits and gains of business or profession" or "Income from other sources"? [Circular No. 18, dated 2.11.2015]***

The issue addressed by this circular is whether in the case of banks, expenses relating to investment in non-SLR securities need to be disallowed under section 57(i), by considering interest on non-SLR securities as "Income from other sources."

Section 56(1)(id) provides that income by way of interest on securities shall be chargeable to income-tax under the head "Income from Other Sources", if the income is not chargeable to income-tax under the head "Profits and Gains of Business and Profession".

The CBDT clarified that the investments made by a banking concern are part of the business of banking. Therefore, the income arising from such investments is attributable to the business of banking falling under the head "Profits and Gains of Business and Profession".



## 5.4 APPLICABLE RATE OF TAX IN RESPECT OF CASUAL INCOME OTHER THAN WINNINGS FROM ANY ONLINE GAME [SECTION 115BB]

- (i) This section provides that income by way of winnings from lotteries, crossword puzzles, races including horse races or card games and other games of any sort or from gambling or betting of any form would be taxed at a flat rate of 30% *plus* surcharge, if applicable, *plus* health and education cess@4%.

*However, income by way of winnings from any online game would not be taxed under this section.*

- (ii) No expenditure or allowance can be allowed from such income.
- (iii) Deduction under Chapter VI-A is not allowable from such income.
- (iv) Adjustment of unexhausted basic exemption limit is also not permitted against such income.



## 5.5 APPLICABLE RATE OF TAX IN RESPECT OF WINNINGS FROM ONLINE GAMES [SECTION 115BBJ]

- (i) *This section provides that net winnings from any online game would be taxed at a flat rate of 30% plus surcharge, if applicable, plus health and education cess@4%.*
- (ii) **Meaning of online games:** *A game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device*
- (iii) *No expenditure or allowance can be allowed from such income.*
- (iv) *Deduction under Chapter VI-A is not allowable from such income.*
- (v) *Adjustment of unexhausted basic exemption limit is also not permitted against such income.*



## 5.6 DEDUCTIONS ALLOWABLE [SECTION 57]

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

- (i) **In the case of dividend or income in respect of units of a mutual fund<sup>9</sup> or income in respect of units of a specified company<sup>10</sup>**: Interest expenditure to earn such income is allowed as deduction subject to a maximum of 20% of such income included in the total income, without deduction under this section.
- (ii) **In the case of interest on securities**: Any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such interest on behalf of the assessee.
- (iii) **Income consists of recovery from employees as contribution to any provident fund etc. in terms of section 2(24)(x)**: A deduction will be allowed in accordance with the provisions of section 36(1)(va) i.e., to the extent the contribution is remitted before the due date under the respective Acts.
- (iv) **Where the income to be charged under this head is from letting on hire of machinery, plant and furniture, with or without building**: The following items of deductions are allowable in the computation of such income:
  - (a) the amount paid on account of any current repairs to the machinery, plant, furniture or building.
  - (b) the amount of any premium paid in respect of insurance against risk of damage or destruction of the machinery or plant, furniture or building.
  - (c) the normal depreciation allowance in respect of the machinery, plant or furniture, due thereon.
- (v) **In the case of income in the nature of family pension**: A deduction of a sum equal to 33-1/3 per cent of such income or ₹ 15,000, whichever is less, is allowable.

*<sup>11</sup>From A.Y.2024-25, this deduction is allowable both under the default tax regime u/s 115BAC and under the optional tax regime i.e., normal provisions of the Act.*

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<sup>9</sup> Specified u/s 10(23D)

<sup>10</sup> Defined in the *Explanation* to section 10(35)

<sup>11</sup> Upto A.Y.2023-24, this deduction was not allowed under section 115BAC.

For the purposes of this deduction, "family pension" means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death.

#### Exemption in respect of family pension

1. The family pension received by the widow or children or nominated heirs, **of a member of the armed forces (including para-military forces)** of the Union, where the death of such member has occurred in the course of operational duties, in specified circumstances would, however, be exempt under section 10(19).
2. The family pension received by any member of the family of an individual who had been in the service of Central or State Government and had been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or other notified gallantry awards would be exempt u/s 10(18)(ii).

(vi) **Any other expenditure not being in the nature of capital expenditure** laid out or expended wholly and exclusively for the purpose of making or earning such income.

(vii) **In case of income by way of interest on compensation/ enhanced compensation received chargeable to tax under section 56(2)(viii):** Deduction of 50% of such income. No deduction would be allowable under any other clause of section 57 in respect of such income.

#### ILLUSTRATION 6

*Interest on enhanced compensation received by Mr. G during the previous year 2023-24 is ₹ 5,00,000. Out of this interest, ₹ 1,50,000 relates to the previous year 2019-20, ₹ 1,65,000 relates to previous year 2020-21 and ₹ 1,85,000 relates to previous year 2021-22. Discuss the tax implication, if any, of such interest income for A.Y.2024-25.*

#### SOLUTION

The entire interest of ₹ 5,00,000 would be taxable in the year of receipt, namely, P.Y. 2023-24.

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



## 5.7 DEDUCTIONS NOT ALLOWABLE [SECTION 58]

No deduction shall be made in computing the “Income from other sources” of an assessee in respect of the following items of expenses:

**(i) In the case of any assessee:**

- (1) any personal expense of the assessee;
- (2) any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
- (3) any payment chargeable to tax under the head “Salaries”, if it is payable outside India unless tax has been paid thereon or deducted at source.

**(ii) Any expenditure in respect of which a payment is made to a related person:** In addition to these disallowances, section 58(2) specifically provides that the disallowance of any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV and disallowance of payment or aggregate of payments exceeding ₹ 10,000 or ₹ 35,000, as the case may be, made to a person during a day otherwise than by account payee cheque or draft or ECS through bank account or through such other prescribed electronic mode such as credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT, and BHIM Aadhar Pay covered by section 40A will be applicable to the computation of income under the head ‘Income from other sources’ as well.

**(iii) Disallowance of 30% of expenditure:** 30% of expenditure shall not be allowed, in respect of a sum which is payable to a resident and on which tax is deductible at source, if

- such tax has not been deducted or;
- such tax after deduction has not been paid on or before the due date of return specified in section 139(1).

In case, assessee fails to deduct the whole or any part of tax on any such sum but is not deemed as assessee in default under the first proviso to section 201(1) by reason that such payee –

- (i) has furnished his return of income under section 139;

- (ii) has taken into account such sum for computing income in such return of income; and
- (iii) has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed,

it would be deemed that the assessee has deducted and paid the tax on such sum.

The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the payee.

- (iv) **No deduction in respect of any expenditure incurred in connection with casual income:** No deduction in respect of any expenditure or allowance in connection with income by way of earnings from lotteries, cross word puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever shall be allowed in computing the said income.

The prohibition will not, however, apply in respect of the income of an assessee, being the owner of race horses, from the activity of owning and maintaining such horses. In respect of the activity of owning and maintaining race horses, expenses incurred shall be allowed even in the absence of any stake money earned. Such loss shall be allowed to be carried forward in accordance with the provisions of section 74A.



## 5.8 DEEMED INCOME CHARGEABLE TO TAX [SECTION 59]

The provisions of section 41(1) are made applicable, so far as may be, to the computation of income under this head. Accordingly, where a deduction has been made in respect of a loss, expenditure or liability and subsequently any amount is received or benefit is derived in respect of such expenditure incurred or loss or trading liability allowed as deduction, then, it shall be deemed as income in the year in which the amount is received or the benefit is accrued.



## LET US RECAPITULATE

Where any income, profits or gains includible in the total income of an assessee, cannot be included under any of the other heads, it would be chargeable under the head 'Income from other sources'. Hence, this head is the residuary head of income [Section 56(1)]

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

- (1) Dividend Income
- (2) Casual income (winnings from lotteries, cross word puzzles, races including horse races, card games and other games, gambling, betting etc.). Such winnings are chargeable to tax at a flat rate of 30% under section 115BB and in case of online games, net winnings therefrom is chargeable to tax @30% u/s 115BBJ and no expenditure or deduction under Chapter VIA can be allowed from such income. No loss can be set-off against such income and even the unexhausted basic exemption limit cannot be exhausted against such income.
- (3) **Sum of money or property received by any person [Section 56(2)(x)]**

	Nature of asset	Particulars	Taxable value
1	Money	Without consideration	The whole amount, if the same exceeds ₹ 50,000.
2	Movable property	Without consideration	The aggregate fair market value of the property, if it exceeds ₹ 50,000.
3	Movable property	Inadequate consideration	The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹ 50,000.
4	Immovable property	Without consideration	The stamp value of the property, if it exceeds ₹ 50,000.
5	Immovable property	Inadequate consideration	The difference between the stamp duty value and the consideration, if such difference exceeds the higher of ₹ 50,000 and 10% of consideration.

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

Any sum of money or value of property received -

- (a) from any relative; or

- (b) on the occasion of the marriage of the individual; or
- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer or donor, as the case may be; or
- (e) from any local authority; or
- (f) from any fund or university or other educational institution or hospital or other medical institution or any trust or institution; or
- (g) from or by any registered trust or institution
- (h) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution.
- (i) by way of transaction not regarded as transfer under specified clauses of section 47
- (j) from an individual by a trust created or established solely for the benefit of relative of the individual.
- (k) from such class of persons and subject to such conditions, as may be prescribed.
- (l) by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to conditions notified by the Central Government
- (m) by a member of the family of a deceased person -
  - (A) from the employer of the deceased person (without any limit); or
  - (B) from any other person or persons to the extent that such sum or aggregate of such sums  $\leq$  ₹ 10 lakhs, where the cause of death of such person is illness related to COVID-19 and the payment is—
    - (i) received within 12 months from the date of death of such person; and
    - (ii) subject to such other conditions notified by the Central Government.

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

Section	Provision
56(2)(viib)	Consideration received in excess of FMV of shares issued by a closely held company to any person, to be treated as income of such company, where shares are issued at a premium
56(2)(viii)	Interest received on compensation/enhanced compensation deemed to be income in the year of receipt and taxable under the head "Income from Other Sources".



56(2)(ix)	Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if such sum is forfeited and the negotiations do not result in transfer of such asset (in a case where advance is received and forfeited on or after 1.4.2014).
56(2)(xi)	Compensation or other payment, due to or received by any person, by whatever name called, in connection with termination of his employment or the modification of the terms and conditions relating thereto.
56(2)(xii)	Sum received, including the amount allocated by way of bonus, under a LIP other than under a ULIP and keyman insurance policy, which is not exempt u/s 10(10D).

### **Exemptions [Section 10]**

Section	Provision
10(4)(ii)	Income by way of interest on moneys standing to his credit in a <b>Non-resident (External) Account (NRE A/c)</b> , is exempt in the hands of an individual, being a person resident outside India as per the FEMA, 1999 or in the hands of an individual who has been permitted by the RBI to maintain such account.
10(10BC)	Compensation received or receivable from the Central Government, State Government or local authority by an individual or his legal heir on account of any disaster is exempt except to the extent of loss or damage allowed as deduction under the Act.
10(16)	The value of scholarship granted to meet the cost of education would be exempt from tax in the hands of the recipient irrespective of the amount or source of scholarship.
10(17)	Daily allowance and Constituency allowance received by any Member of Parliament or of State Legislatures is exempt.
10(17A)	Payment, whether in cash or kind, in pursuance of an award instituted in public interest by the Govt or reward by the Govt. for approved purposes is exempt.
10(10A)	Any commuted pension received by an individual from a fund set up by LIC of India or any other insurer under a pension scheme, approved by Controller of Insurance or IRDA of India will be exempted.

**Deductions allowable [Section 57]**

S. No.	Particulars	Deduction
1.	In case of dividend or income in respect of units of mutual fund or income in respect of units from a specified company	Interest expenditure to earn such income. However, such interest expenses cannot exceed 20% of such income included in total income, without deduction under this section.
2.	In case of interest on securities	Any reasonable sum paid by way of commission or remuneration to a banker or any other person.
3.	Income consists of recovery from employees as contribution to any PF, superannuation fund etc.	Amount of contribution remitted before the due date under the respective Acts, in accordance with the provisions of section 36(1)(va)
4.	Income from letting on hire of machinery, plant and furniture, with or without building	Current repairs to the machinery, plant, furniture or building, insurance premium, depreciation/ unabsorbed depreciation
5.	Family Pension	Sum equal to - 33 1/3% of such income or - ₹ 15,000, whichever is less
6.	Interest on compensation/ enhanced compensation received	50% of such interest income

**Deductions not allowable [Section 58]**

S. No.	Deductions not allowable
1.	Any personal expense of the assessee
2.	Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
3.	Any payment chargeable to tax under the head "Salaries", if it is payable outside India unless tax has been paid thereon or deducted at source.
4.	Any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV.

5.	Any expenditure in respect of which a payment or aggregate payments exceeding ₹ 10,000 is made to a person in a day otherwise than by account payee cheque or draft or ECS through bank account or through such other prescribed electronic mode such as credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT, and BHIM Aadhar Pay.
6.	Any expenditure or allowance in connection with income by way of earnings from lotteries, cross word puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature
7.	30% of expenditure in respect of sum which is payable to a resident on which tax is deductible at source, if such tax has not been deducted or after deduction has not been paid on or before the due date of return specified in section 139(1)



## TEST YOUR KNOWLEDGE

1. *Examine under which heads the following incomes are taxable:*
  - (i) *Rental income in case property held as stock-in-trade for 3 years*
  - (ii) *Salary received by a partner from his partnership firm*
  - (iii) *Rental income of machinery*
  - (iv) *Winnings from lotteries by a person having the same as business activity*
  - (v) *Salaries received by a Member of Parliament*
  - (vi) *Receipts without consideration*
  - (vii) *In case of retirement, interest on employee's contribution if provident fund is unrecognized.*
  - (viii) *Rental income in case of a person engaged in the business of letting out of properties.*
2. *Examine whether the following are chargeable to tax and the amount liable to tax:*
  - (i) *A sum of ₹ 1,20,000 was received as gift from non-relatives by Raj on the occasion of the marriage of his son Pravin.*
  - (ii) *Interest on enhanced compensation of ₹ 96,000 received on 12-3-2024 for acquisition of urban land, of which 40% relates to P.Y.2022-23.*
3. *On 10.10.2023, Mr. Govind (a bank employee) received ₹ 5,00,000 towards interest on enhanced compensation from State Government in respect of compulsory acquisition of his land effected during the financial year 2015-16.*

*Out of this interest, ₹ 1,50,000 relates to the financial year 2016-17; ₹ 1,65,000 to the financial year 2017-18; and ₹ 1,85,000 to the financial year 2018-19. He incurred ₹ 50,000 by way of legal expenses to receive the interest on such enhanced compensation.*

*How much of interest on enhanced compensation would be chargeable to tax in the A.Y.2024-25?*

4. The following details have been furnished by Mrs. Hemali pertaining to the year ended 31.3.2024:

- (i) Cash gift of ₹ 51,000 received from her friend on the occasion of her "Shastiaphtha Poorthi", a wedding function celebrated on her husband completing 60 years of age. This was also her 25th wedding anniversary.
- (ii) On the above occasion, a diamond necklace worth ₹ 2 lacs was presented by her sister living in Dubai.
- (iii) When she celebrated her daughter's wedding on 21.2.2024, her friend assigned in Mrs. Hemali's favour, a fixed deposit held by the said friend in a scheduled bank; the value of the fixed deposit and the accrued interest on the said date was ₹ 52,000.

Compute the income, if any, assessable as "Income from other sources" for A.Y.2024-25.

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

- (i) Mr. B transferred 500 shares of R (P) Ltd. to M/s. B Co. (P) Ltd. on 10.10.2023 for ₹ 3,00,000 when the fair market value was ₹ 5,00,000. The indexed cost of acquisition of shares for Mr. B was computed at ₹ 4,45,000. The transfer was not subjected to securities transaction tax.

Determine the income chargeable to tax in the hands of Mr. B and M/s. B Co. (P) Ltd. because of the above said transaction.

- (ii) Mr. Chezian is employed in a company with taxable salary income of ₹ 5,00,000. He received a sum of ₹ 1,00,000 from Atma Charitable Trust (registered under section 12AB) by account payee cheque in December 2023 for meeting his medical expenses.

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

## ANSWERS

1. Head under which following incomes are taxable:

	Particulars	Head of Income
(i)	Rental income in case property held as stock-in trade for 3 years	Income from house property

(ii)	Salary by partner from his partnership firm	Profits and gains of business or profession
(iii)	Rental income of machinery ( <b>See Note below</b> )	Profits and gains of business or profession/Income from other sources
(iv)	Winnings from lotteries by a person having the same as business activity	Income from other sources
(v)	Salaries payable to a Member of Parliament	Income from other sources
(vi)	Receipts without consideration	Income from other sources
(vii)	In case of retirement, interest on employee's contribution if provident fund is unrecognized	Income from other sources
(viii)	Rental income in case of a person engaged in the business of letting out of properties	Profits and gains from business or profession

**Note** - As per section 56(2)(ii), rental income of machinery would be chargeable to tax under the head "Income from Other Sources", if the same is not chargeable to income-tax under the head "Profits and gains of business or profession".

## 2. Taxability of Receipts

S. No.	Taxable/ Not Taxable	Answer Amount liable to tax (₹)	Reason
(i)	Taxable	1,20,000	The exemption from applicability of section 56(2)(x) would be available if, <i>inter alia</i> , gift is received from a relative or gift is received on the occasion of marriage of the individual himself. In this case, since gift is received by Mr. Raj from a non-relative on the occasion of marriage of his son, it would be taxable in his hands under section 56(2)(x).

(ii)	Taxable	48,000	<p>As per section 145B(1), interest received by the assessee on enhanced compensation shall be deemed to be the income of the year in which it is received, irrespective of the method of accounting followed by the assessee.</p> <p>Interest of ₹ 96,000 on enhanced compensation is chargeable to tax in the year of receipt i.e. P.Y. 2023-24 under section 56(2)(viii) after providing deduction of 50% under section 57(iv). Therefore, ₹ 48,000 is chargeable to tax under the head "Income from other sources".</p>
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3. Section 145B provides that interest received by the assessee on enhanced compensation shall be deemed to be the income of the assessee of the year in which it is received, irrespective of the method of accounting followed by the assessee and irrespective of the financial year to which it relates.

Section 56(2)(viii) states that such income shall be taxable as 'Income from other sources'.

50% of such income shall be allowed as deduction by virtue of section 57(iv) and no other deduction shall be permissible from such Income.

Therefore, legal expenses incurred to receive the interest on enhanced compensation would not be allowed as deduction from such income.

**Computation of interest on enhanced compensation taxable as "Income from other sources" for the A.Y 2024-25:**

Particulars	₹
Interest on enhanced compensation taxable u/s 56(2)(viii)	5,00,000
Less: Deduction under section 57(iv) (50% x ₹ 5,00,000)	2,50,000
<b>Taxable interest on enhanced compensation</b>	<b>2,50,000</b>

4. (i) Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received during a wedding function celebrated on completion of 60 years of age.

The gift of ₹ 51,000 received from a non-relative is, therefore, chargeable to tax under section 56(2)(x) in the hands of Mrs. Hemali, since the same exceeds ₹ 50,000.

- (ii) The provisions of section 56(2)(x) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of diamond necklace received from her sister, being a relative, is not taxable under section 56(2)(x), even though jewellery falls within the definition of "property".
- (iii) To be exempt from applicability of section 56(2)(x), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case.

Any sum of money received without consideration by an individual is chargeable to tax under section 56(2)(x), if the aggregate value exceeds ₹ 50,000 in a year. "Sum of money" has, however, not been defined under section 56(2)(x).

Therefore, there are two possible views in respect of the value of fixed deposit assigned in favour of Mrs. Hemali –

- (1) The first view is that fixed deposit does not fall within the meaning of "sum of money" and therefore, the provisions of section 56(2)(x) are not attracted. It may be noted that fixed deposit is also not included in the definition of "property".
- (2) However, another possible view is that fixed deposit assigned in favour of Mrs. Hemali falls within the meaning of "sum of money" received.

#### **Income assessable as "Income from other sources"**

If the first view is taken, the total amount chargeable to tax as "Income from other sources" would be ₹ 51,000, being cash gift received from a friend on her Shastiapha Poorthi.

As per the second view, the provisions of section 56(2)(x) would also be attracted in respect of the fixed deposit assigned and the "Income from other sources" of Mrs. Hemali would be ₹ 1,03,000 (₹ 51,000 + ₹ 52,000).



5. (i) Any movable property received for inadequate consideration by any person is chargeable to tax under section 56(2)(x), if the difference between aggregate Fair Market Value of the property and consideration exceeds ₹ 50,000.

Thus, share received by M/s B. Co. (P) Ltd. from Mr B for inadequate consideration is chargeable to tax under section 56(2)(x) to the extent of ₹ 2,00,000.

As per section 50CA, since, the consideration is less than the fair market value of unquoted shares of R (P) Ltd., fair market value of shares of the company would be deemed to be the full value of consideration. It is presumed that the shares of R (P) Ltd are unquoted shares.

The full value of consideration (₹ 5,00,000) less the indexed cost of acquisition (₹ 4,45,000) would result in a long term capital gains of ₹ 55,000 in the hands of Mr. B.

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

[illegible]

