

# **TAXATION & PLANNING OF INCOME FROM HOUSE PROPERTY, OTHER SOURCES**

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CIMA(LON.), CISA(USA), DISA(ICAI), ADIT  
(UK), D.LITT**





Key Developments

ETPrime

## 100-day agenda: Digitisation of land records among key reforms of new government

By Anuradha Shukla, ET Bureau • Last Updated: Apr 19, 2024, 12:23:00 AM IST

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**Annual Information Statement (AIS)**

Financial Year 2023-24

Assessment Year 2024-25

**Part B - Income Information**

Financial Account Number (FAN)

[REDACTED]

Authorised Number

[REDACTED]

Rating of income

[REDACTED]

General FAN

[REDACTED]

Authorised Number

[REDACTED]

From Income

[REDACTED]

[REDACTED]

[REDACTED]

**Annual Information Statement (AIS)**

[REDACTED]

**Part B1 - Information relating to tax deducted or withheld on income**

From:

From	From date	To date	From	To date	From	To date	
1	1999-01-01	2000-01-01	1	1999-01-01	2000-01-01	1	1999-01-01
2	2000-01-01	2001-01-01	2	2000-01-01	2001-01-01	2	2000-01-01
3	2001-01-01	2002-01-01	3	2001-01-01	2002-01-01	3	2001-01-01

**Rental Income**

Basis of Taxation = Ownership



**HOW WILL THIS BE  
TAXED?**



# Rental Income from Flat/Apartment





Rent from  
Individual House

# Rental Income from Shops



An aerial photograph of a large, rectangular, overgrown lot. The ground is covered in dense, dark green vegetation, including various weeds and small shrubs. Scattered throughout the lot are numerous pieces of debris, trash, and discarded materials. In the upper left corner, there is a cluster of trees and some buildings that appear to be in a state of disrepair. The overall scene conveys a sense of neglect and environmental degradation.

Vacant Land used for Parking

# Charging Section (Sec 20) (Erst Sec 22)

- ❖ 20. (1) The annual value of property consisting of any buildings or *lands appurtenant thereto*, owned by the assessee shall be chargeable to income-tax under the head “Income from house property”.
- ❖ (2) The provisions of sub-section (1) shall not apply to such portions of the property, as the assessee may occupy for his business or profession, the profits of which are chargeable to income-tax.



What is Lands  
Appurtenant  
Thereto

A person sold property and reinvested in a new house (surrounding by huge land). The AO observed that the house occupied only 10% of the entire space for reinvestment. He wanted to deny 54/54F. Is this valid?

In *ITO vs P.B. Rodrigues [1981] 11 TTJ 347 (Bom.)*, it was held that exemption under section 54 of the Act could not be limited on the ground that the land appurtenant to the house was not entitled to exemption under section 54 of the Act. The exemption was thus allowed to the whole of the capital gains. Also in *Dy. CIT v. Kalyanaraman Nataraja [2017] 165 ITD 307 - Chennai ITAT*

A man keeps buying lands adjacent to his house and claims 54F each time he buys land stating that it is land appurtenant thereto. ITO was shocked and disallowed the 54F saying the lands purchased have no constructions on it.

In *Addl. CIT v. Narendra Mohan Uniyal [2009] 34 SOT 152*, the Delhi ITAT stated "It is crystal clear from plain reading of sections 54 and 54F that exemption that there is not any rider under section 54F that no deduction on acquisition of land appurtenant to the building. It is not necessary that such construction should be on the entire plot of land, meaning thereby a part of the land which is appurtenant to the building and on which no construction is made, there is no denial of exemption on such investment"



Would the rental  
income earned from  
this entire Island be  
Income from House  
Property?

# Land Appurtenant Thereto - Some Tests Used

- ❖ If Building together with land is an indivisible unit and enjoyed as such currently, the entire extent is treated as appurtenant there to
- ❖ Where land appurtenant thereto is used for purposes other than the enjoyment of the building
  - e.g. Land next to the house is used for commercial purposes
- ❖ Any evidences of attempts made to use the land for other purposes other than proper enjoyment of the house/premises
- ❖ Conduct enquiry to find if the extent appurtenant thereto can be used separately and will retain the same or similar value. If yes, deem the extent of surplus and segregate the same.

Rent from  
Studio - Let out  
to different  
people on need  
basis



Rental income  
from Wedding  
Hall



*Best Wedding Halls in  
Chennai*

A photograph of a shirtless man with a dark complexion, standing in a lush green field. He is holding a large, shallow metal bucket in his left hand. The background is filled with the tops of palm trees. On the left side of the image, there is a dark, semi-transparent rectangular overlay containing the text.

Rent from  
Agricultural  
Land

Assessee is a IT  
Professional and  
earns rent from  
Agricultural Land  
given to Farmers

Will be treated as Agricultural Income - Exempt from Tax



Farm has a shed for parking a tractor and rent is earned from the same

Will be treated as Agricultural Income - Exempt from Tax

# Rent Received from Farm House





## Rent Received from Godown

Exempt based on  
proximity to Farm

Butter Being  
Made in Same  
Agricultural  
Land Premises.

Rent earned  
from this  
building - Will  
it be  
agricultural?



MakeAGIF.com

Will not be Agricultural Income as  
there is an additional process involved



Rent from  
Properties where  
Fixed Rent is  
received and a  
Part of Sales is  
received as Rent



Flat is Part of Rent Pool? How is it Taxed?

# Power of Attorney Property - How is Rental Income Taxed?



# Essential conditions for part performance of contract

- ▶ There should be a Written contract between buyer/seller
- ▶ Contract should be for a consideration
- ▶ Contract should be for transfer of immovable property
- ▶ Purchaser has taken possession and paid part consideration
- ▶ Purchaser willing to perform rest of the contract





# Rent from Temporary Structure - How is it Taxed

# PERSON HAS A LADIES HOSTEL – HOW IS IT TAXED?



# How To Calculate Income from House Property

Particulars	Amount (Rs)
Gross Annual value	*****
Less : Municipal Taxes (It is deductible when it is born by the owner and actually paid by him during the year. )	(*****)
Net Annual value	*****
Less : Deduction U/s 24	
(i)Standard Deduction @ 30% (Section 24(a))	(*****)
(ii)Interest on borrowed Capital (Section 24(b))	(*****)
Income from House Property	*****

# Nature of Property for Taxation

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SELF OCCUPIED/ VACANT PROPERTY

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LET OUT PROPERTY / DEEMED LET OUT

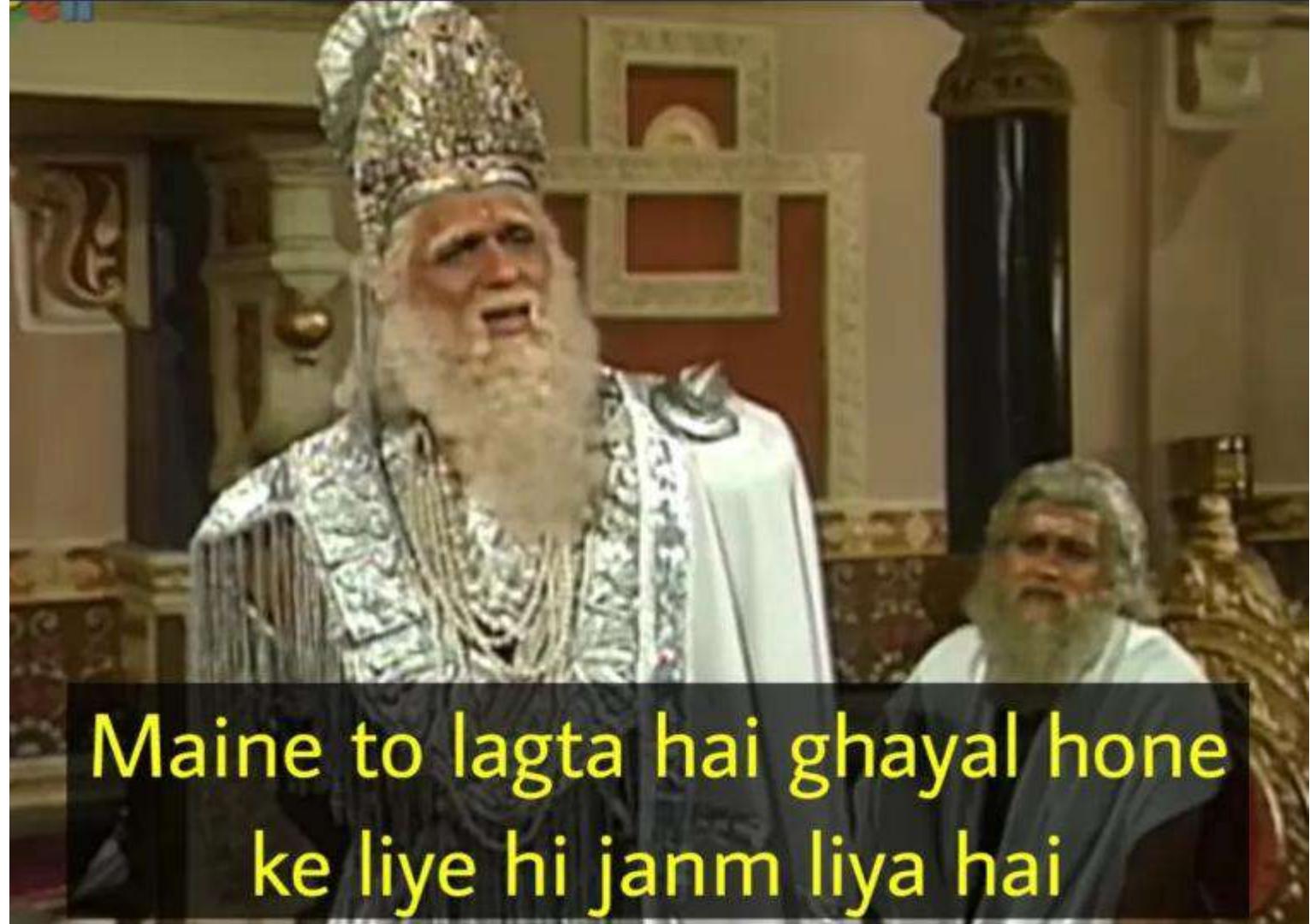
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SUB-LETTING PROPERTY

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PROPERTY HELD AS STOCK IN TRADE

# What is Notional Taxation?





Up to 2 Houses can be Self-Occupied

# How To Calculate Income from House Property

Particulars	Amount (Rs)
Gross Annual value	*****
Less : Municipal Taxes (It is deductible when it is born by the owner and actually paid by him during the year. )	(*****)
Net Annual value	*****
Less : Deduction U/s 24	
(i)Standard Deduction @ 30% (Section 24(a))	(*****)
(ii)Interest on borrowed Capital (Section 24(b))	(*****)
Income from House Property	*****



A man owns 5 houses. He lets out his 5 bed room house in Church Gate, Mumbai to his mother in law for a rent of Rs.5000/- per month. Income Tax Objected to it.

Is the action of income tax correct?

In *CIT v. Moni Kumar Subba (2011) 333 ITR 38 (Delhi HC)*, it was held that Rent cannot be fixed based on *family understanding* when computing tax. The Act recognises market value, not emotional value.

# Key Points of Gross Annual Value

- ❖ Step 1 : Find out reasonable expected rent
- ❖ Step 2 : Find out Actual rent received or receivable
- ❖ Step 3 : Choose Higher of Step 1 or Step 2
- ❖ Step 4 : Calculate loss due to vacancy (if any)
- ❖ Step 5 : Step 3 (minus) Step 4 is the Gross Annual Value

Mr.A has 2 houses. House 1 is in Lutyens, New Delhi, which is let-out. The other is in interior Ghaziabad, which is vacant.

‘A’ wants to show Ghaziabad as let-out and Lutyens as vacant.

Sec 21(7)(b) of the New Act states that where any property is let out for any part of the year, the annual value **CANNOT BE NIL**

# INTERESTING CASE – LANDLORD FILES PETITION WITH FALSE PARTICULARS SEEKING HIGHER FAIR RENT AND LOWER COURT ADMITS THE SAME.

# BUT FAIR RENT NOT ADMITTED IN RETURN OF INCOME – REOPENING OF INCOME FOR EARLIER YEARS

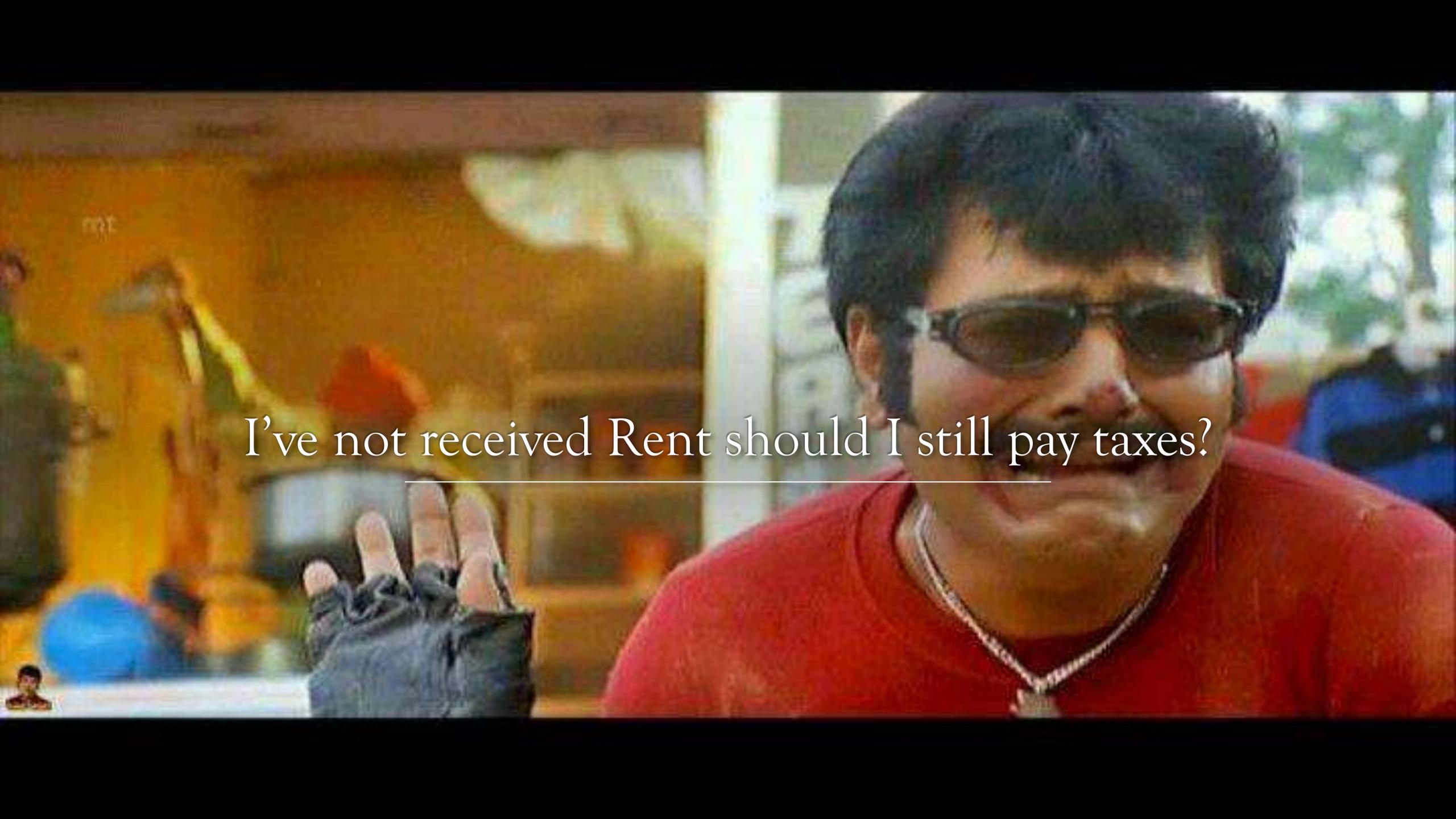


Do You Prefer to  
Show Rental  
Income under  
Income from  
House Property  
or under  
Business Income?

Man incurred significant repair costs during the year for a house he had rented out. The same was significantly more than 30% standard deduction offered. He decided to show the rental income under the head PGBP and claimed all the expenses against it.

Is this valid?

In *CIT vs RJ Wood Pvt Ltd* it was held that the Act gives you 30% even if you do zero repairs. Further, in the most recent Finance Act, the clarification has been made that unless engaged in the business of letting out properties, an immovable property with a construction will be only IHP.



I've not received Rent should I still pay taxes?

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# What if Rent not Received? Unrealised Rent

## Conditions To be Satisfied

- ❖ Tenancy is bonafide
- ❖ Steps taken to vacate the tenant
- ❖ Defaulting tenant not occupying any other property of Assessee
- ❖ Assessee has taken enough steps to institute proceedings to recover the unpaid dues

*If subsequently rent recovered, it will be taxable in that year*

# How To Calculate Income from House Property

Particulars	Amount (Rs)
Gross Annual value	*****
Less : Municipal Taxes (It is deductible when it is born by the owner and actually paid by him during the year. )	(*****)
Net Annual value	*****
Less : Deduction U/s 24	
(i)Standard Deduction @ 30% (Section 24(a))	(*****)
(ii)Interest on borrowed Capital (Section 24(b))	(*****)
Income from House Property	*****

## Municipal Taxes and Property Tax

- ❖ Its allowed not on accrual basis but on payment basis
- ❖ Even water Tax and Property Tax paid for previous years can be claimed in the current year



I'm into the Business of Selling  
Constructed Flats and Commercial  
Buildings.

What if I let out the flat on rent?

# How To Calculate Income from House Property

Particulars	Amount (Rs)
Gross Annual value	*****
Less : Municipal Taxes (It is deductible when it is born by the owner and actually paid by him during the year. )	(*****)
Net Annual value	*****
Less : Deduction U/s 24	
(i) Standard Deduction @ 30% (Section 24(a))	(*****)
(ii) Interest on borrowed Capital (Section 24(b))	(*****)
Income from House Property	*****



**30% STANDARD  
DEDUCTION**

# Housing Loans Taken



# Interest Paid on Borrowings for House

- ❖ Interest paid on self-occupied house property can be claimed up to Rs.2 Lacs
- ❖ Interest paid on Let-Out House Property can be claimed fully, without any limit. However, set-off against other heads of income is limited
- ❖ Pre-EMI Interest paid can be claimed in 5 Installments after Property is completed and repayment starts
- ❖ Principal repayment can be claimed u/s 80C upto Rs.1,50,000/-

# SET-OFF OF HOUSE PROPERTY LOSSES

# Self Occupied Property

Property Details	Rental Income	Interest Paid on Loan	Interest Allowable Under Income Tax	Net Income
House Property 1 (Self Occupied) - Loan taken	NIL	-1,50,000	-1,50,000	-1,50,000
House Property 1 (Self Occupied) - Loan taken	NIL	-3,00,000	-2,00,000	-2,00,000
NET LOSS FROM HOUSE PROPERTY				-3,50,000
RESTRICTED TO				-2,00,000

Property Details	Rental Income	Interest Paid	Interest Allowed	Net Income
House Property 1 (Self Occupied) - Loan taken	-	-3,00,000	-2,00,000	-2,00,000
House Property 2 (Let Out) - No Loan	4,00,000	-	-	4,00,000
House Property 2 (Let Out) - Loan Taken	3,00,000	-7,50,000	-7,50,000	-4,50,000
			NET LOSS FROM HOUSE PROPERTY	-2,50,000
			RESTRICTED TO	-2,00,000

# Let-Out House Properties

# Deductions towards repairs and renovation?

- ❖ No specific deductions on repairs and renovation under Income from House Property
- ❖ Interest paid on loan for renovation can be claimed upto Rs.30,000.



# Deemed Owner



# Deemed Owner in Certain Situations

- ❖ Transfer to spouse/minor child inadequate consideration
- ❖ Impartible estate or allotment by Co-Operative Society
- ❖ Ownership by Part Performance of a Contract though not registered purchase
- ❖ Person who acquires rights [Transfer by sale or lease for more than 12 years & allowing possession] - Carefully consider on a case-to-case basis

# Extra Deduction that can be claimed

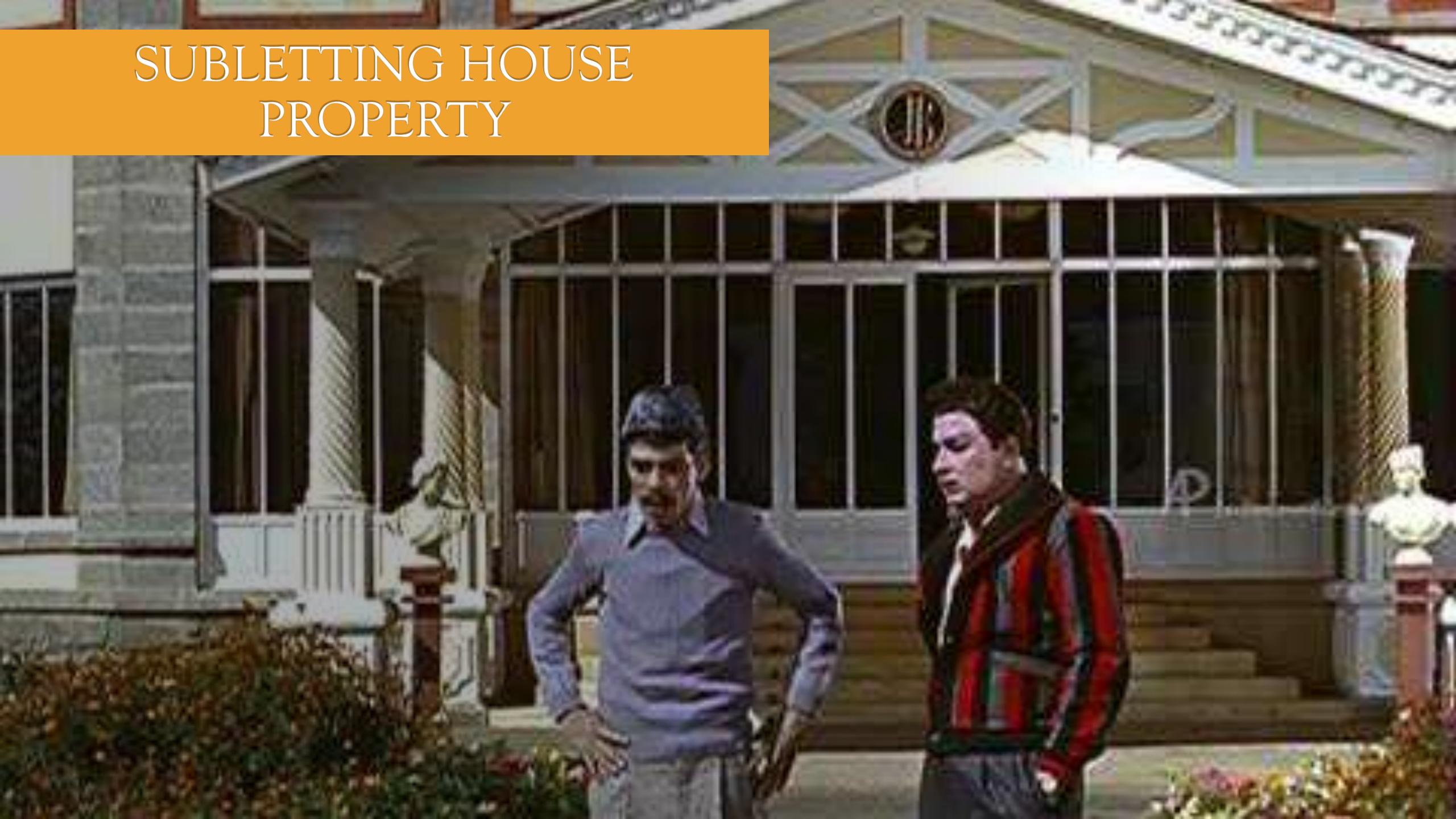
## Sec 80EEA : Rs.1,50,000/- extra deduction

- ❖ Loan should have been sanctioned between 01/04/2019 to 31/03/2022
- ❖ Stamp Duty Value of the House should not exceed Rs.45 Lacs
- ❖ **Carpet Area** of house should be <60 sq.mtrs (650 Sq Ft in metro and <90 sq.mtrs (970 sq ft) in non metros.
- ❖ Should not own any other house property
- ❖ Available only to Individuals

# Snapshot of Deduction Benefits for House Property Income - NEW vs OLD Regime

Particulars	OLD REGIME	NEW REGIME
Interest on Loan - Self Occupied Property	Rs.2,00,000	NIL
Interest on Loan - Let Out Property	Unlimited intra-head	Unlimited intra-head
	Rs.2,00,000 inter-head	None Inter Head
Principal Repayment of Housing Loan (u/s 80 C)	Rs.1,50,000	NIL
Investment in Affordable House u/s 80EEA	Rs.1,50,000	NIL

# SUBLETTING HOUSE PROPERTY





What if Land  
Owned by Friend.

Building Owned by  
Me.

Who has to offer  
Rental Income?

A close-up photograph of a man with dark hair and sunglasses, wearing a red shirt. He is looking down at a book titled "SOUND WHY FILM". The book cover features a portrait of a man with glasses. The background is a window with a grid pattern.

# Key Tax Saving Tips

# Key Tax Planning Tips

- ❖ 2 Houses can be shown as Self Occupied without any notional rental income
- ❖ Self-Occupy or show as Self Occupied the House Property with the highest market rate of rent
- ❖ If option available, let out/deem let out property on which loan is taken till interest repayment is within Rs. 2 lacs
- ❖ Take ownership in multiple names. Co-Owners independently have Rs.2 lacs limit for Deductions
- ❖ Take advantage of Casual Vacancy Allowance

# Do you have to pay tax on notional rent in this case?

- ❖ After 5 years, you have completed the construction of your Building
- ❖ Exactly when you finish, metro rail project announced outside your building
- ❖ Entrance and exit blocked to building, only one person can walk in at a time. No vehicles.
- ❖ Do you have to Pay Notional Rent Tax?



# Can I use Vacancy Allowance?

- ❖ Sec 23(1) of the Act states where '*Property is let and vacant for WHOLE or part of the year*'
- ❖ In *Premsudha Exports vs ACIT (110 ITD 158)(2008)(Mum. ITAT)*, it was held that it does not mean Property has to actually be let out.
- ❖ Intention to let out is enough. Also held in *Sachin Tendulkar - 96 Taxmann.com 253, DLF Office Developers v. ACIT, Poonam Sawhney vs AO*
- ❖ In *Vivek Jain vs ACIT (AP High Court) 14 taxmann.com 146 - 2011*, the HC held that Vacancy Allowance is not given based on intention but on fact. Even if Assessee had intended it be let-out but could not, the relief is not given.

# Income From Other Sources



# Income from Other Sources

# Basis of Charge



**Any income which is not chargeable to tax under any other heads of income and which is not to be excluded from the total income**



**Residuary head of income**

## Specific Incomes

- ❖ Dividend
- ❖ Gift
- ❖ Interest
- ❖ Game winnings/gambling
- ❖ Any sum of money or moveable/immovable property for Inadequate Consideration – 56(2)(x)



# Top 5 Highest Dividend Paying Stocks

In India 2024



Dividend  
Income

# Taxability of Dividend Income

- From FY 2020-21 (AY 2021-22), Dividend Distribution Tax Abolished
- Till AY21-22 – Exempted upto Rs.10 Lacs. Beyond that taxable @ 10%.
- Now Taxable entirely in hands of individual at slab rate of tax
- TDS deducted @ 10% if amount > Rs.5000/- per company/fund a year

# Deemed Dividend u/s 2(22)(e) / 2(40)(e) – New Act

Advance/Loan from accumulated profits:

- To Shareholder with >10% voting power
- To Firm/HUF/Co. where the member has substantial interest >20%
- To any Person on behalf or benefit of such shareholder



# Key Points - Deemed Dividend

- NOT APPLICABLE when Loans/Advances made in ordinary course of business
- Loans/advances between sister concerns in nature of commercial transaction not deemed dividend – ***CIT vs Ambassador Travels (318 ITR 376)***
- Loan given to Co. Driver who in turn gave loan to Director. Is it Deemed Dividend? – ***Alagusundaram Chettiar vs CIT (2001) (SC)*** says yes
- Loan repaid in 23 days. Still taxable – ***Tarulata Shyam vs CIT (SC)(108 ITR 345)***
- Loan to Interested Concern. Tax Individual or Concern? – As per ***CIT vs Ankitech (Del.)***, tax individual. But, in ***CIT vs Ntl. Travel Services (2012)(Del.)***, the firm is to be taxed.

# Taxation of Gift



# Taxability of Gift

NATURE OF GIFT	THRESHOLD	AMT. TAXABLE
Sum of money without consideration	>Rs.50,000/-	Entire sum received
Immovable Property e.g.: Land & Building <u>without consideration</u>	Stamp duty value > Rs.50,000/-	Stamp duty value of property
Immovable Property for <u>Inadequate Consideration</u>	Stamp duty value exceeds consideration by > Rs.50,000/-	Stamp duty value <u>Minus</u> consideration
Any <u>property</u> other than immovable property without consideration	FMV > Rs.50,000/-	FMV of such property



# What is Property?

- Immovable Property being land & building or both
- Shares/securities
- Jewellery, drawings, paintings, sculptures, works of art
- Bullion
- Virtual Digital Asset

# What if I receive the following?



WRIST  
WATCH



CAR



BIKE

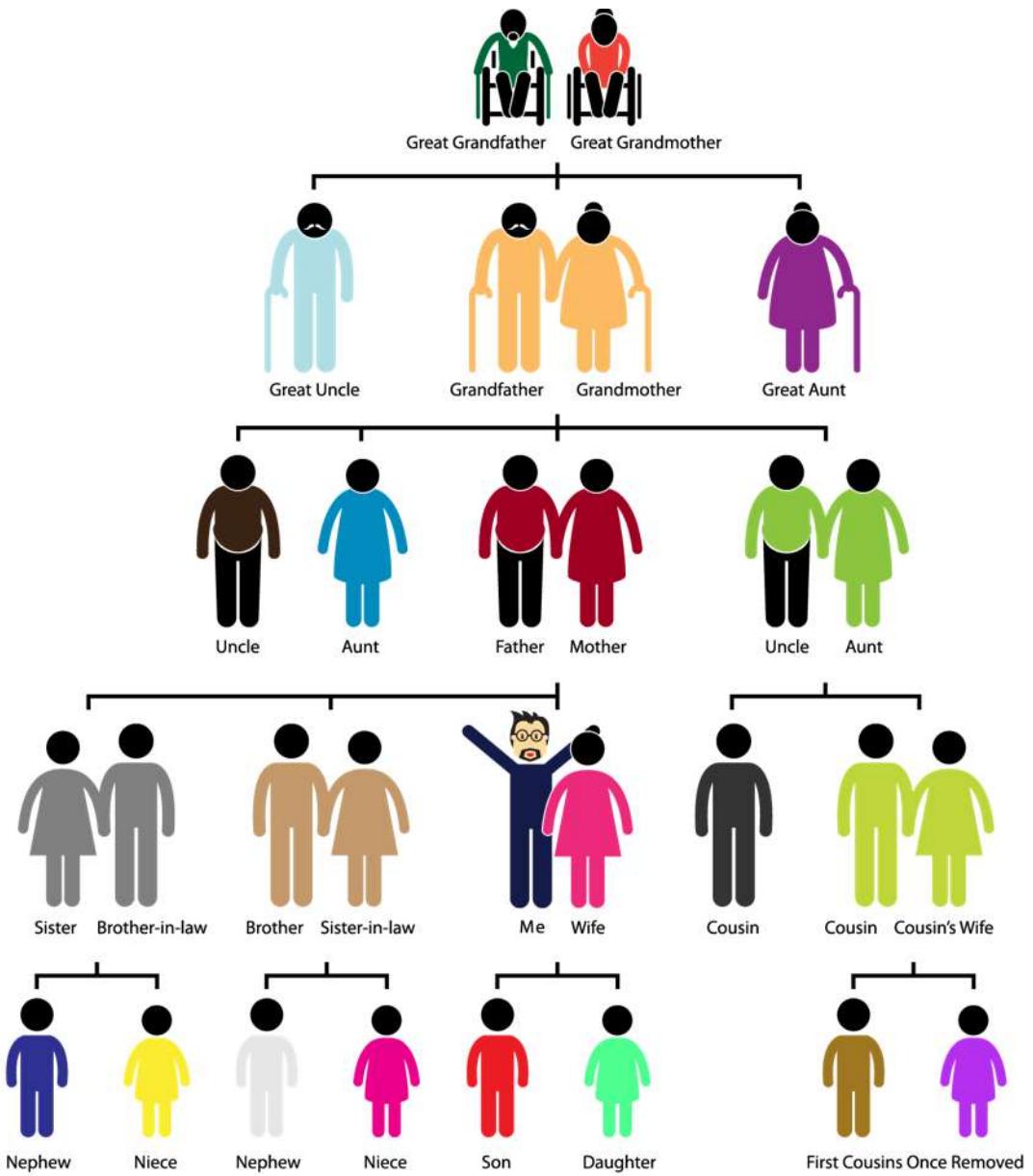


LAPTOP

# Exceptions to Above

- Gifts from Relatives
- Gift on occasion of Wedding
- Gift received under will or inheritance
- By receipt during partition of HUF
- Received from Trust u/s 12A/AA/10(23C)
- Amalgamation/Demerger





# Who are Relatives?

## Sec 92(5)(g)

- Spouse of the individual
- Brother or sister of the individual
- Brother or sister of the
- Brother or sister of either of the parents
- Any lineal descendant or descendant **(maternal and paternal)**
- Any lineal descendant or descendant of the spouse of the individual **(maternal and paternal)**
- Spouse of the person referred to in clauses (ii) to (vi).
- In case of a Hindu undivided family, any member thereof;

# SEC 56 AMENDMENT IMPACT

## Sec 56(2)(vii) and Sec 56(2)(x) – Sec 92(5)(a)

- Under Other Sources – Gifts now meant to be taxed again (except from relatives or on specified occasions)
- The difference between Sale Consideration and FMV, where FMV is greater than Sale Value will be taxed as notional income in hands of buyer.
- Cost of acquisition of asset will be the purchase value plus notional income u/s 56

REAL INCOME THEORY CONCEPT – ED Sassoon (1955)  
(SC), CIT vs Excel Industries (2014) (SC)



# LOTTERY Winnings



# Lottery win – 115BB – Sec 194 New Act

- Winnings from Lotteries/Horse race/Card game/Crossword puzzle & other games of any sort
- Taxed at flat rate of 30%
- No expenditure/loss allowed to be set-off – *CIT vs MAM Ramaswamy (2015)(Mad.)*
- No Chapter VI-A Deduction
- No Basic Exemption Limit allowed either

# Key Points – Lottery Winnings

- Other Games of any sort is not confined to games of a gambling nature alone. Prize money on displaying skill/endurance also falls under this – ***CIT vs GR Karthikeyan (1993)(SC)(201 ITR 866)***
- Won car as Prize under NSC. AO subjected it to tax u/s 115BB. Court held for event to be a lottery, there must be contribution from all participants. This was a free chance. Not a paid chance. Not Lottery – ***CIT vs Suguna Seelan (2013)(353 ITR 391)(Mad.)***

# Pension



# Pension/Family Pension

- If pension receiver is still alive, then Income From Salaries
- However, on death, family receives the pension
- Rs.15,000 or 33.33% of pension will be allowed as deduction
- Rs.25,000 or 33.33% under the New Regime

# Amount Not Deductible



- Personal expenses
- Interest /Salary paid outside India on which TDS not deducted
- Capital expenditure
- Expenditure should be incurred to earn income
- Wealth tax
- Expenditure for Lottery, Puzzle, Race, Games

# Summary of Changes in Income from Other Sources

- Definition of Relative modified to include lineal ascendant/descendent paternal or maternal
- Deduction of Municipal taxes or land revenue can be adjusted u/s 93(1)(c), which is the equivalent of Section 57