

Income Tax Act, 1961

The taxation of income is governed by the Income Tax Act, 1961. The Income Tax Act is very detailed. Often a provision has an exception, the exception has further exceptions under it and these exceptions in turn, may have several qualifying conditions. The law would be inadequate if it did not provide all the details. Towards understanding the core of the Act, the provisions have been edited. The deletions are indicated by ‘...’.

Section 4 of the Income Tax Act states the basis for charging income tax. It provides that income tax is to be charged for ‘any assessment year ... in respect of the total income of the previous year of every person.’ Section 4 is very compact. It applies to ‘every person’. The expression suggests a wide application of the law. A person may have income from different sources. The Act applies only after the totalling of the income. The totalling has to be done on an annual basis. The Act explains in detail, each of the terms --- person, assessment year, previous year and income.

Section 4 makes ‘every person’ liable to pay income tax. Section 2(31) defines a ‘person’ in the following extended sense:

- 2(31) "person" includes-
- (i) an individual,
 - (ii) a Hindu undivided family,
 - (iii) a company,
 - (iv) a firm,
 - (v) an association of persons or a body of individuals, whether incorporated or not,
 - (vi) a local authority, and
 - (vii) every artificial juridical person, not falling within any of the preceding sub-clauses.

The definition of person is very broad. It applies to individuals, companies, partnerships and even unincorporated bodies.

Sections 5 and 6 introduce the concept of ‘scope of total income’ and ‘Residence in India’. The Act applies to all persons depending on the residential status in relation to income received / accrued in India or accrued outside India. Subject to other provisions, individuals who have been in India for 182 days or more in the year are treated as residents. A company incorporated in India, or having a place of effective management in India, is resident and, thus, would always be subject to the Act. Section 9 of the Act provides that any income that arises through or from any business connection in India, or property or asset in India, is taxable under the Act, irrespective of the nationality or location of the person. Thus, the Act applies to companies as well as individuals with any business interest in India.

Previous Year and Assessment Year

All persons have to pay income tax on the total income of the previous year. Section 4 provides that the income tax has to be calculated and paid 'in respect of the total income of the previous year.' Section 3 defines 'previous year' as follows:

Section 3: Previous Year: For the purposes of this Act, "previous year" means the financial year immediately preceding the assessment year:

Previous year is defined with reference to the 'assessment year'. Section 2(9) defines assessment year thus:

Section 2(9): Assessment Year: "assessment year" means the period of twelve months commencing on the 1st day of April every year;

Thus, all the income a person earns in a financial year is the income in that previous year. The income would be assessed in the next financial year, which would be the assessment year.

Heads of Income

Section 2(24) of the Act defines income very widely, so as to include profits, gains, dividends, perquisites, benefits, allowance, and winnings and prizes. The definition is indicative of the intention of the law to levy tax not on every 'income', that is, on 'everything coming in', but on 'income' in the sense of surplus from an activity. This is understandable. A tax can be sustained only on surplus. Section 14 requires income to be classified under one of five heads.

Section 14: Heads of income. Save as otherwise provided by this Act, all income shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income:-

- Salaries.
- Income from house property.
- Profits and gains of business or profession
- Capital gains.
- Income from other sources

We will detail the heads of income.

Income from House Property

The head of income from house property applies to income earned from any house, building and land adjoining it. Section 22 terms the rent as the 'annual value of property'. It reads as follows:

Section 22. Income from house property: The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head "Income from house property".

There are two conditions for the application of this head of income. One, the income should arise from a 'building' or 'land adjoining a building'. And two, the building should not be occupied by the owner for his 'business or profession'. If the building is occupied by the owner for his business or profession, it would be treated under the income head of 'profits and gains of business or profession'.

Section 22 states that the 'annual value' of a particular building would be the amount that would be charged for income tax. Section 23 explains the meaning of 'annual value', thus:

22. Annual value how determined: (1) For the purposes of Section 22, the annual value of any property shall be deemed to be-

- (a) the sum for which the property might reasonably be expected to let from year to year; or
- (b) where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable; ...

Provided that the taxes levied by any local authority in respect of the property shall be deducted ... in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

(2) Where the property consists of a house or part of a house which-

- (a) is in the occupation of the owner for the purposes of his own residence; or
- (b) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him,

the annual value of such house or part of the house shall be taken to be nil

(3) The provisions of sub-section (2) shall not apply if-

- (a) the house or part of the house is actually let during the whole or any part of the previous year; or
- (b) any other benefit therefrom is derived by the owner.

(4) Where the property referred to in sub-section (2) consists of more than two houses-

- (a) the provisions of that sub-section shall apply only in respect of two of such houses, which the assessee may, at his option, specify in this behalf;
- (b) the annual value of the house or houses, other than the house or houses in respect of which the assessee has exercised an option under clause (a), shall be determined under sub-section (1) as if such house or houses had been let.

Section 23(1)(a) brings into play the idea of the expected rental value of a building. This is a notional value and is thus, different from the actual rental value. But Section 23(2) neutralises this by exempting self-occupied houses from its application. Section 24 provides for deductions from the annual value. It reads thus:

23. Deductions from income from house property.- Income chargeable under the head "Income from house property" shall be computed after making the following deductions, namely:-

- (a) a sum equal to thirty per cent of the annual value;
- (b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that in respect of property referred to in sub-section (2) of Section 23 the amount of deduction ... shall not exceed thirty thousand rupees:

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed ... the amount of deduction under this clause shall not exceed two lakh rupees.

Section 24(a) applies to every property. Every property would get a standard deduction of 30% of its annual value. However, Section 24(b) applies only to the cases where a person has taken a loan to buy that property and is paying interest on that loan. After making the deductions, the 'income chargeable under the head, income from house property' is obtained.

Income from Business and Profession

The head of income from business and profession has very wide application. All companies are engaged in business, and thus, their income from business will come under this head. The head of income from 'profits and gains of business or profession' has wide application. Section 2 defines 'business' and 'profession' in very broad terms. Section 28 specifies the scope of the head. It provides:

28. Profits and gains of business or profession.- The following income shall be chargeable to income tax under the head "Profits and gains of business or profession",-

- (i) the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year;

Section 28(i) applies to 'any' business or profession. Section 2 defines the terms, 'business' and 'profession', broadly. Thus, the term, 'any business or profession', in Section 28 makes the scope of the head very broad. The reference to 'any time during the previous year' also makes it clear that one need not be engaged in full- time activity to earn income under this head. Even casual earning from a profession or business would fall under this head. Section 28 applies to 'profit and gains' from any business or profession.

For calculating the profit from a business, the expenditure incurred for earning would need to be deducted from the receipts. An item of expenditure that is consumed in up to a year is

‘revenue expenditure’. An expenditure incurred for the acquisition of items whose use runs over more than a year is ‘capital expenditure’. Revenue expenditure is deducted from the receipts while capital expenditure is depreciated. The Income Tax Act recognises it and regulates deductions. Towards the deduction of revenue expenditure, Sections 30, 31 and 36 provide:

30. Rent, rates, taxes, repairs and insurance for buildings. In respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession, the following deductions shall be allowed-

- (a) where the premises are occupied by the assessee-
 - (i) as a tenant, the rent paid for such premises; and further if he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs;
 - (ii) otherwise than as a tenant, the amount paid by him on account of current repairs to the premises;
- (b) any sums paid on account of land revenue, local rates or municipal taxes;
- (c) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises.

31. Repairs and insurance of machinery, plant and furniture. In respect of repairs and insurance of machinery, plant or furniture used for the purposes of the business or profession, the following deductions shall be allowed-

- (i) the amount paid on account of current repairs thereto;
- (ii) the amount of any premium paid in respect of insurance against risk of damage or destruction thereof.

Section 36. Other Deductions. (1) The deductions provided for in the following clauses shall be allowed ... in computing the income referred to in Section 28 ...

- (i) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession;
- (ib) the amount of any premium paid to effect or to keep in force an insurance on the health of his employees ...
- (ii) any sum paid to an employee as bonus or commission for services rendered ...
- (iii) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession. ...
- (iv) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved super-annuation fund ...
- (v) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund ...

(vii) ... the amount of any bad debt ... which is written off as irrecoverable in the accounts of the assessee for the previous year....

37. General.- (1) Any expenditure (not being expenditure of the nature described in Sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation- For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.

The cluster of sections from Section 30 to Section 37 details the deductions of revenue expenditure. Section 30 pertains to revenue expenditure in relation to only buildings. Section 31 deals exclusively with revenue expenditure incurred in relation to other capital assets, i.e., plant and machinery. Section 36 lists the revenue expenditures that are general to all business organizations, for example, interest on borrowed capital for business, provident fund and insurance of raw material. Section 37 admits as deductions, all other revenue expenditure incurred in relation to the business.

Depreciation of Capital Assets

The Act follows the principle of 'Block of Assets' for allowing depreciation for capital assets. However, instead of leaving it to the assessee to decide the rate of depreciation, the law fixes the rate. Depreciation is the value of the use of the capital asset for the year. Thus, its significance is that it is allowed as deduction from the income of the year. Let us explore the arrangement provided by the Act. Section 2(11) requires all the capital assets to be classified and grouped under different 'blocks of assets'. Section 2(11) reads:

Sec 2 (11): 'block of assets' means a group of assets falling within a class of assets comprising-- (a) tangible assets, being buildings, machinery, plant or furnitures; (b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, in respect of which the same percentage of depreciation is prescribed;

The blocks of assets and their rates of depreciation have been specified in Appendix I under Rule 5(1) of the Income Tax Rules, 1962.

Section 32 provides for the charging of depreciation. It reads:

32. Depreciation.

- (1) In respect of depreciation of--
- (i) buildings, machinery, plant or furniture, being tangible assets;
 - (ii) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April 1998, owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed--
- ...
- (ii) in the case of any block of assets, such percentage on the written down value thereof as may be prescribed:

We need to note that depreciation is not allowed on the cost of the land on which the building is erected, but only on the building. Further, under Section 32(1), depreciation on machinery and plant is allowed only to the owner who actually uses it for the purpose of his business or profession. Thus, in the case of machinery or plant acquired under a hire-purchase agreement, the lessee is allowed depreciation. Section 32 further provides for only half of the depreciation allowance for the year of acquisition if an asset is used for less than 180 days. The relevant portion reads as follows:

Provided further that where an asset ... is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent of the amount calculated at the percentage prescribed for an asset...

Section 32 further provides additional depreciation for new machinery. The Income Tax Act admits of several special and specific treatments to various industries, activities and expenditures. Following the detailed provision, profit from a business is calculated.

Capital Gains

Capital gain arises when the owner of a property transfers the ownership and, in the process, makes a gain. Section 45 defines capital gains as follows:

45. Capital gains. (1) Any profits or gains arising from the transfer of a capital asset effected in the previous year shall ... be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place.

The key terms in the section are 'gains', 'transfer' and 'capital asset'. Let us explore these terms. A capital gain arises on the 'transfer' of a 'capital asset'. Thus, the asset must be a 'capital' asset. The Act defines 'capital asset' as:

Section 2 (14) "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include-- ...

- (i) any stock-in-trade ..., consumable stores or raw materials held for the purposes of his business or profession;
- (ii) personal effects, which is to say, movable property (including wearing apparel and furniture) held for personal use by the assessee or any member of his family dependent on him, but excludes- (a) jewellery; (b) archaeological collections; (c) drawings; (d) paintings; (e) sculptures; or (f) any work of art.
- (iii) agricultural land in India, not being land situated within the local limits of any municipality/local authority having a population of ten thousand or more ...

Thus, a capital gain arises from the transfer of 'property of any kind', even if it is related to a profession or business. Section 2(14)(i) deals with persons engaged in some business or profession. It recognises the distinction between capital assets and other property created under the head of income from business and profession. Section 2(14)(ii) deals exclusively with the property not connected with any business and profession. Any property belonging to an individual, other than his/her personal effects, is a capital asset. Even things of personal effect, which people increasingly have come to own as investments, like jewellery, paintings and artwork, are capital assets. Section 2(14)(iii) exempts only agricultural land. Thus, non- agricultural land, no matter where it is situated, is a capital asset. Only agricultural lands, situated in certain locations, are not taken to be capital assets.

The 'transfer' of capital asset includes all cases where a person moves the ownership of a capital asset and gets a tangible or intangible benefit in exchange. Section 2(47) defines 'transfer' as:

Section 2(47) "transfer", in relation to a capital asset, includes,-

- (i) the sale, exchange or relinquishment of the asset; or
- (ii) the extinguishment of any rights therein; or ...

Section 48 provides the manner in which capital gains have to be computed.

Section 48. Mode of computation: The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely:-

- (i) expenditure incurred wholly and exclusively in connection with such transfer;

(ii) the cost of acquisition of the asset and the cost of any improvement thereto:

Provided further that where long-term capital gain arises from the transfer of a long-term capital asset, ... , the provisions of clause (ii) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted

Towards applying the 'indexed cost of acquisition' the Act introduces the concept of Long Term Capital Gain and Short Term Capital Gain. In the case of Long Term Capital Gain, inflation is taken into account in working out the cost of acquisition with respect to the date of transfer of the asset, while in the case of Short Term Capital Gain, the inflation factor is ignored. The provisions read thus:

Section 2(42A) "short-term capital asset" means a capital asset held by an assessee for not more than thirty-six months immediately preceding the date of its transfer.

Provided that in the case of a share held in a company or any other security listed in a recognised stock exchange in India or a unit of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or a unit of an equity oriented fund or a zero coupon bond, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twelve months" had been substituted. ...

Also provided that in the case of a share of a company (not being a share listed in a recognised stock exchange in India), or an immovable property, being land or building or both, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twenty-four months" had been substituted

Section 2(42B) "short-term capital gain" means capital gain arising from the transfer of a short-term capital asset;

Section 2(29A) "long-term capital asset" means a capital asset which is not a short-term capital asset;

Section 2(29B) "long-term capital gain" means capital gain arising from the transfer of a long-term capital asset;

Section 10(38) defines equity oriented fund to be one which has invested more than a certain percentage of the investible funds in the equity shares of domestic companies.

The provision on short term and long term capital assets can be expressed in the following tabular form:

	Nature of asset	Short term capital asset	Long term capital asset
1	Shares of a listed company	Twelve months or less	More than twelve months

2	Securities (other than shares) listed on a recognised stock exchange in India or a unit of specified institution / equity oriented mutual fund or a zero coupon bond	Twelve months or less	More than twelve months
3	Shares of an unlisted company	Twenty four months or less	More than twenty four months
4	Immovable property being land or building or both	Twenty four months or less	More than twenty four months
5	All capital assets other than those specified above	Thirty six months or less	More than thirty six months

The period of holding of the asset is computed as the period between the date of its acquisition and the date of its transfer. A capital gain arising from the transfer of a short-term capital asset is 'Short term capital gain' and that arising from the transfer of a long-term capital asset is 'Long term capital gain'. The relevance of the distinction is that the rate at which income tax is charged for long term and short term capital gains is different. Further listed securities and units of mutual funds are taxed at different rates. Thus, the two kinds of capital gains have to be identified and maintained separately.

Income from Salary

Salary is a consideration one receives in an employer-employee relationship. In other words, an employer-employee relationship is a must for the head of salary to apply. The difference between a self-employed person and a salaried person is that the salaried person works under the control, supervision and direction of the employer. The employment can be part time, regular or even casual. Section 17 understands salary to also mean all perquisites and any other profit from employment. Towards this, Section 17 lists salary, perquisites and profits separately as sub-sections. Section 17(1) provides for salary to include wages, annuity or pension, gratuity, fees, commissions, salary advance, leave encashment and contributions to pension fund and provident fund. Section 17(2) lists the perquisites which would be considered a part of the salary. It explicitly mentions that the value of a rent-free accommodation and concession in rent for accommodation is to be included. In addition, it includes any benefit the employer might give in general terms, by including the words, 'any benefit or amenity granted or provided free of cost or at concessional rate'. Section 17 makes limited exemptions for medical expenses and medical insurance. The Act makes exemptions in relation to house rent allowance, transport allowance and leave travel concession.

Income from Other Sources

The income head, 'other sources' is a residual category. Income that cannot be taken to the first four heads of salary, house property, business and profession or capital gains, is to be taken to the head, 'other sources'. The first four heads are specific. An abridged and edited

version of Section 56, which provides the scope of the head, 'income from other sources', is as follows:

56. Income from other sources.- (1) Income of every kind ... shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in Section 14...

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head "Income from other sources", namely:-

(i) dividends;

...

(ib) (any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.)

(id) income by way of interest on securities, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession"

(ii) income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession"

(iii) where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession";

(x) where any person receives, in any previous year, from any person or persons... any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees...

This head of income is a residual head. If an income does not fall under the four specific heads, it would fall under this head. Section 56(1) expresses this general idea. With the proliferation of economic activity, certain incomes started falling under this head with regularity. Following this, the Act has been amended to include such sources of income. Section 56(2) lists the sources of income which have to be treated under this head. Section 56(2)(ii) and (iii) relate to businesses that have been discontinued. If a business is continuing, the income from hiring out of plant and machinery will go under the head of income from business. If a person gets into the very business of hiring out plant and machinery, it will be a new business. The income will again go to the head of income from

business. If the business, however, has ceased, hiring of the plant and machinery, with or without the building, will be treated under the head of income from other sources.

Section 56 has listed the sources of income, that is, the money coming in to the person. Section 57 allows revenue expenditure incurred for earning the income, it provides:

- (iii) 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.

In addition, it specifically provides on dividend income, income from securities and income from hiring out of plant and machinery. Section 58, however, prohibits certain deductions. For example, Section 58(4) specifically bars deduction for expenditure incurred towards income from lotteries, crossword puzzles, races including horse races, card games and other games. A gift received by a person, whether in cash or valuables, above Rs. 50,000 is taxable. However, gift among relatives is exempt from taxation.

Aggregation of Income

Income tax is to be charged on the total income of the person. The Act provides for aggregation of income from different sources under a head and then aggregating across the heads. Section 70 provides on aggregation of income under each of the heads:

70. Set off of loss from one source against income from another source under the same head of income.-

- (1) Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income, other than "Capital gains", is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.
- (2) Where the result of the computation made for any assessment year ... in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset.
- (3) Where the result of the computation made for any assessment year ... in respect of any capital asset (other than a short-term capital asset) is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset.

The section singles out the head of capital gains for special treatment. Under each of the other heads, the losses from a source can be set off against the gains from some other source

under the same head. Section 70(2) provides that a short term loss can be set off against a short term or long term gain. Section 70(3), however, limits the setting off of a long term capital loss only against a long term capital gain. Having aggregated income for the heads, Section 71 provides for aggregation across the heads and carry forward. It reads:

71. Set off of loss from one head against income from another.- [(1) Where in respect of any assessment year the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has no income under the head "Capital gains", he shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head.

(2) Where in respect of any assessment year, the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has income assessable under the head "Capital gains", such loss may, subject to the provisions of this Chapter, be set off against his income, if any, assessable for that assessment year under any head of income including the head "Capital gains" (whether relating to short-term capital assets or any other capital assets).

(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss and the assessee has income assessable under the head "Salaries", the assessee shall not be entitled to have such loss set off against such income.

(3) Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.

(3A) ..., where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds two lakh rupees, against income under the other head.

Section 71(1) provides that a loss from business can be set-off against income from house property and other sources. Section 71(2A) provides that losses from business cannot be adjusted against salary. Section 71(2A) prohibits the setting-off of business losses against salary. However, Section 71(1) allows the absorption of other losses, that is, from house property and other sources. The essence of Section 72(2) and 72(3) is that a capital loss cannot be set-off against other heads. However, if the aggregate value of any other head is negative, it can be set-off against a capital gain. Section 72 further provides on carry forward of the losses to the subsequent years.

Calculation of Tax

After aggregating to arrive at the total income, the payable tax is calculated. At this stage, the Act gives exemptions, deductions and rebates. These are contained in Section 80C to 80U. Broadly speaking, Section 80C facilitates an individual's claim to deductions from the total income by making investments in certain kinds of instruments. These instruments create financial security for the person and his dependents. Section 80D allows deductions in respect of medical insurance premia paid during the year. Section 80E allows deduction of interest paid on a loan taken for pursuing higher education. Section 80G allows deductions in respect of donations made to certain funds and charitable institutions. Section 80TTA allows deduction of interest earned on deposits in savings accounts with a bank or a Post Office, up to a maximum limit. The benefit is available only to individuals or a Hindu Undivided Family, and it does not apply to interest earned on fixed deposits.

After allowing deductions from the aggregated income, the tax liability will get calculated according to the rates applicable to the different slabs of taxable income. On the tax liability, the Act gives further rebate. Under Section 87A, an individual resident, whose taxable income is up to Rs. 500,000, gets a rebate of Rs. 12,500. That is, Rs. 12,500 will be subtracted from the tax liability that has been calculated.

Rebate of income-tax in case of certain individuals.

87A. An assessee, being an individual resident in India, whose total income does not exceed five hundred thousand rupees, shall be entitled to a deduction, from the amount of income-tax ..., of an amount equal to hundred per cent of such income-tax or an amount of twelve thousand and five hundred rupees, whichever is less.

Deductions for Enterprises

Some of the deductions available to business enterprises are listed below:

Section 80-IA: Deduction in respect of profits and gains made by industrial undertakings or enterprises engaged in infrastructure development, etc.

Section 80-IAB: Deduction in respect of profits and gains made by an undertaking or enterprise engaged in the development of Special Economic Zones.

Section 80-IAC: Deduction in respect of profits and gains derived by an eligible start-up.

Section 80-IB: Deduction in respect of profits and gains of certain industrial undertakings other than infrastructure development undertakings.

Section 80-IBA: Deduction in respect of profits and gains derived by assessee from the business of developing and building affordable housing projects.

Section 10AA gives exemption to newly established units in Special Economic Zones. The income of any undertaking, which has begun or begins to manufacture or produce articles or things, or to provide any service during the previous year relevant to an assessment year commencing on or after April 1, 2006, in any Special Economic Zone (as defined under Section 2(za) of the SEZ Act, 2005) is eligible for a 100% deduction of its profits and gains derived from exports of such articles or things or services, for a period of five consecutive assessment years, and thereafter, for a 50% deduction of such profits and gains for the next five assessment years, subject to conditions.

Rate of Taxation

After making all the deductions, the net taxable income is arrived at. Income tax is charged as a percentage of this amount. The rate at which income tax is charged changes almost every year. The Finance Act, enacted each year, provides for the rate of taxation for individuals and companies for the year. On the total tax thus calculated, a further Health and Education Cess is charged as at 4% of the tax, which is added to the tax calculated, to arrive at the final figure of payable tax.

