

INCOME FROM HOUSE PROPERTY

BASIS OF CHARGE [SECTION 28]

- **“Annual value”** of any **house property** of which the assessee is the **owner** is taxable u/h “Income from house property”. [Note: Annual value is taxable & not Rental Income].
- House property shall include all types of house properties i.e. residential houses, shops, godowns, cinema building, workshop building, hotel buildings etc.
- Income from Sale of House Property → Taxable u/h “ Capital Gains”.

ANALYSIS OF SECTION 22

I. PROPERTY SHOULD CONSIST OF ANY BUILDING OR/ & LAND APPURTENANT THERETO

- Land appurtenant means land connected with the building [Ex: Garden, Garage, Parking]
- **Letting out of vacant land** → Taxable u/h **IFOS** [as No Building]
- **Subletting of House Property** → Taxable u/h **IFOS** [as No Ownership]

II. ASSESSEE MUST BE THE OWNER OF THE HOUSE PROPERTY

- Registration of the sale deed → Not necessary. [& thus includes also a beneficial owner]
- Ownership includes both free-hold & lease-hold rights.
- Ownership includes deemed ownership (discussed in Section 27 later).
- **Ownership of land on which the building stands is not necessary.** [Land may be on lease].
- **Ownership in PY is relevant & not in AY.**
- **House Property with Disputed Title of Ownership:** It will be the decision of Income-tax Department as to who is the owner till the court gives its decision on such property.

III. PURPOSE

- HP may be used for any purpose by the owner (**other than for his business/profession**).

HOUSE PROPERTY USED BY ASSESSEE FOR HIS OWN BUSINESS/PROFESSION

- Since Section 30 does not allow deduction of ‘notional rent’ of the property while computing business income u/h PGBP, annual value of house property is **not taxable** u/h “Income” from house property.

Ex: Mr. X uses the property for his office. Income from such property cannot be taxed u/h house property since it is used for his own business.

HOUSE PROPERTY HELD AS SIT

- If the property constitutes SIT of a business, Income from such house property is to be charged u/h “Income from House Property”. [Since specific head has been given for income from house property, it cannot be taxed under any other head].
- **Annual value of HP held as SIT = NIL for 1 year** from the end of FY in which completion certificate of the property is obtained from competent authority, if such property is not LOP during such period. [Sec 23(5)]
- Properties of an assessee engaged in the **business of letting out of properties:** Income earned by an assessee engaged in the business of letting out of properties on rent would be taxable as Business Income. [SC ruling in *Rayala Corporation (P) Ltd. v. Asstt. CIT (2016) 386 ITR 500*]

CQ1. Write a note on letting out of building which is supplementary to the business.**Answer: Letting out of building which is supplementary to the business**

If any person has let out any house property for any purpose which is supplementary to the business of the assessee, in such cases rental income shall be taxable under the head business/profession and all expenses of such house property will be allowed as deduction.

Ex: If a Public school has let out a part of its building to a Bank, in this case rent received shall be considered to be income u/h "PGBP" & all the expenses of such house property shall be debited to profit & loss account.

Ex: If any company has constructed houses for the employees in their premises and it is let out to the employees, rental income is taxable under the head Business/Profession.

COMPOSITE RENT

- **Meaning:** The owner of a property may sometimes receive rent in respect of building as well as
- Other assets [**Ex:** Furniture, plant and machinery] or
 - for different services provided in the building [**Ex:** Lifts; Security; Power backup].

➤ **Tax Treatment**

Two lettings are separable	Two lettings are not separable
<ul style="list-style-type: none"> ▪ Rent from HP → Taxable u/h HP. ▪ Rent from Use of other services → Taxable u/h PGBP or IFOS. 	<ul style="list-style-type: none"> ▪ Taxable u/h PGBP or IFOS. Ex: Hotel business/paying guest accommodation or warehousing or auditorium

Note: All expenses for other facilities → Deducted while computing its income u/h PGBP or IFOS.

INCOME FROM HOUSE PROPERTY SITUATED OUTSIDE INDIA

1. ROR in India (Note)	Taxable, whether or not such income is brought into India.
2. RNOR/NR in India	Taxable only if it is received in India.

Note: Municipal Taxes Paid o/s India – Deductible if Tax has been deducted at source.

COMPUTATION OF INCOME FROM HOUSE PROPERTY

A. Gross Annual Value (GAV)	xxx
B. Less: Municipal tax paid by the owner during the PY.	(xxx)
C. Net Annual Value (NAV) [A – B]	xxx
D. Less: Deduction u/s 24	(xxx)
24(a): Standard deduction (30% of NAV)	(xxx)
24(b): Interest on borrowed Capital	(xxx)

MEANING OF SOME IMPORTANT TERMS USED IN THIS TOPIC

- Municipal value:** Rent fetching capacity of the house determined by the municipal authorities.
- Fair rent:** Rent fetching capacity of similar property in the same locality.
- Standard Rent:** Maximum rent which can be taken from a tenant legally under Rent Control Act.
- Expected Rent:** Higher of (a) MV or (b) FR subject to Maximum of SR.

A. DETERMINATION OF GROSS ANNUAL VALUE [SECTION 23]

GENERAL FORMAT

1	Calculate Expected Rent (ER)
2	Calculate Actual Rent Received (ARR)
3	GAV = Higher of ER or ARR

- ❖ **Expected Rent** = Higher of (a) MV or (b) FR subject to maximum of SR.
- ❖ **ARR = Rent receivable - Unrealized Rent.**
- ❖ **Vacancy Loss** → Loss of rent because house property remained vacant during such period.
- ❖ **Unrealized Rent** → House was let out, but rent could not be recovered from tenant.

COMPUTATION OF GAV FOR DIFFERENT TYPES OF HOUSE PROPERTIES

1. Self-occupied/unoccupied House Property	<ul style="list-style-type: none"> ▪ GAV = Nil ▪ No deduction of Municipal taxes paid.
2. Property Let out for whole year	<ul style="list-style-type: none"> ▪ GAV = Higher of (i) ER or (ii) ARR. ▪ No Question of vacancy loss since property was occupied for whole year.
3. Let out Property vacant for a part of year.	<ul style="list-style-type: none"> ▪ ER shall be calculated for the whole year. ▪ While computing ARR, rent for the period for which the house was vacant shall be excluded. ▪ If ARR > ER → GAV = ARR. ▪ If ARR < ER due to vacancy → GAV = ARR. ▪ If ARR < ER due to other reason → GAV = ER.
4. Let out for part & self occupied for part of year	<ul style="list-style-type: none"> ▪ ER shall be calculated for the whole year. ▪ ARR shall be computed for let out period. ▪ GAV = Higher of (i) ER (whole year) or (ii) ARR (let out part).
5. Deemed Let out property	<ul style="list-style-type: none"> ▪ If Assessee is having two houses & he is using both of them for himself, he has the option to choose any 1 house as SOP & the other house will be deemed to be let out. ▪ GAV of DLOP → ER because there is no rent (ARR) since both the properties are self-occupied. ▪ GAV of SOP = Nil;
6. Single House – One portion is let & other portion is self-occupied	<ul style="list-style-type: none"> ▪ SOP → GAV = Nil; ▪ No deduction of Municipal taxes paid; ▪ Interest is deductible subject to the limit of Rs. 30,000/2,00,000 [Keep in Mind] ▪ For LOP → ER shall be computed on proportionate basis.

CQ2. Mr. X owns five houses in Chennai, all of which are let-out. Compute GAV of each House.

Particulars	House I	House II	House III	House IV	House V
Municipal Value	80,000	55,000	65,000	24,000	80,000
Fair Rent	90,000	60,000	65,000	25,000	75,000
Standard Rent	N.A.	75,000	58,000	N.A.	78,000
AR received/Receivable	72,000	72,000	60,000	30,000	72,000

Solution: Computation of GAV of each house owned by Jayashree

	Particulars	House I	House II	House III	House IV	House V
(i)	Municipal value	80,000	55,000	65,000	24,000	80,000
(ii)	Fair rent	90,000	60,000	65,000	25,000	75,000
(iii)	Higher of (i) & (ii)	90,000	60,000	65,000	25,000	80,000
(iv)	Standard rent	N.A.	75,000	58,000	N.A.	78,000
(v)	Expected rent [Lower of (iii) & (iv)]	90,000	60,000	58,000	25,000	78,000
(vi)	Actual rent received/ receivable	72,000	72,000	60,000	30,000	72,000
	GAV [Higher of (v) & (vi)]	90,000	72,000	60,000	30,000	78,000

CQ3. Anirudh has a property whose municipal valuation is Rs. 1,30,000 p.a. The fair rent is Rs. 1,10,000 p.a. and the standard rent fixed by the Rent Control Act is Rs. 1,20,000 p.a. The property was let out for a rent of Rs. 11,000 p.m. throughout the previous year. Unrealised rent was Rs. 11,000 and all conditions prescribed by Rule 4 are satisfied. Compute gross annual value for AY 2019-20.

Solution: Computation of Gross Annual Value

ER = Higher of (a) MV or (b) FR subject to maximum of SR.	Rs. 1,20,000
ARR = Rent receivable – Unrealized Rent = Rs. 1,32,000 – Rs. 11,000	Rs. 1,21,000
GAV = Higher of ER or ARR [Higher of Rs. 1,20,000 or Rs. 1,10,000]	Rs. 1,21,000

CQ4. Ganesh has a property whose municipal valuation is Rs. 2,50,000 p.a. The fair rent is Rs. 2,00,000 p.a. and the standard rent fixed by the Rent Control Act is Rs. 2,10,000 p.a. The property was let out for a rent of Rs. 20,000 p.m. However, the tenant vacated the property on 31.1.2019. Unrealised rent was Rs. 20,000 and all conditions prescribed by Rule 4 are satisfied. Compute GAV of such house property of Ganesh for A.Y. 2019-20.

Solution: The property was vacant for 2 months. So while calculating ARR, we will take only 10 months.

ER = Higher of (a) MV or (b) FR subject to maximum of SR. [For whole year]	Rs. 2,10,000
ARR = Rent receivable – Unrealized Rent = Rs. 2,00,000 – Rs. 20,000	Rs. 1,80,000

Now if the property was let out for 2 months, i.e for the period it remained vacant, ARR would be Rs. 2,40,000 – Rs. 20,000 = Rs. 2,20,000. Thus we can say that ARR < ER due to vacancy, thus **GAV = ARR = Rs. 1,80,000**.

CQ5. Smt. Rajalakshmi owns a house property at Adyar in Chennai. The municipal value of the property is Rs. 5,00,000, fair rent is Rs. 4,20,000 and standard rent is Rs. 4,80,000. The property was let-out for Rs. 50,000 p.m. up to December 2018. Thereafter, the tenant vacated the property and Smt. Rajalakshmi used the house for self-occupation. Rent for the months of November and December 2018 could not be realised in spite of the owner's efforts. All the conditions prescribed u/r 4 are satisfied. Compute GAV of such house property for AY 19-20.

Solution:

ER = Higher of (a) MV or (b) FR subject to maximum of SR. [For whole year]	Rs. 4,80,000
ARR = Rent receivable – Unrealized Rent = Rs. 4,50,000 – Rs. 1,00,000 [for let out period]	Rs. 3,50,000
GAV = Higher of ER (for whole year) or ARR (for let out period)	Rs. 4,80,000

CQ6. WHEN UNREALIZED RENT SHALL BE DEDUCTED FROM RENT RECEIVED/RECEIVABLE?

Answer: Unrealized rent shall be deducted from rent if all the following conditions are satisfied:

- Tenancy is **bonafide**;
- Defaulting tenant **has vacated**, or steps have been taken to compel him to vacate the property;
- Defaulting tenant is **not in occupation** of any other property of the assessee;
- Assessee has taken all **reasonable steps to institute legal proceedings** for the **recovery** of the unpaid rent or **satisfies AO** that **legal proceedings would be useless**.

B. MUNICIPAL TAXES

- Meaning: Taxes levied by any local authority in respect of the property.
- Municipal taxes are to be deducted from the GAV if the following conditions are fulfilled:
 - (a) Municipal taxes have been borne by the owner &
 - (b) These have been **actually paid during the PY**.

Points to Remember:

- ❖ Taxes are allowed as deduction in the PY of payment **even if they relate to past years**.
- ❖ Taxes levied by foreign local authority are deductible if such taxes are paid by the owner.
- ❖ Refund of Municipal Tax Paid which was already allowed as a deduction in computation of Annual Value shall not be taxable.
- ❖ If municipal taxes are borne by tenant, rent received/receivable should not be increased to calculate rent since it is the duty of occupier of HP (i.e. tenant) to pay the municipal taxes.

C. NET ANNUAL VALUE

- **NAV = GAV - Municipal Taxes** paid & borne **by the owner**.

D. DEDUCTIONS U/S 24

1. STANDARD DEDUCTION [Sec 24(a)]

- Standard deduction = **30% of NAV** shall be allowed from NAV.
- This is a **flat deduction** & is allowed irrespective of the actual expenditure incurred.
- **No other expenses** shall be allowed as deduction while computing house property income.
- **SOP** → **Standard Deduction = Nil** (as NAV itself is Nil).

2. INTEREST ON BORROWED CAPITAL [Sec 24(b)]

(a) Current year Interest:

Deduction	Interest = Amount of Loan × ROI p.a (Without any limit)
From When	Interest relating to the PY of completion of construction can be fully claimed in that PY (irrespective of the date of completion).
Purpose	Loan can be taken for Acquisition, construction, repair, renovation, reconstruction of HP.
Accrual	Deduction u/s 24(b) for interest is available on accrual basis . Thus Interest accrued but not paid during PY can also be claimed as deduction.

(b) Pre-construction period Interest:

Deduction	Pre-commencement Interest is allowed as deduction in 5 successive PYs starting from PY of completion of construction. [1/5th of Total Interest]
Meaning	Pre-construction Period means period during which loan was taken but the construction of HP was/could not be started.
Pre-Construction Period	Start: From Date of Borrowing & End: (a) 31st March immediately prior to date of completion of construction (b) Date of payment of Loan (<i>Whichever is earlier</i>).
Note: Interest will be aggregated from the date of borrowing till the end of the PY prior to the PY in which the house is completed and not till the date of completion of construction.	

Computation of Prior Period Interest

Step 1: Identify the Date of Borrowing of Loan.
Step 2: Identify the Date of Completion/Acquisition.
Step 3: Identify Last Date of FY immediately preceding the date of Completion/ Acquisition.
Step 4: Prior Period = Period calculated from Step 1 to Step 3
Step 5: Prior Period Interest = Prior Period as per Step 4 * Rate of Interest * Amount of Loan.
Step 6: Allowable Prior Period Interest = $\frac{\text{Prior Period Interest as per Step 5}}{5 \text{ Years}}$

Ex: If Mr. X had taken a loan of Rs. 5,00,000 for construction of property on 01.10.2017 & interest is payable @ 10% p.a. and the construction was completed on 30.06.2018, interest allowed under section 24(b) shall be:

- (a) Current year Interest = Interest for PY 2018-19 = 10% of Rs. 5,00,000 = Rs. 50,000;
- (b) Pre-construction Period = Period from date of borrowings to 31st March immediately preceding date of completion.
Date of Completion = 30.6.2018. Thus pre-construction period will end on 31st March immediately preceding 20.6.2018 which is 1st March 2018.
Thus Pre-construction period = From 1.10.2017 - 31.03.2018
Pre-construction Interest = 10% of Rs. 5,00,000 for 6 months (from 01.10.2017 to 31.03.2018) = Rs. 25,000.
Prior period interest to be allowed in 5 equal annual installments of Rs. 5,000 from the year of completion of construction i.e. in this case, PY 2018-19.
Therefore, total interest deduction u/s 24(b) = 50,000 + 5000 = Rs. 55,000.

Points to Remember:

- (a) Loan may be taken for purchasing the land even if construction is done out of the own funds.
(b) Interest on unpaid interest is not deductible.
(c) Interest on fresh loan taken to repay original loan is allowed as a deduction.
(d) Amount paid as brokerage/commission for arrangement of loan → NOT Allowed as deduction.
(e) If loan is taken from outside India, Interest is deductible if tax has been deducted at source.

Some other points

- ❖ Assessee should furnish a certificate from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable.
- ❖ Where a buyer enters into an arrangement with a seller to pay the sale price in installments along with interest due thereon, the seller becomes the lender in relation to the unpaid purchase price & the buyer becomes the borrower. In such case, unpaid purchase price can be treated as capital borrowed for acquiring property & interest paid can be allowed as deduction.

LIMIT ON DEDUCTIONS OF INTEREST FOR SELF OCCUPIED PROPERTY

Case	Maximum Interest Allowed
If HP has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital before 1.4.99.	Actual Interest payable (Maximum of Rs. 30,000)
If loan is taken for repair or renovation of House property on/after 1.4.99.	Actual Interest payable (Maximum of Rs. 30,000)
If loan is taken for acquisition or construction of House Property on or after 1.4.99 & such acquisition or construction is completed within 5 years from the end of the PY in which capital was borrowed.	Actual interest payable (Maximum of Rs. 2,00,000)

Note: No such limit is applicable in case of **Let-out property or Deemed Let out property.**

UNREALISED RENT & ARREARS OF RENT RECEIVED SUBSEQUENTLY [SEC 25A]

Unrealized Rent	Arrears of Rent
<ul style="list-style-type: none"> ▪ Rent which could not be realized from the Assessee. ▪ If such amount is realized subsequently, it gets taxed in the PY of Receipt. ▪ However deduction shall be allowed @ 30% of such unrealized rent. ▪ Taxable @ 70% of received amount. 	<ul style="list-style-type: none"> ▪ If the assessee has increased the rent payable by the tenant retrospectively & there is a dispute over such increase; & later on the assessee receives the increased rent as arrears, it is called arrears of rent. ▪ It is taxable in the PY of Receipt. ▪ However deduction shall be allowed @ 30% of such arrears of rent. ▪ Taxable @ 70% of received amount.

Note: It does not matter whether the Assessee is owner of such house property in PY of receipt.

TREATMENT OF INCOME FROM CO-OWNED PROPERTY [SECTION 26]

Co-owned HP is Self occupied	Co-owned HP is Let out
<p>For Each Co-owner:</p> <ul style="list-style-type: none"> ▪ Annual Value → NIL ▪ Deduction of Rs. 30,000/Rs. 2,00,000 u/s 24(b) separately for each co-owner. 	<ul style="list-style-type: none"> ▪ Income from such HP shall be computed as if property is owned by one owner & then ▪ Income so computed shall be apportioned amongst each co-owner as per their share.

DEEMED OWNERSHIP [SECTION 27]

<p>(i) Transfer to a spouse: If an Individual transfer any HP to his/her spouse for Inadequate consideration, such transferor is deemed to be the owner of HP transferred.</p> <p>Exception: If a Property is transferred to a spouse in connection with an agreement to live apart.</p> <p>Ex: Mr. X has two house property each having income of Rs. 10 lacs and Mr. X has gifted one house property to Mrs. X, in this case income from such house property shall be taxable in the hands of Mr. X but if Mr. X has sold the house property to Mrs. X and has taken full payment, in that case income from house property shall be taxable in the hands of Mrs. X.</p> <p>Note: Where an individual gives cash to his/her spouse or minor child & such transferee acquires HP from such cash, transferor shall not be treated as deemed owner. It will attract clubbing provisions.</p>
<p>(ii) Transfer to Minor Child: If an Individual transfer any house property to minor child for inadequate consideration, transferor is deemed to be the owner of transferred house property.</p> <p>Exception: Where a property is transferred to a minor married daughter.</p>
<p>(iii) Holder of an Impartible estate: Holder of an Impartible estate (Impartible estate is a property which is not legally divisible) shall be deemed to be owner of all properties in the estate.</p> <p>Ex: A Property could not be divided at the time of partition since it was occupied by the temple. Mr. X being the eldest son is the owner of the property as per the family convention. Property is given to Mr. X because the property could not be divided amongst the younger brother. Mr X in this case if not the beneficial owner of the property. He holds the property as a trustee on behalf of his younger brothers since all the members of the family have right to enjoy the benefits of the property. Mr. X is deemed as owner of the property.</p>
<p>(iv) Member of a Co-operative Society, etc: Member of a co-operative society, company or other AOPs to whom a building or part thereof is allotted or leased under a House Building Scheme of a society/company/association, shall be deemed to be owner of that building or part thereof allotted to him although the co-operative society/company/association is the legal owner of that building.</p>

(v) **Person in possession of a property:** A person who is allowed to take possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the TOPA shall be deemed owner of that house property. This would cover cases where

- (a) Possession of property has been handed over to the buyer,
- (b) Sale consideration has been paid or promised to be paid to the seller by the buyer,
- (c) Sale deed has not been executed in favour of the buyer.

Buyer would be deemed to be the owner of the property although it is not registered in his name.

Ex: Mr. X has sold his house property to Mr. Y for Rs. 50 lakcs & has taken full payment and possession has been given to Mr. Y but conveyance deed is not prepared in the name of Mr. Y, in this case Mr. Y is the deemed owner.

(vi) **Person having right in a property by way of Lease for 12 years or more:** A person who acquires any building by way of lease for a period of **12 years** or more shall be deemed to be the owner of that building or part thereof.

Exception: This will not cover the case where any Lease is acquired from **month to month** basis or for a **period not exceeding one year**.



CASES WHEN INCOME FROM HOUSE PROPERTY IS EXEMPT FROM TAX

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| <p>1. Income from Farm house: Income from any building owned or occupied by an agriculturist or receiver of rent/revenue of such land provided that the building is in the immediate vicinity of agricultural land and is used as a dwelling house or as a store house or other out-building.</p> |
| <p>2. Property held for charitable purposes: As per section 11, where the property is held for charitable or religious purposes the income from such property is exempt from tax.</p> |
| <p>3. House property used for own business/profession: It falls under PGBP & although no income will be derived but deductions/allowances of such property shall be allowed under that head.</p> |
| <p>4. Self-occupied house: Annual value of one self-occupied house shall be taken as Nil.</p> |
| <p>5. House property of registered trade union/local authority: The income from property held by a registered trade union/local authority is not taxable.</p> |
| <p>6. Annual value of Palace of ex-ruler: Annual value of any one palace in the occupation of an ex-ruler is exempt.</p> |